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STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

LONG-TERM CARE ADVISORY SUBCOMMITTEE  
MEETING

OCTOBER 9, 2012

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NATIONWIDE SCHEDULING

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STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD  
525 West Jefferson Street, 2nd Floor  
Springfield, Illinois 62761  
217-782-3516

LONG-TERM CARE ADVISORY SUBCOMITTEE  
MEETING

The meeting of the State of Illinois Health Facilities and Services Review Board, Long-Term Care Advisory Subcommittee was held on October 9, 2012, scheduled to begin at the hour of 10:00 a.m., at Bolingbrook Golf Club, 2001 Rodeo Drive, Bolingbrook, Illinois.

1 AGENDA

2 CALL TO ORDER

3 1. Roll Call

4 2. Approval of Proxy

5 3. Approval of Agenda

6 4. Approval of August 28, 2012 Meeting Minutes

7 5. Proposed Bylaws Amendment Change

8 6. Proposed Changes - 77 Illinois Administrative Code

9 1125 (Long Term Care)

10 7. Bed Sell/Exchange Program Request for Proposal

11 Discussion

12 8. Other Business

13 9. Next Meeting

14 10. Adjournment

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1 MEMBERS PRESENT:

Michael Waxman - Chairman

2 Eli Pick - Vice-Chair

Dave Lowitzki

3 Phyllis Mitzen

Michael Scavotto

4 Carolyn Handler

David Raikes

5 Cece Credille

Neyna Johnson

6 Matt Hartman (proxy for Terry Sullivan)

7 ALSO PRESENT:

8 Courtney Avery - HFSRB Administrator

9 Frank Urso - Legal Counsel

10 Juan Morado - HFSRB Staff

11 Cathy Clarke - HFSRB Staff

12 Claire Burman - HFSRB Staff

13 Michael Constantino - IDPH

14 Bill Dart - IDPH

15 Toni Colon - Deputy Director of

16 Healthcare Regulation

17 Charles Foley

18

19 Reported by:

20 Karen K. Keim

21 CRR, RPR, CSR-IL, CRR-MO

22 Midwest Litigation Services

23 401 N. Michigan Avenue

24 Chicago, IL 60611

1 START TIME: 10:12 a.m.

2

3 CHAIRMAN WAXMAN: Let's start. I need roll  
4 call. So, we can do roll call; if we would, just go around  
5 and introduce ourselves. So, we will start with you, Toni.

6 MS. COLON: Toni Colon, Deputy Director,  
7 Office Healthcare Regulation, DPH.

8 MR. MORADO: Juan Morado, Assistant Counsel  
9 for the Board.

10 MS. HANDLER: Carolyn Handler, committee  
11 member.

12 MS. CREDILLE: Cece Credille, Committee member  
13 representing IHCA.

14 MR. HARTMAN: Matt Hartman, here as Terry  
15 Sullivan's proxy.

16 MR. LOWITZKI: Dave Lowitzki, SEIU healthcare.

17 MS. MITZEN: Phyllis Mitzen, Health and  
18 Medicine Policy Research Group.

19 MR. CONSTANTINO: Mike Constantino, IDPH  
20 staff.

21 MS. JOHNSON: Neyna Johnson, member,  
22 Department on Aging.

23 MR. FOLEY: Charles Foley, healthcare  
24 consultant.

1 MR. URSO: Frank Urso.

2 MR. SCAVOTTO: Mike Scavotto, member.

3 MR. RAIKES: David Raikes, Manager of Business  
4 for Laborers Local Union 393.

5 MS. BURMAN: Claire Burman, member of Board  
6 staff.

7 MR. PICK: Eli Pick, member representing  
8 Illinois Council.

9 CHAIRMAN WAXMAN: Mike Waxman, member.

10 MS. AVERY: Courtney Avery, Health Facility  
11 Services Review Board staff.

12 CHAIRMAN WAXMAN: Do we have a quorum?

13 MR. DART: I'm Bill Dart. I was out. Also  
14 IDPH staff.

15 CHAIRMAN WAXMAN: We're counting to make sure  
16 we have a quorum. Yes? Thank you, all.

17 The first piece is that Matt is representing  
18 Terry Sullivan, and under our new bylaws, the Committee has  
19 to approve Matt's participation in our committee as a  
20 proxy. So, I can read his background or, Matt, do you just  
21 want to give it to us quickly?

22 MR. HARTMAN: Yes, sure.

23 CHAIRMAN WAXMAN: Semi-informal.

24 MR. HARTMAN: Courtney passed it around to

1 you. Basically, I've represented the long-term care  
2 industry for the last eight or nine years. I came aboard  
3 of the Illinois Healthcare Association in 2004 to work on  
4 legislation, regulatory, and political issues; spearheaded  
5 a lot of the legislative drives that they made. I worked  
6 with regulatory compliance issues with members on a daily  
7 basis. In 2007, when the Healthcare Council of Illinois  
8 was formed, I went there; served as their Legislative  
9 Director until this past August, when I actually came back  
10 aboard at the Illinois Healthcare Association to serve in a  
11 more day-to-day, directed, regulatory role. Short story.

12 CHAIRMAN WAXMAN: Thank you very much. I need  
13 a motion to approve --

14 MR. PICK: So moved.

15 MR. SCAVOTTO: Second.

16 CHAIRMAN WAXMAN: Frank, voice, or do I need  
17 roll call?

18 MR. URSO: Voice will be fine.

19 CHAIRMAN WAXMAN: All in favor?

20 ("Ayes" heard)

21 CHAIRMAN WAXMAN: Any opposed to Matt serving  
22 as proxy?

23 (No response)

24 CHAIRMAN WAXMAN: Okay. The second thing we

1 need to talk about quickly is -- and Frank brought it to  
2 our attention -- we have a couple of members who are  
3 registered lobbyists, and, as such, they are not allowed to  
4 vote on any issue, substantive issues that relate to who  
5 they are lobbying for. So, at the moment, in this meeting,  
6 that kind of applies to Mr. Hartman. So, he can make  
7 quorum; he can approve minutes; he can approve some other  
8 items; but if it came to a vote on something that relates  
9 to an organization or a person that he is being paid to  
10 lobby for, he has to abstain.

11 So, Frank, did I do that well?

12 MR. URSO: Very good, yes.

13 CHAIRMAN WAXMAN: If you have any questions,  
14 please direct them to Frank. We had a conference call  
15 with -- Terry Sullivan is also in the same position, and  
16 Frank, Eli, and myself -- and you were on the call, weren't  
17 you?

18 MS. AVERY: Yes.

19 CHAIRMAN WAXMAN: And Courtney. We had a  
20 conference call with Terry, who recognized his position and  
21 fully understands what his role is going to be in looking  
22 at some options to make sure that he is in compliance with  
23 our regulations. Was there one other -- no, the other  
24 person is no longer --

1 MR. URSO: Correct. He's the only one.

2 MR. LOWITZKI: I'm also a registered lobbyist.

3 CHAIRMAN WAXMAN: Get out.

4 (Laughter)

5 MR. PICK: He's the other person.

6 CHAIRMAN WAXMAN: Did you know about this?

7 MR. LOWITZKI: I don't know if I did know  
8 about this.

9 MR. WAXMAN: It was a joke. You're more than  
10 welcome to stay.

11 MR. LOWITZKI: I knew that.

12 MR. URSO: So he's in the same category.

13 CHAIRMAN WAXMAN: We'll talk later. I don't  
14 think -- you're not lobbying for the same -- for nursing  
15 home, per se, are you?

16 MR. LOWITZKI: We should talk after, but I do  
17 lobby on nursing home issues.

18 MR. PICK: Employees.

19 CHAIRMAN WAXMAN: Employee side. All right.  
20 Thank you.

21 Any other questions?

22 (Pause)

23 CHAIRMAN WAXMAN: Okay. I need -- I need a  
24 motion to approve the agenda for today.

1 MR. PICK: So moved.

2 MR. RAIKES: Seconded.

3 CHAIRMAN WAXMAN: All in favor?

4 ("Ayes" heard)

5 CHAIRMAN WAXMAN: I need approval of the  
6 minutes for August 28th.

7 MR. PICK. So moved.

8 MR. SCAVOTTO: Second.

9 CHAIRMAN WAXMAN: Are there any corrections or  
10 adjustments?

11 (No response)

12 CHAIRMAN WAXMAN: All in favor?

13 ("Ayes" heard)

14 CHAIRMAN WAXMAN: Anyone opposed?

15 (No response)

16 CHAIRMAN WAXMAN: Very good. All right. We  
17 have some bylaw adjustments. Which staff is covering --  
18 Frank?

19 MR. URSO: Yes. In your pack of material, you  
20 were sent some proposed revisions to the bylaws. In  
21 particular, it was Section 1.2, is the first one, and that  
22 has to do, essentially, with staggering the membership  
23 involved as members of this advisory subcommittee. So,  
24 therefore, membership would have three-year terms in total,

1 but they'd be staggered, because all of the members  
2 would -- essentially, their term would expire October 1st,  
3 2013. And six members would have a term of one year; so  
4 they would expire October 1st, 2014; another six members  
5 would have a two-year term, which would expire on October  
6 1st, 2015; and then the third group of seven members --  
7 because we have 19 members total on this committee -- would  
8 expire October 1st, 2016. So that's one of the proposals.

9 Next proposal has to do with --

10 MR. PICK: Should we save our questions until  
11 you're done going through all of the revisions?

12 MR. URSO: Whatever you want to do.

13 MR. PICK: Are there term limits for members?

14 MR. URSO: That's something you can talk  
15 about. We didn't incorporate that.

16 MR. SCAVOTTO: Effectively there would be.

17 MR. PICK: Just because your term expires  
18 doesn't mean you can't be appointed again, unless there is  
19 a term limit. If there is a term limit, then you can't.

20 MR. URSO: Right. We're not proposing one at  
21 this point, and that's open for discussion.

22 MR. PICK: Okay.

23 MR. URSO: The next change is just a  
24 clarification change on 3-4, where we just included "in



1 MR. SCAVOTTO: The way I'm reading it, the  
2 terms expire. So, I guess technically you could be  
3 reappointed, and that is your question.

4 MR. PICK: That's my question.

5 MR. LOWITZKI: On the other hand, though, we  
6 have a hard time filling the empty slots we have. So, if  
7 you start to put term limits on, you're going to have a  
8 hard time having a committee.

9 MR. FOLEY: I think there are a lot of people  
10 who would love to serve on the committee, seriously -- just  
11 a matter of finding them.

12 MR. PICK: I would have to agree. I think  
13 getting them to show up at a meeting is different than  
14 getting them appointed.

15 MR. FOLEY: I would even volunteer to be on  
16 the subcommittee.

17 MR. PICK: Should I suggest that we establish  
18 a term limit of three -- I would suggest three terms.

19 MS. HANDLER: That's nine years then, right?

20 CHAIRMAN WAXMAN: Potentially, but that  
21 doesn't mean that the person who ends up in a three-year  
22 term this sequence would be a three-year-term person next  
23 sequence, does it?

24 MR. PICK: Yeah.

1 MS. HANDLER: It sounds like all the terms  
2 after this cycle will all be three-year terms. So the one,  
3 two, and three are simply to get us onto --

4 MR. PICK: This is just a one time.

5 MR. URSO: You got it.

6 MR. PICK: She's exactly right.

7 MR. SCAVOTTO: What I've seen in other places,  
8 you can be reappointed after a one-year hiatus. I don't  
9 care how you do it, but I think the intent of this is to  
10 rotate, right?

11 MR. URSO: Correct.

12 MR. SCAVOTTO: We might as well rotate and  
13 follow through with the intent.

14 MR. PICK: After how many terms? One?

15 MR. SCAVOTTO: Whatever your term is, you  
16 can't come back until you've been off the board or this  
17 group for a year. I mean that's an angle.

18 MS. HANDLER: Or maybe something in between.  
19 If you do two consecutive terms, then somebody could cycle  
20 off for a year and come back, if there is somebody who  
21 really contributes significantly, because some of our work  
22 has been sort of long -- it's a long-standing effort and,  
23 you know, you get somebody up to speed, and then if they're  
24 having to get off after three years, it might not be enough

1 continuity.

2 MR. SCAVOTTO: One thing we don't have is a  
3 maximum term limit. What a lot of groups do is say a  
4 maximum of six years service, or pick a number, five years,  
5 whatever you want, and say you can't come back until you've  
6 been off the board for a year. So, really, a matter of  
7 style, what you're most comfortable with.

8 MR. PICK: I like Carolyn's suggestion, no  
9 more than two consecutive terms.

10 MS. HANDLER: Two consecutive terms, and then  
11 you can have a one-year hiatus and come back, if the Board  
12 feels like they want to reappoint somebody.

13 MR. SCAVOTTO: To me that's very workable.

14 MR. PICK: How do we treat this one time, one,  
15 two, or three, or is that the consecutive term, even though  
16 it's an abbreviated -- so maybe we incorporate what Mike is  
17 saying, two consecutive terms, no more than six years. No,  
18 that doesn't help us.

19 MS. HANDLER: You could say no more than two  
20 full consecutive terms, right? So, a full consecutive term  
21 being two three-year terms.

22 CHAIRMAN WAXMAN: So what you're saying, we  
23 get through the cycle and then count two terms?

24 MS. MITZEN: Up to a maximum of eight years.

1 CHAIRMAN WAXMAN: For now.

2 MS. MITZEN: If somebody is on the two-year  
3 cycle, then they could have two more full terms.

4 MS. CREDILLE: What are you doing with  
5 existing years? What are we saying about that?

6 CHAIRMAN WAXMAN: Nothing. Those are --

7 MR. PICK: When we start counting, is the  
8 question.

9 CHAIRMAN WAXMAN: Yeah, and I think we start  
10 counting in '13, right, 2013?

11 MR. URSO: It depends on what you want to do.

12 CHAIRMAN WAXMAN: That's true. But I thought  
13 in our discussion, in our conference call discussion,  
14 that's what we talked about, was counting from 2013.

15 MR. SCAVOTTO: Then I think that's what you  
16 should do. Effective October 1, 2013, the maximum years of  
17 service will be what, two three-year terms?

18 MS. HANDLER: Two consecutive three-year  
19 terms.

20 MR. URSO: Okay. But then you've got to  
21 combine that -- after October 1st, 2013, six people are  
22 going to be on a one-year term, six other people are going  
23 to be on a two-year term, and then seven people are going  
24 to be on a three-year term. So, if the one-year person --

1 if you're saying two terms is the maximum, that one-year  
2 person will be a total of four years, if they want to stay  
3 on.

4 MR. PICK: Sure.

5 MS. CREDILLE: I'm just going to use me as an  
6 example. Do I become a three-year person because I've only  
7 been on here a year? And do the three-year people become a  
8 one-year at 2013, or who decides --

9 CHAIRMAN WAXMAN: The decision that we talked  
10 about on our little --

11 MR. PICK: Until I brought this up.

12 CHAIRMAN WAXMAN: -- executive phone call is  
13 that we would ask for volunteers, to see if anybody really  
14 wanted to be a one-year term person or two-year term person  
15 or a three-year term person. Again, that's what we talked  
16 about. It doesn't mean it's decided. So, if we don't have  
17 sufficient number of people volunteering to fill the number  
18 required for one-year, two-year, three-year terms, we were  
19 then going to suggest we just draw numbers, so that we go  
20 around the room and you either get a one-year, two-year,  
21 three-year term, based upon the number you pull out of a  
22 hat, or a card you pull out of a hat, or something. That's  
23 kind of our discussion, just to get it into a sequence.

24 MS. HANDLER: Or people could go into a

1 one-year term and then be up for reappointment, you know,  
2 subsequent to that for a full term, if they're interested  
3 and continuing to participate and adding value, or  
4 depending on what the other pool of people coming onto the  
5 Board might be.

6 CHAIRMAN WAXMAN: That's absolutely correct.

7 MR. URSO: So, you could do a maximum of two  
8 terms, and it could be the one-year term and a three-year  
9 term; it could be a two-year term and a three-year term;  
10 and then you could be reappointed, so to speak, after a  
11 one-year hiatus. I think at that point in time -- let me  
12 just put this on the table, that if you break service and  
13 you go off for a year, that person has to be reappointed by  
14 the Chair of the Mother Board, because the initial  
15 appointment has ended.

16 CHAIRMAN WAXMAN: I don't have a problem with  
17 that.

18 MR. URSO: I just wanted to make sure you  
19 understood that. It's not an automatic reappointment, if  
20 you're off for a year.

21 MS. MITZEN: You need to be off before you  
22 can be reappointed.

23 MS. HANDLER: You'd have to be vetted, just as  
24 if you were a new member.

1 MR. URSO: Yes.

2 MS. HANDLER: I would say.

3 MR. URSO: All right. So, if you put that in  
4 a motion, then we can make the correction.

5 MR. PICK: Okay. I'm supposed to synthesize  
6 everything everybody said? I'll give it a shot.

7 MS. AVERY: Does it have to be a motion, or  
8 can we take it from the transcript and come back with  
9 another draft?

10 MR. PICK: I like that idea.

11 MR. URSO: I like motions, so we have  
12 consensus, so we know where the vote is, if everybody  
13 agrees with --

14 MR. PICK: How about this? I will move  
15 that -- for bylaws amendment, that we consider establishing  
16 term limits that would include no more than two consecutive  
17 full terms, and then members would have to -- would be  
18 eligible, following a one-year hiatus off the Board, for  
19 consideration as new members. Is that good?

20 MR. URSO: That's good.

21 MS. MITZEN: Great.

22 MR. URSO: Is that clear?

23 MS. HANDLER: Minimum of one year, right?  
24 Because there could be more.

1 MR. PICK: Minimum of one year, right.

2 Anybody want to second it?

3 MR. SCAVOTTO: Second.

4 CHAIRMAN WAXMAN: All in favor.

5 ("Ayes" heard)

6 CHAIRMAN WAXMAN: Any opposed?

7 (No response)

8 CHAIRMAN WAXMAN: Motion carries.

9 So, we still need to approve the bylaw changes  
10 that are here presented to us so far.

11 MR. URSO: According to the bylaws, you're  
12 reviewing them at this meeting and approve them at the next  
13 meeting.

14 CHAIRMAN WAXMAN: Very good. Okay.

15 MR. PICK: Do we need to approve the other  
16 revisions or -- yes? I'll move to accept the revisions,  
17 other than the amended --

18 CHAIRMAN WAXMAN: That's what I meant.

19 MR. PICK: I'll move that.

20 MS. HANDLER: I'll second.

21 CHAIRMAN WAXMAN: Roll call or voice?

22 MR. URSO: Voice.

23 CHAIRMAN WAXMAN: All in favor?

24 ("Ayes" heard)

1 CHAIRMAN WAXMAN: Any opposed?

2 (No response)

3 CHAIRMAN WAXMAN: So, just to clarify what  
4 we've done, we approved the changes in the two paragraphs  
5 other than Section 1.2, and then the changes to 1-2 will be  
6 rewritten and brought back to our next meeting for approval  
7 at that point.

8 Okay. So then I would ask all of us to think  
9 about whether our personal interests are such that we want  
10 to say one year is what I want to do next, and then after  
11 that -- or two years or three years, because then after  
12 that, we will take volunteers first, and then after that,  
13 we will draw for terms.

14 Okay. Moving on, proposed changes to the 77  
15 Illinois Administrative Code 1125. This is the  
16 application.

17 MR. PICK: The giveaway was 1125.

18 MR. SCAVOTTO: Here's where we are --

19 CHAIRMAN WAXMAN: Mr. Scavotto, thank you so  
20 much for everything you've done, and Cece and Carolyn on  
21 your subcommittee. Please go.

22 MR. SCAVOTTO: We had another round of  
23 comments on the latest application as assembled by Claire,  
24 and I believe it's the March draft, and I've gotten

1 comments from Eli, gotten comments from Cece, and I'm in  
2 the process of summarizing those and getting that out to  
3 the group. So, we're probably going to get together in the  
4 next week or two by conference call, and our approach is  
5 going to be to try to coalesce around the administrative  
6 changes that we can make without having to make formal  
7 recommendations to -- through a legislative process, and  
8 we're going to -- we're going after the low-hanging fruit  
9 first, if you will, and then we'll try to tackle the big  
10 issues. So, those of you who are wondering about the  
11 bed-need formula, we haven't gotten to that, and it's also  
12 the bed sell/exchange program that's really not for the  
13 application. But the bed-need formula, the financial  
14 feasibility issues that Mike raised a few months back, the  
15 need for the market feasibility issues, those things are  
16 going to be bigger in scope and going to take us a longer  
17 time to get to. So, we're going to go for the easy stuff  
18 first, and I think we can make significant changes and  
19 improvements to the application administratively, but the  
20 heavier lifting is going to take some time.

21 So, right now we've just been circulating our  
22 comments. When we get to the conference call, we want to  
23 involve Claire and Mike. So, everybody just be forewarned,  
24 we'll be looking for you. That's where we are.

1 MS. AVERY: So, will you let us know the date?

2 We still have to publish an agenda, because you're  
3 convening on behalf of the Long-Term Care Subcommittee.

4 MR. SCAVOTTO: Okay.

5 MS. AVERY: If you get the dates, I'll create  
6 the agenda for you and post a notice.

7 MR. SCAVOTTO: Can we use your conference call  
8 hook-up?

9 MS. AVERY: Oh, yes.

10 CHAIRMAN WAXMAN: So, again, there's still  
11 time for anyone who wants to submit comments to Mike about  
12 the application to please do so.

13 MR. SCAVOTTO: Just be ware that there have  
14 been multiple drafts, and the one that we're working off of  
15 is March of 2012. I think it's March 9th.

16 MR. PICK: That's right.

17 MR. SCAVOTTO: And it will say across it in  
18 one of those watermark areas "March 9th". So, if you're  
19 just dying to make a comment, make sure it's on March,  
20 because if it's not on March, it doesn't exist.

21 MS. AVERY: So Mr. Scavotto, so I'm clear,  
22 what you all are working on are proposed rule changes that  
23 will have to be reflected in the long-term care CON  
24 application?

1 MR. SCAVOTTO: Right. That's the second part.  
2 We're going to do the easy part first, and what can we  
3 do -- what changes can we make without legislative action,  
4 and then we'll get on the legislative action. That's going  
5 to take longer.

6 CHAIRMAN WAXMAN: So you're looking at the CON  
7 application now?

8 MR. SCAVOTTO: Yes.

9 MS. AVERY: The one that is on the web is the  
10 one that we're using, and those will change with some of  
11 the changes that came from the Committee.

12 MR. SCAVOTTO: That's the March draft.

13 MS. AVERY: So it's waiting on changes from  
14 you all, additional changes.

15 MR. SCAVOTTO: Right, and there are several  
16 areas I think we can change pretty easily, but the bigger  
17 stuff, bed-need formula, for example, any discussion or  
18 change like that, that's going to be a while. Good  
19 discussions.

20 MR. FOLEY: Mike, on the web site it shows  
21 July 2012 edition.

22 MR. SCAVOTTO: That's probably the March  
23 version.

24 MS. AVERY: That is the March version.

1 MR. FOLEY: So, no changes from March to July  
2 on that form?

3 MS. AVERY: No. It would have to go through  
4 the process. That's probably why the dates are different.  
5 Like going to the Board --

6 MR. FOLEY: I just wanted the make sure  
7 everybody understood and they're on the same wavelength.  
8 Okay.

9 CHAIRMAN WAXMAN: Claire, do you have any  
10 questions or feedback for the process?

11 MS. BURMAN: I am wondering what in the  
12 application you could change without changing the Rule.

13 MR. SCAVOTTO: Well, we have to work through  
14 that.

15 MR. PICK: That's what we need to discuss.

16 CHAIRMAN WAXMAN: Mr. Foley?

17 MR. FOLEY: I think we just need to be clear  
18 that we are just talking about cleaning up the existing  
19 application form as it relates to the existing form -- I  
20 mean, the existing Rules itself, and any discussion about  
21 change in the Rules, obviously, has to come later. I think  
22 there is confusement that we just talked about changing the  
23 form only and that's it. We can't change any Rules yet,  
24 without getting everybody else's approval. We're just

1 cleaning up the form itself, and I thought there were a  
2 couple minor things that needed to be changed on the form  
3 itself, which could have been done right away. Obviously  
4 there was a lot of discussion about changing other stuff,  
5 for discussion, like the bed need, like the variances.  
6 That's all about change in Rules. We didn't want to talk  
7 about that -- I mean, that's a separate issue, I guess what  
8 I'm saying. The Rules are basically a separate issue. Am  
9 I making myself clear?

10 Claire, do you agree with what I'm saying?

11 MS. BURMAN: That's exactly right.

12 CHAIRMAN WAXMAN: I think that's exactly what  
13 Mike is saying.

14 MS. BURMAN: So, rather than looking at the  
15 application, I would suggest looking at the Rules.

16 CHAIRMAN WAXMAN: For the second half.

17 MS. BURMAN: Well, that's where it actually  
18 begins, because the application only reflects what's in the  
19 Rules.

20 MR. FOLEY: In the existing Rules.

21 MS. BURMAN: Yes. The current application  
22 reflects what's in the current Rules.

23 CHAIRMAN WAXMAN: But, Chuck, didn't I just  
24 hear you say that there were some things in the application

1 that relate to the existing Rules that you think should be  
2 adjusted?

3 MR. FOLEY: Again, I'm saying that should come  
4 under a separate discussion, when you talk about changing  
5 the Rules. It was my understanding that we approved the  
6 application, the March application form, which is now on  
7 the web site as dated July 2012. There are still a few  
8 minor changes that need to be changed to reflect the  
9 current Rules, period. That is what I thought we were  
10 supposed to be working on. Anything in that application  
11 form that relates to discussion about Rule changes, that's  
12 an entirely separate issue and should be talked about  
13 separately. Am I saying that clear?

14 CHAIRMAN WAXMAN: I think Mike said that.

15 MR. FOLEY: Not really. At least that's not  
16 what I heard. I heard he wants to talk on the current  
17 application form and change Rules at the same time, and we  
18 can't do that.

19 CHAIRMAN WAXMAN: No, I think Mike said that  
20 he was going to take -- to use his term -- low-hanging  
21 fruit and clean it up, which to me means existing stuff,  
22 and then look at proposed Rule changes that have to go to  
23 the Mother Board.

24 Mike, I don't want to put words in your mouth.

1 MR. SCAVOTTO: Charles, I think we're on the  
2 same page.

3 MR. FOLEY: Okay. I'll hush up.

4 MR. SCAVOTTO: Yeah, I agree.

5 CHAIRMAN WAXMAN: Okay. Any other questions  
6 for Mike or --

7 MR. CONSTANTINO: Mike, are you accepting  
8 comments from outside the Board?

9 MR. SCAVOTTO: Sure. I got one from you that  
10 was very helpful, and I'd like to get more.

11 MR. CONSTANTINO: I'm talking about attorneys  
12 that do long-term care applications, complete long-term --

13 MR. SCAVOTTO: Send them in.

14 MR. CONSTANTINO: I'll let them know.

15 CHAIRMAN WAXMAN: You'll have to separate  
16 their comments from Rule changes --

17 MR. SCAVOTTO: That's why we have to rely on  
18 Claire or Mike.

19 CHAIRMAN WAXMAN: And I'm sure you will.

20 MS. MITZEN: Just a question. Where are we  
21 in this process? When does this -- is there a deadline for  
22 us to --

23 MR. SCAVOTTO: Fortunately, no, because it's  
24 been a long time getting the simplest thing, like today is

1 Tuesday. It's --

2 CHAIRMAN WAXMAN: That's why we have nine-year  
3 terms.

4 (Laughter)

5 MS. MITZEN: So this is the low hanging  
6 fruit, and this has taken us what, close to a year?

7 MR. SCAVOTTO: It's painful, yes.

8 MS. MITZEN: And when we start to talk about  
9 Rules, then I think -- I'll be in one of your facilities  
10 before we get this done.

11 MR. SCAVOTTO: It just depends on --

12 MR. PICK: Perish the thought.

13 MR. SCAVOTTO: Depends on how committed the  
14 group is going to be on hanging together and working. I  
15 agree, the frustration meter may need to be recalibrated.  
16 I don't think it's going to take a long time to identify  
17 the issues. May take a long time to resolve them. We  
18 don't know.

19 MS. MITZEN: When are we going to be dealing  
20 with identifying the issues?

21 MR. SCAVOTTO: Give us a couple of months to  
22 get a better assessment of where we are. We're going to  
23 meet again in -- December? We ought to have something by  
24 then.

1 MS. MITZEN: So by December we'll have  
2 something to look at?

3 MS. AVERY: December 3rd.

4 MR. FOLEY: So, by December 3rd, we should  
5 have a final 2012 application form?

6 MR. SCAVOTTO: Who said that?

7 MR. FOLEY: I'm just asking a question.

8 MR. SCAVOTTO: In your dreams.

9 MR. PICK: Chuck had some really powerful  
10 coffee this morning.

11 CHAIRMAN WAXMAN: He said he wasn't feeling  
12 well.

13 MR. SCAVOTTO: It takes this group six months  
14 to agree that it's Tuesday.

15 MR. PICK: If I may, can I jump in? I think  
16 it's important also to reflect on what has been  
17 accomplished. We just approved the application that's on  
18 the web site, right, last meeting? So things have  
19 occurred. We've changed the application so that it  
20 conforms with 1125, which prior to last meeting we didn't  
21 have. Mike's group has been working on comments regarding  
22 that iteration and, you know, as a recent participant,  
23 there are things that we can continue to work on to enhance  
24 the existing application. There are clearly things that we

1 can work on to identify where there's opportunities to  
2 suggest Rule changes to enhance the process. That's -- in  
3 my mind, that's where we're at, and I think by the next  
4 meeting, the subcommittee will have some substantive items  
5 that we'll be able to look at and discuss as it relates to  
6 the current application and the elements within it and then  
7 also identify the items that will require Rule changes.  
8 That will clearly require this group to have a lot more  
9 discussion, because then we're going to have to formulate  
10 recommendations to the Mother Board.

11 So, my sense is, next couple of, two or three  
12 meetings, this is going to be a major part of what we're  
13 doing.

14 MS. MITZEN: Okay. Good.

15 MR. SCAVOTTO: So, we're at December 3rd.  
16 Yes, Charles, I'm getting the message. The pressure is on.

17 Phyllis, we will respond to you. The pressure  
18 is on. Be ready.

19 MS. MITZEN: Okay. Good.

20 CHAIRMAN WAXMAN: I think if you look at the  
21 progress that this group has made from the first meetings  
22 of the 1800's when we started this to now, I personally  
23 feel that each meeting has gotten better, each meeting has  
24 gotten more productive. We have gotten a group of people

1 who are very committed to the process and they are here at  
2 every meeting possible, and I think that, you know, it may  
3 be, starting from day one forward, we could feel some  
4 frustration of what hasn't happened. On the other hand,  
5 looking at what's occurred over the last year or so and  
6 especially the last six months, I think we should take  
7 pride in what we've accomplished. We've moving together as  
8 a group. There is more understanding of what we're doing  
9 and why we're doing it, and I think progress has occurred.  
10 So, I think it's good stuff going on. My editorial comment  
11 for today -- or at least in the morning.

12 Anything else we want to talk about in terms  
13 of application, process, the form?

14 (Pause)

15 CHAIRMAN WAXMAN: Okay. So now we are moving  
16 to Agenda Item 7, Bed Sell/Exchange Program Request for  
17 Proposal Discussion.

18 MS. AVERY: We had some discussions about the  
19 need to bring in an evaluator to help with this part of the  
20 charge that you all have given us, and we just felt as  
21 staff that we needed a research-based evaluation of the  
22 policy that would help us with determining the possible  
23 impact on the State of Illinois, pros, cons, getting  
24 feedback outside of this group, and organizing and helping

1 with that. So, we wanted some suggestions on, first of  
2 all, if you're -- you'll give us permission to do so, and I  
3 think the Board would probably want something that we can  
4 bring back as a working paper, whenever we reach a  
5 conclusion of what we're doing.

6 So, I think it would be in the best interests  
7 of the Board and the subcommittee to have an outside,  
8 unbiased party to help us with this process, in order to  
9 get feedback on a bed exchange/sell program for the State  
10 of Illinois. So, we want some feedback of what that should  
11 look like, possible suggestions of who we should look at,  
12 and once we narrow it down to what you want in an evaluator  
13 or consultant, we can put an RFP out there and get a couple  
14 choices and bring them back to this group.

15 CHAIRMAN WAXMAN: I guess the first question  
16 is, is there consensus among the group that it is a good  
17 idea to have a third-party evaluation process as part of  
18 what we're proposing? I will say personally that I think  
19 the concept is good. I think it's a little too early to do  
20 anything with it at this point in time, because I don't  
21 think we're anywhere near having defined exactly what the  
22 group wants out of the bed sell program. However, I'm not  
23 opposed to beginning the process of forming an RFP and  
24 letting it out for someone to -- for people, for firms, to

1 respond to in terms of helping us in this process, because,  
2 clearly, from some discussions I've had at several  
3 different kinds of gatherings, there is a lot of discussion  
4 outside of this committee where people have made  
5 conclusions and formed opinions that blew me away, because  
6 I knew we didn't talk about any of the stuff that they  
7 think is already foregone and a done deal.

8           So, I think we need to move cautiously, and  
9 the concept of having independent makes sense. Timing is  
10 the other issue. So, again, the question then becomes, is  
11 there an agreement that a third party or a third  
12 independent organization be selected to help us in the  
13 process of determining the pros and cons?

14           Mr. Foley?

15           MR. FOLEY: Doesn't all of this go up for  
16 public hearing before it's approved anyway? So, at that  
17 point in time, we have the opportunity for public comments.  
18 So, if anybody on the outside has any serious concerns or  
19 problems with the concept or what's being proposed, they  
20 have the opportunity to comment on it.

21           CHAIRMAN WAXMAN: Are you asking --

22           MR. FOLEY: I guess I'm questioning why we  
23 need an outside consultant when we've got professionals  
24 right here.

1 MS. AVERY: The leg work and the staff work of  
2 it all, and to say whether this is good or not is just this  
3 19 people, and there's some other questions that we've  
4 gotten, such as the impact that it would have on  
5 residents -- which we don't know -- the impact that it will  
6 have on providers, the value of the bid, the market values.

7 So, I think you mentioned, Mr. Waxman, that it  
8 might be good to have some feedback from a CPA or someone  
9 in that field to help us determine that.

10 But yet, you're right, it will go through that  
11 process of public hearing. But one term that I used was  
12 "Town Hall Meeting", to get feedback before it made it to  
13 the Rules stage. I think it's different if you have  
14 feedback from people before it becomes a proposal of  
15 Rules -- which then it will require the public hearing to  
16 do so -- than to say we just do this, 19 people decided.  
17 There are more providers than the 19 around the table, and  
18 you won't have those kinds of questions and feedback.

19 But I've gotten calls saying, "What are you  
20 all doing? We don't want this. We don't need this. What  
21 does it look like? How do you determine the value of  
22 beds?" And I told them we haven't gotten to that position  
23 yet. We don't have the information at this point, which  
24 started me thinking that we need someone to help the staff

1 to work on this, and, plus, convene a committee of this  
2 group to help with that, and the evaluator.

3 CHAIRMAN WAXMAN: Just a question. A public  
4 hearing to determine an outside contractor, or a public  
5 hearing to determine the results of what we do? Oh, yeah.  
6 The question right now is do we agree that there needs to  
7 be, besides this committee, an independent group also  
8 working with us? That's the question that is being raised  
9 by staff.

10 Mike?

11 MR. SCAVOTTO: Well, I'd like to -- Courtney,  
12 if you could keep talking, I would appreciate it. I would  
13 like to find out more about what we're trying to do. I  
14 mean, I can't imagine that getting an independent research  
15 look at this would hurt in any way. It's going to help,  
16 and if you're going forward with a public policy change,  
17 the more basic research you've got that's unsaleable, the  
18 stronger your position.

19 MS. AVERY: And that was the premise of it.  
20 When I started thinking about this -- Claire is very good  
21 at what she does, but there are a whole lot of questions  
22 that we can't answer as staff or committee.

23 MR. SCAVOTTO: Claire did a lot of research on  
24 what other states are doing. I know in Missouri, we buy

1 and sell beds, and it seems to be working out okay. But  
2 you were talking about impact on residents and impact on  
3 providers and what the impact -- I'm just -- are there  
4 other considerations that you've gone over and that can  
5 help us get some perspective on this?

6 MS. AVERY: Not outside of what Claire has  
7 done, but those are questions, per se, that we would need  
8 to have answers and in the best interests of the Board and  
9 the State, before we even get to a position where we have  
10 Rules written. What are you all basing this on? There's  
11 rules in Michigan, and it's working, but we don't know what  
12 happened. Was there an impact on residents? Did it show  
13 that the quality of care or the quality of those facilities  
14 increased? What was it that helped -- that made this  
15 program successful, and what was it that hindered the  
16 program from being a success?

17 MR. SCAVOTTO: There's been discussion here --  
18 I know you can jump in, Charles, and I know, Eli, you  
19 mentioned it, and, Cece, you might have mentioned this at  
20 one point. But this whole issue of dead beds and it  
21 affects the bed-need formula and affects this too --

22 MS. AVERY: That was one of the things we  
23 talked about as staff also. We went through a process --  
24 last year, Mike, or year before -- recently where we were

1 able to clean up the dead beds, per se, in the hospital  
2 facilities outside of long-term care, where we were able to  
3 take those beds that weren't being used out of our  
4 inventory. We haven't been able to get to a point where we  
5 can have buy-ins to do that with long-term care facilities.  
6 We hear it from the industry all the time, that beds are  
7 just there and it stops the growth of someone coming in and  
8 establishing a facility, because there's no established bed  
9 need, and that people are just holding on to beds and not  
10 staffing them, not using them, not certifying them, but  
11 they're in our inventory. So, we really have a skewed idea  
12 of what's out there and what's available. So, that would  
13 be our wish list, to clean that up first. But I think  
14 we're kind of feeling like that may not happen, because we  
15 heard the feedback from people at this table that when you  
16 do that, you have issues with financing, you have issues  
17 with getting mortgages, you have issues because that is  
18 based on the number of beds you have in that facility, and  
19 we haven't done any research to find out why, and I haven't  
20 been given a good reason how the two connect.

21 MR. SCAVOTTO: I think that would be a good  
22 argument to use to get that kind of research, because I --  
23 you asked me about financing, and you may disagree with me  
24 on this point. I'd say it's not based on beds; it's based

1 on revenues. And I don't know too many deals this day that  
2 go on the basis of beds. They go more on a cash flow  
3 basis. So, maybe that's going to help our own position.

4 MS. AVERY: And I think it will and, again,  
5 what it looks like with this evaluation and a consultant  
6 would be driven from this committee, not staff and not the  
7 Board. Like, what do we want to look at? What do we want  
8 answers to? What directions do we want? And who do we  
9 want to conduct it?

10 CHAIRMAN WAXMAN: And just so everybody is  
11 aware, one of the questions when we planned the agenda,  
12 so -- Eli and I knew this was on the agenda. One of the  
13 questions I asked was whether there were dollars available  
14 to go to the business world, if you will, and ask for an  
15 RFP, and the answer to that question was there are.

16 MS. AVERY: Yes.

17 CHAIRMAN WAXMAN: They have about \$3 left in  
18 the budget.

19 (Laughter)

20 MS. AVERY: I mean, if we take this to the  
21 Board as a recommendation from this subcommittee and you  
22 all agree with it, then we'll have to go through the  
23 process with IDPH and CMS and see what that looks like and  
24 if there is a cap on it and whether they have ideas of how

1 we can get to the finish line, avoiding this part. Then  
2 we'll take that to them. So I can't say we have X amount  
3 of dollars set aside for this, because it hasn't gone  
4 outside of this discussion for that.

5 CHAIRMAN WAXMAN: Phyllis?

6 MS. MITZEN: I'm going to let it play out a  
7 little bit more. I do have some questions, but let's have  
8 more discussion.

9 MR. PICK: Thank you.

10 What I'm understanding is that the scope of  
11 the work group, based on this discussion, shifts and shifts  
12 from grafting out a policy -- which is what we were working  
13 on -- to grafting out an RFP that would incorporate the  
14 elements, the policy elements that we raised as a group and  
15 that we're asking a private contractor to respond to  
16 requests or proposals about why they would be best  
17 qualified to do the scope of work that we would outline.  
18 So, I think it does fundamentally shift what we're -- what  
19 we've been talking about today, because we go from doing  
20 the substantive work on what would the policy changes be --  
21 vis-a-vis, the unused beds -- to what are the questions  
22 that impact the policies about bed availability, beds that  
23 are being used versus beds that aren't, and how would we  
24 select a contractor to best advise us as a group on

1 deriving an approach that takes into account the research  
2 that Claire did about what all the other states have done  
3 to date, and what would make the most sense for us as an  
4 Illinois body at recommending a policy. So, that's kind of  
5 my take-away of this. But it does, really, fundamentally  
6 shift what we thought our charge was.

7 CHAIRMAN WAXMAN: So, are you saying that we  
8 need to do more due diligence as this committee to define  
9 what we think the policies and procedures should be, before  
10 we ask an independent person to get involved?

11 MR. PICK: Well, I think there's a step in  
12 between. My thought would be that as a group, if we have  
13 consensus that a private contractor makes sense, then I  
14 think we need to assemble a work group of this group to  
15 begin formulating what are all the questions that we want  
16 to incorporate in an RFP that a contractor would be  
17 responding to.

18 MS. AVERY: That was part of it, too, to  
19 actually help draft the RFP, from three or four members of  
20 the committee, and the staff, the staff's support.

21 MS. CREDILLE: Can I ask a basic question?  
22 Other states that have implemented buying and selling --  
23 which there are a number of them -- did they go through an  
24 RFP process first before they did this? How did anybody --

1 MS. AVERY: I don't know.

2 MS. BURMAN: We don't know.

3 MR. PICK: I don't remember hearing anything  
4 about it in the course of the data that was gathered. That  
5 doesn't mean we can't do it.

6 MR. FOLEY: My recollection with the State of  
7 Ohio and also the State of Missouri, if I'm not mistaken, I  
8 don't recall them going through any kind of an RFP. I  
9 think their rules kind of spelled it all out. They knew  
10 what their problems were, they knew what their goals and  
11 objectives were in terms of what they're trying to  
12 accomplish with the bed sell concept, and they just did it.

13 In Illinois, I think one of our major problems  
14 is that we still have a lot of providers out there from the  
15 old school that are under the interpretation that a bed is  
16 worth a dollar, that when you try to -- you know, when you  
17 try to sell a facility, you're selling on a per-bed basis.  
18 I don't think that is the case. What Mike was talking  
19 about earlier today, when you try to buy a facility, it's  
20 not a question of how many beds a facility has; it's what  
21 the bottom line is. Because you could have a 100-bed  
22 facility with 100 Medicaid patients, and then you could  
23 also have another facility with 100 beds with all  
24 private-pay and only 80 percent or 75 percent occupied, and

1 I think that facility would be worth more than the Medicaid  
2 facility. I don't think we have really come to this stage  
3 here in Illinois, for some reason, because there is that  
4 group out there that is reluctant to give up this bed  
5 because they're thinking that is worth a dollar. But it's  
6 not.

7 MR. PICK: They're doing more than not giving  
8 it up. They're paying taxes on it.

9 MR. FOLEY: That's absolutely correct.

10 MR. PICK: Because they don't want to give  
11 them up.

12 MS. JOHNSON: What impact did it have on  
13 residents in other states, and what do you envision the  
14 impact would be for Illinois residents? Or do you know?

15 MS. AVERY: Are you asking Claire?

16 MS. JOHNSON: Whoever wants to answer the  
17 question. I'm just trying to rack my brain. I know it  
18 came up.

19 MR. SCAVOTTO: In Missouri it's been working  
20 okay. It hasn't been a big deal.

21 MR. FOLEY: And the same in Ohio, I believe.

22 CHAIRMAN WAXMAN: Off the top of my head,  
23 we're talking about the selling of an unused bed, and it  
24 doesn't have any impact on a resident, because no one was

1 in the bed. Otherwise, you wouldn't be selling it. From  
2 that perspective, I don't think there would be any.

3 From the perspective of a person buying beds  
4 because they have potential admissions who would then  
5 become residents, I think it's a favorable thing going in  
6 that direction. So, off the top of my head, just by  
7 definition, I think it has a favorable impact to the  
8 residents in that someone who is trying to get into a  
9 facility that is full, may have an opportunity. On the  
10 other hand, no one is being displaced from a facility --  
11 from a bed.

12 MS. CREDILLE: Well, additionally, the seller  
13 will have money to upgrade their current facility, and one  
14 of our charges for this committee is to create private  
15 rooms and modernize existing, antiquated facilities, which  
16 is a huge problem in Illinois, and that's why beds are out  
17 of service. So, the seller then has the capital to either  
18 pay down debt, which we've talked about at the last several  
19 committee meetings, and then also to upgrade their current  
20 facility, and this committee could suggest parameters to  
21 create private rooms, we could suggest parameters for X  
22 amount of Public Aid, so there's access in the new facility  
23 and the old facility for Public Aid access, because that's  
24 been an issue.

1 CHAIRMAN WAXMAN: Correct.

2 MS. CREDILLE: So it will equalize beds across  
3 the state.

4 CHAIRMAN WAXMAN: I agree with you. I can't  
5 think of any negative impact to a resident. Now, maybe I'm  
6 missing something, and that's possible.

7 MS. JOHNSON: So, poor performing facilities  
8 will be able to buy as many beds as they want to, or sell?

9 CHAIRMAN WAXMAN: Again, there will be a  
10 criteria of meeting standards to be a buyer. Again, those  
11 haven't been established. But the concept was talked about  
12 in this committee at some point that you had to be  
13 deficiency free and a few other things in order to be a  
14 buyer of beds.

15 MR. PICK: So, if I may, I think in all  
16 fairness, we clearly haven't flushed out these issues. And  
17 the comparative information that we're using -- Ohio and  
18 Missouri -- when they started their programs, there was  
19 nothing to compare to. They started with nothing. We're  
20 in a different position. We have states that have some  
21 experience. So, I think objectively, from my perspective,  
22 there is some merit to engaging a professional agency to  
23 provide us with some synthesis of information, analyzing  
24 the experience that is out there, you know, what's good,

1 what has not been as good or not -- or unintended  
2 consequences have occurred, if any, and incorporate that  
3 into our thinking. I think Cece articulated exactly what  
4 our charge is, and that is what we want to accomplish. We  
5 still want to accomplish that, and we want to make sure  
6 that we're improving the system, not unintentionally making  
7 it easier for organizations that are less committed to  
8 improving care to expand their ability to operate in the  
9 state. So I think those are issues that we clearly still  
10 need to flush out.

11 CHAIRMAN WAXMAN: So, am I hearing you that  
12 this committee needs to go down the road a little further  
13 before we engage somebody else to get involved?

14 MR. PICK: My opinion is that we need -- the  
15 group needs to work together on defining the scope of the  
16 project, rather than just say we need somebody. I think we  
17 need to, you know, assemble a work group that spends the  
18 time formulating the scope of work that incorporates  
19 exactly what Cece was talking about.

20 MS. HANDLER: What the expectations of that  
21 consultant, that group, are, so that the end product is  
22 what we're looking for, and not something that the  
23 consultant thinks we need, but that we feel we need.

24 MR. PICK: I think the better we are at

1 clearly articulating the objectives, the better result  
2 we're going to get; that the less defined it is, then who  
3 knows what we'll get and whether it's of any value.

4 CHAIRMAN WAXMAN: I agree. Anyone else wish  
5 to speak to the -- Phyllis, did I miss your hand again?

6 MS. MITZEN: No. I think the conversation is  
7 evolving to where it's fine. I don't have a question.

8 MS. CREDILLE: I'm not sure we're ready yet,  
9 but I don't know when the ready would be. I'm having  
10 trouble in my head -- what would two more committee  
11 meetings, where we try to get -- we didn't get through this  
12 whole document before, and even the part we got through was  
13 incomplete. But I don't know that there is enough  
14 consensus yet to --

15 MR. PICK: If I may, I think we -- there are  
16 some very clear differences of opinion. I mean, what I  
17 remember hearing was, the devil is in the details, right,  
18 that the general consensus was that at a public policy  
19 level, in 50,000 miles, there's general consensus that  
20 there needs to be something, and then where the differences  
21 emerged was the how's and the where's and the who's and,  
22 you know -- so, again, I go back to what's the best value  
23 for us in producing an RFP is clearly articulating what are  
24 the unresolved issues so that we can benefit from having

1 some level of expertise to come in. It doesn't necessarily  
2 mean they're going to resolve it, but help give us some  
3 clear perspective on how to work through those issues. At  
4 least that's my take on it.

5 MR. FOLEY: I was just going to comment.  
6 Would it work for this committee to send out a letter to  
7 facilities, tell them what it is that this committee is  
8 working on, and ask for their input? We all have talked to  
9 several facilities out there, providers, provider groups,  
10 and they all have different concerns, I think is a nice way  
11 of putting it, and I think it's just a matter of going to  
12 those people and saying, "Okay, what are your concerns?  
13 Write them down and share them with us." And I think if we  
14 had that mass mailing sitting in front of us, hopefully  
15 they would answer a lot of our questions and concerns here.

16 MS. HANDLER: Maybe that's part of what we  
17 want to suggest as part of the scope of an RFP, because  
18 what I'm really hearing is we have a capacity issue.  
19 Somebody has to do the work, and it's difficult, obviously,  
20 for all of us as volunteers to do that work, because we can  
21 see we're not getting as much work done as we would like,  
22 and the staff has some kind of capacity limitation. So,  
23 the need for external help is because it would be somebody  
24 directed to do these things. They would be focusing on it

1 for their 40 hours a week, or whatever the number of hours  
2 committed to the process would be, and bring back something  
3 for us to react to and respond to or act on, and that might  
4 involve, you know, doing some kind of mailing or  
5 solicitation of feedback from, you know, a select number of  
6 facilities or something.

7                   CHAIRMAN WAXMAN: The problem, though, is that  
8 you have members of the committee who are not related to  
9 facilities. So consequently then, do you have to address  
10 those questions to community groups, home health agencies;  
11 you know, people who don't own facilities but also have an  
12 interest in the whole concept?

13                   MR. FOLEY: I think it's open to everybody.  
14 Everybody is part of this.

15                   MS. MITZEN: So now I'm hearing some  
16 different things. Creating the RFP -- I mean, I'm unclear  
17 as to what kind of organization and/or individual and/or  
18 expertise is needed by the Department in order to move this  
19 process forward. I guess what I'm hearing and what I'm  
20 hearing Eli say is, the process of developing an RFP would  
21 then take -- it would take time, I think, on the part of  
22 members of this committee to hammer this out, and I agree  
23 with you, we're all volunteers. But if we really want to  
24 move this forward, it seems to me that we've got to invest

1 some time, put together a small work group that will craft  
2 an RFP that we can then respond to, because I have no idea  
3 who we would send to Courtney right now. I'm thinking, do  
4 we want a Lewin Group, do we want a CPA, do we want a  
5 lawyer, do we want an academic partner in this? I mean, it  
6 could be any of those or all of those, based on the  
7 conversation that I've heard.

8 MS. AVERY: And I should go back a little bit.  
9 This is exactly what you said. My idea was or thought was  
10 that the Chair would ask for volunteers or solicit people  
11 that represent those groups. The -- I know there's the  
12 state-wide council. I've heard from both sides, and there  
13 might be a slight divisiveness there. We haven't really  
14 gotten full weigh-in -- which is okay -- from the  
15 Department yet, because we haven't presented anything for  
16 the Department to weigh in on. And maybe that Lewin Group,  
17 or whoever else, if we go around the table, could give a  
18 suggestion as to who should go into that committee, to come  
19 back here and make the final decision on what that RFP  
20 should look like. That's where I wanted to start:  
21 Representatives of the subcommittee, appointed by the  
22 Chair, or volunteer basis, to come back and say, "We met;  
23 this is what we came up with; these are our suggestions."  
24 And if there is a consensus not to do it, then I think we

1 would have to go a step forward and get some direction from  
2 the Board.

3 MS. MITZEN: So, it also sounds like there is  
4 a state-wide organization -- I mean, the state-wide  
5 organizations that represent nursing homes only, but then  
6 we also talked about what impact does this have on the  
7 community. So, it's the home health agencies and, I'd say,  
8 that the area agencies on aging also, which have a planning  
9 function in here.

10 MR. PICK: If I can add, I think, Phyllis,  
11 after listening to what you were saying, that perhaps an  
12 RFP is not limited to just an agency per se, but we may  
13 need to have different perspectives, which would include an  
14 academic as well as other community-based organizations to  
15 provide us with feedback.

16 MS. AVERY: And if we have that in an RFP --  
17 and I keep saying this, because that's the only one that  
18 comes to my mind that I've learned about through my  
19 academic, is the Lewin Group -- and we say to them, "This  
20 is what we want from you: We want representation of  
21 financial, market play, academic." Then they can put that  
22 group together with their resources and bring it to us.

23 MR. PICK: I don't think you'll get that.  
24 Lewin Group is --

1 MS. AVERY: Not them. I'm just using them as  
2 an example. Whoever we say, we get to dictate what that  
3 should look like. They can't just bring it to us.

4 MR. PICK: But we may end up in a position  
5 where there isn't an agency that can do all of those  
6 dimensions. We may end up contracting --

7 MS. AVERY: Then we go back to the drawing  
8 board. I would rather not contract with those different  
9 professions individually, but if we have to, fine.

10 MR. PICK: Let's not get ahead of us. Let's  
11 let the work group do the work.

12 MS. MITZEN: It seems to me that we're  
13 talking about a work group from this group -- given what  
14 you're saying, you need help in -- can you clarify exactly  
15 what you need help in?

16 MS. AVERY: We just -- to me, at the table  
17 we'll just go back and forth, back and forth. I know  
18 there's a lot of expertise and feedback, but without  
19 breaking the confidence of people I get to talk to on an  
20 individual basis, everybody is not buying into the program,  
21 and we have no meat to say, "This is good; this is not  
22 good; this is what you should look at; this is what you  
23 should consider." And then we also don't have the manpower  
24 for it. We don't in our immediate staff for the Planning

1 Board. I mean, Claire is great. She does a lot of work.  
2 But there are other rules and things outside of long-term  
3 care that we're also working on. So, we really don't have  
4 the manpower for it at this point. Frank and Juan are  
5 always tied up in litigation. Mike has applications up the  
6 wazoo. It's not my expertise. Claire helps me out a lot  
7 to understand it, but I know her plate is also full. We  
8 have a legislative session coming up. We can't pull Alexis  
9 off for that. We just don't have the manpower to do the  
10 due diligence of the research and feedback of what we would  
11 need in order to make a good recommendation with great  
12 conscious to the Board to say, "This is good; we should go  
13 forward with it."

14 MS. MITZEN: So, ultimately, it's to get us  
15 to the point where we can make a recommendation that we  
16 agree on and are confident in to you?

17 MS. AVERY: And we need some kind of basis in  
18 order to start drafting rules.

19 MS. HANDLER: Can I summarize what I'm  
20 hearing?

21 CHAIRMAN WAXMAN: Hold on. I saw hands this  
22 way, so I'll come right back to you.

23 MS. JOHNSON: Since Missouri is so close, is  
24 there a possibility that maybe someone that worked on

1 crafting the bed tax legislation or got it started in  
2 Missouri could maybe come here? Not that we would want to  
3 craft what Missouri has done, but they would know what the  
4 strengths, the good, the bad, the ugly would be, hammer  
5 out --

6 MS. AVERY: Without bringing them physically  
7 to the --

8 MR. PICK: Bed tax or the bed exchange  
9 program?

10 MS. JOHNSON: Bed exchange. Wrong  
11 terminology.

12 MS. AVERY: Without bringing them physically  
13 to the table, that's the kind of things that I would like  
14 the person to sit down and do.

15 MS. JOHNSON: Starting from scratch, maybe  
16 they could work with the work committee.

17 MS. AVERY: Or the person. If we decide to go  
18 that route, that's one of the things we need. We need to  
19 interview the states that have existing programs and come  
20 back with some kind of synopsis for us.

21 MR. FOLEY: They want somebody else to do the  
22 work for us, because the staff doesn't have the time to do  
23 it.

24 MS. AVERY: And the letter that Mr. Foley

1 mentioned, those type of things, you know, we just don't  
2 have the manpower to come back and summarize it, you know,  
3 unless we all just sit down and look through it and come up  
4 with what they're actually trying to say, if we have a  
5 survey. If we had a person that could put it into Survey  
6 Monkey or something like that and spit it out to us, that  
7 would be a basis that we could have some evidence that it's  
8 working for them or not.

9 CHAIRMAN WAXMAN: Mike?

10 MR. SCAVOTTO: Do we have any -- what kind of  
11 data do we have on this problem now?

12 MS. AVERY: On the over bedding?

13 MR. SCAVOTTO: From our own resources, what  
14 sort of information is available?

15 MS. AVERY: Just the research that Claire has  
16 conducted by some personal interviews over the telephone,  
17 to see what's going on in that state, and the research she  
18 has found on line. I don't think there is anything  
19 additional.

20 MR. URSO: I think we do have utilization  
21 data.

22 MS. AVERY: I thought you meant for the bed  
23 exchange. We do have our utilization data from our surveys  
24 that we administer in the state of Illinois with the

1 providers. I thought you meant from the other states.

2 MR. SCAVOTTO: No, I meant data of all types  
3 that would give us some ability to define what you want.

4 MS. MITZEN: I think you've got to define the  
5 questions first. We have to come up with the questions  
6 that we're asking in order for us to see whether or not the  
7 data is there and available.

8 MR. SCAVOTTO: And I'm going from the other  
9 direction. I'm saying, what kind of data do we have and  
10 can we get to exactly that point? What is it that we need?  
11 I mean, I respond to a fair number of RFP's every year, and  
12 I can usually tell the ones that are well thought out and  
13 data based, and the ones that aren't, you don't even bother  
14 to answer, because your response could be -- you've got  
15 maybe 180 degrees, and you probably are going to lose. You  
16 never are going to know if your response is going to be on  
17 point. The more data we can use to focus on crafting the  
18 RFP, I think, the stronger your chances will be of getting  
19 a meeting of the minds with whomever you decide to use.

20 MS. AVERY: Even with our data, with  
21 utilization, inventory, services, I don't think it would  
22 answer those issues.

23 MR. SCAVOTTO: It might not. You don't know  
24 what dead beds are from your surveys?

1 MS. AVERY: No. That's self-disclosure.

2 CHAIRMAN WAXMAN: Do we have a universal  
3 definition of "dead beds"?

4 MR. URSO: We don't use that term, and there's  
5 probably a good reason for that. Unused beds.

6 CHAIRMAN WAXMAN: As being just an empty bed,  
7 different than the empty bed?

8 MR. CONSTANTINO: The statute calls for  
9 "inactive beds", to define inactive beds, but we've never  
10 defined that. I think it was leaving it up to the group  
11 here to define that term.

12 MR. URSO: We did categorize beds in the  
13 hospital. I think we came up with three different  
14 categories or something. I don't know what the  
15 applicability of that would be.

16 MR. CONSTANTINO: Transitional, reserved, and  
17 staffed.

18 MR. URSO: There's definitions for those.

19 CHAIRMAN WAXMAN: Okay. But there hasn't been  
20 a definition or a classification of beds prior to the new  
21 legislation, the new regs?

22 MR. CONSTANTINO: The new statute, July 30th,  
23 2009 --

24 CHAIRMAN WAXMAN: Is the first time it

1 asked --

2 MR. CONSTANTINO: -- the term "inactive beds"  
3 was defined there. We've never defined it in Rule or  
4 statute anywhere.

5 MS. MITZEN: Sounds like that's the first job  
6 to do.

7 CHAIRMAN WAXMAN: Chuck?

8 MR. FOLEY: Is there any one question -- for  
9 instance, to define an active bed or an inactive bed --  
10 that we could put on the next long-term care facility  
11 survey form that might help out this committee to come to  
12 that realization of how many beds are unused out there? I  
13 mean, right now -- what do we have right now?

14 MR. PICK: The questionnaire asks if the beds  
15 are set up or not, and staffed. So, an inactive bed is a  
16 bed that's not set up and staffed, and I can tell you -- I  
17 think the problem is the reliability of the information,  
18 because it's a form that has no auditing. The  
19 administrator is asked to disclose whether those beds are  
20 set up or not, and I can tell you as an administrator, that  
21 was a question -- I'm looking at the computer, saying,  
22 well, I can get those beds set up the next day, if I have a  
23 patient. So, in my mind, they're set up and ready to roll.  
24 So I think that's part of the problem.

1 MR. FOLEY: So even a clear definition would  
2 not help out that answer?

3 MR. PICK: No, I don't think so. I think the  
4 internal discussion where we talk about a dead bed are beds  
5 that are unused, and the question that is being asked right  
6 now is, is the bed set up? And the definition of "set up"  
7 is furnished, operational and staffed within -- I forgot  
8 what the parameter is -- a very short period.

9 MR. FOLEY: 24 hours.

10 MR. PICK: Yeah. I had a storage facility  
11 less than a mile away from my facility. That's where all  
12 of the beds and excess furniture was, and if I needed to, I  
13 could dispatch my maintenance or housekeeping crew to go  
14 get that stuff and put it in a room, so by the next day I  
15 could put a patient in there. Did I use those beds?  
16 Probably not in 15 years.

17 MR. FOLEY: So the question could be turned  
18 around and ask something to the effect, I guess, in terms  
19 of looking at your occupancy over the last three years or  
20 five years, and if your occupancy rate is at 60 percent,  
21 obviously a fourth of those beds the last three, four or  
22 five years have not been used.

23 MS. CREDILLE: But, Charles, it's occupancy of  
24 what? People now say they are running 90 percent occupancy

1 or 95 or 80, but it's occupancy of what? Your licensed  
2 beds?

3 MR. FOLEY: Your licensed beds.

4 MS. CREDILLE: That's not how the industry  
5 works.

6 MR. PICK: The questionnaire doesn't ask  
7 percentages. It asks how many occupied beds on December  
8 31st, what your peak and low was during the course of the  
9 year. So it's not asking percentage. It is asking those  
10 kind of numbers, and cost reports are submitted to both  
11 Medicaid and Medicare that discloses what the occupancy was  
12 during the course of the year, not by percentage, by  
13 number. So, the information is kind of out there, but we  
14 can ask the question five ways from Sunday. The reality --

15 MR. FOLEY: The Department only looks at  
16 licensed beds. So, if you've got a patient day figure and  
17 you've got a licensed number out there, a number of beds,  
18 that does calculate into, obviously, an occupancy rate.  
19 So, again, if that occupancy rate of the last three, four,  
20 five years is consistently at 50, 60, 65 percent, obviously  
21 there's, quote, dead beds out there, period.

22 MR. PICK: I think, as was already mentioned  
23 by Frank, the hospital industry had the same issue for  
24 decades. Hospital administrators were loath to give up

1 beds, because they know how hard it is to get them. We're  
2 experiencing exactly the same dynamic.

3 CHAIRMAN WAXMAN: I don't think there is any  
4 disagreement that there are dead beds. I think the real  
5 problem is to quantify it.

6 MR. PICK: So I think the real problem is that  
7 we are all over the map, and what I heard is a consensus  
8 that there is benefit to having an outside party, and as  
9 Mike Scavotto said -- I think he's exactly right -- if we  
10 craft an RFP that's ill defined or undefined, we're going  
11 to reduce the number of agencies that are going to respond,  
12 because they think it's a waste of time, and it's incumbent  
13 upon us to really craft out what are the critical questions  
14 that we need answered and seek outside support through an  
15 RFP, for qualified agencies to step up and fulfill this  
16 project request. But that means we got work to do, and I  
17 think we have done a lot of work already. There are many  
18 questions that have been identified, including those where  
19 there's disagreement.

20 CHAIRMAN WAXMAN: And I think that -- my  
21 personal opinion is that I think the initial discussion of  
22 what those questions are needs to take place in the larger  
23 group, before it's handed off to a work group. I think  
24 there needs to be consensus among this group of what the

1 work group needs to refine. I need to make sure that  
2 everyone who has been good enough to participate over the  
3 months that we've had this discussion have the opportunity  
4 to share what they think the questions are. Staff or  
5 transcripts will give us the questions that are on the  
6 table, and the work group then can put it into a framework  
7 that we can then develop an RFP; but I think the large  
8 group should have the opportunity to set up the  
9 qualifications or questions that are available for the work  
10 group to look at. That's my opinion. Obviously, all of  
11 you have the ability to share your thoughts.

12 MR. PICK: Well, if I may, can I formulate a  
13 motion then that we, as a body, would seek to develop the  
14 criteria under which an RFP would be formulated and that a  
15 work group be identified to complete that assignment?

16 CHAIRMAN WAXMAN: I have a motion. Need a  
17 second.

18 MS. CREDILLE: Second.

19 CHAIRMAN WAXMAN: We have a variety of  
20 seconds. All in favor?

21 ("Ayes" heard)

22 CHAIRMAN WAXMAN: Anyone opposed?

23 (No response)

24 CHAIRMAN WAXMAN: Okay. So, I think lunch is

1 at noon. So I think what we should do now is really kind  
2 of free-flow the questions that would then be handed to the  
3 work group, and before we leave today, we can identify who  
4 wants to be part of the work group. I think, Cece, you did  
5 a great job earlier, within the last 20 minutes, of kind of  
6 laying out some of the questions. So, do you think you  
7 could recall what you put out there for us, so that we can  
8 get them into a format on the transcript?

9 MS. CREDILLE: Repeat what I said?

10 MR. PICK: It's in the transcript.

11 MS. CREDILLE: Exactly.

12 MR. PICK: How is that? I bailed you out.

13 (Laughter)

14 MR. PICK: Mike, if I might, I think the other  
15 issue -- being part of the previous work group, I think  
16 it's a disservice for us to kind of go like we're starting  
17 all over again. There is a group that already did some  
18 work that Tim Phillippe chaired, and that group identified  
19 some really key questions and provided some discussion and  
20 differences of opinion on some of those questions, which is  
21 what led Claire to then do the research that she did. So,  
22 I think it's a disservice for us to just kind of start off  
23 the top of our heads all over again, when we've had a body  
24 of work already done.

1 CHAIRMAN WAXMAN: Point well taken.

2 MR. PICK: So I would suggest that what we  
3 need to do is, you know, recall through identification in  
4 both transcript and reports that were provided by the  
5 previous work group, so we as a body have an opportunity to  
6 review those things, and then come back together to then  
7 discuss them and really then formulate the charges for the  
8 work group.

9 CHAIRMAN WAXMAN: Do we know when Tim will be  
10 returning?

11 MS. AVERY: I don't know if he had the  
12 surgery, but I think he did maybe last week or so, and  
13 Christie thought maybe six to eight weeks. On his -- on  
14 his out-of-office reply, he forgot to change the dates.  
15 So, she is not sure and she hadn't been in contact with him  
16 when I talked to her last week.

17 And we have a card for him. So, whoever  
18 didn't sign it, please do so.

19 CHAIRMAN WAXMAN: So, it sounds like he should  
20 be available for December 3rd.

21 MS. AVERY: She did ask -- Claire --

22 MS. BURMAN: Yeah, she asked me to confirm the  
23 date for the December meeting, and I take that as he's  
24 interested in coming.

1 MS. AVERY: I don't know, since it's early in  
2 December, or what, but I looked at that as he might be  
3 available.

4 CHAIRMAN WAXMAN: So can staff find the memos  
5 that were originally generated by Tim's group and make  
6 sure -- resend them out to the committee, please, so that  
7 everyone has the opportunity? I know some of us have  
8 files --

9 MR. PICK: I still have them.

10 CHAIRMAN WAXMAN: Let's make sure everybody  
11 has that, and then there's some people who weren't here  
12 when, I think, that came up. So let's get those into  
13 everybody's hands.

14 And so then in your opinion, that's the  
15 starting point?

16 MR. PICK: Yeah. I think we need to refresh  
17 our memories of what was discussed. I think Cece  
18 articulated some of the --

19 CHAIRMAN WAXMAN: You did a good job. I  
20 really wanted you to do it again.

21 MR. PICK: And I think the bill -- I forgot  
22 the number that was the basis to establish this  
23 subcommittee --

24 MS. AVERY: I think was it 3614. Matt?

1 MR. HARTMAN: Yeah.

2 MR. PICK: That that's another element that we  
3 need to take a look at, because it did articulate specifics  
4 of what needed to be changed.

5 MS. AVERY: And that was a result of  
6 negotiation between HCCI and staff.

7 MR. PICK: And LSN. LSN was part of that,  
8 too.

9 MS. HANDLER: So can I ask that staff, you  
10 know, pull that language, as part of what they accepted,  
11 out, in addition to the work group materials, that language  
12 from the bill, and then also can somebody just go through  
13 the transcripts and identify the page or wherever where  
14 Cece articulated -- she was pretty clear with her thoughts  
15 around that, and then we can go back and reference that as  
16 well, easily have it at our fingertips?

17 MS. AVERY: Now, the bill that became law just  
18 said we would evaluate. It didn't give us details on how  
19 to do or what to do. So it's very generic.

20 MR. PICK: But it did include concepts of what  
21 it is that was intended -- private rooms, encouraging --  
22 increasing access.

23 MS. AVERY: You're referring to Senate Bill  
24 2905.

1 MS. CREDILLE: You're talking about the  
2 committee purpose, aren't you?

3 MR. PICK: Right.

4 MS. CREDILLE: It's modernization of  
5 facilities; it's access; it's private rooms.

6 MS. AVERY: That's in Senate Bill 2905. I  
7 thought you meant the one to evaluate the buying and  
8 selling of beds.

9 MR. PICK: No, because the bed selling program  
10 was an outgrowth of achieving those objectives. So I think  
11 we need to go back to the root of what the charge was that  
12 led us to talking about buying and selling beds as a means  
13 to accomplish those goals.

14 MS. AVERY: And again, I think that bill did  
15 set this up and brought it to where it could happen, the  
16 exchange of a bed sale, but in our research, we never found  
17 anything from that committee that made the recommendation  
18 to do so.

19 MR. PICK: Correct. And, again, as we went  
20 back, what we remembered was that the consensus we reached  
21 of a buy and sell program was a good idea, but when we  
22 tried to work out the details, that's where everything kind  
23 of came to a halt.

24 MS. AVERY: And then --

1 MR. PICK: And it was hands off -- the  
2 intent -- I don't know with the intent -- the outcome was  
3 that the bill itself is not detailed implementation of the  
4 program. It was left undefined, and I think there were  
5 expectations that that's what this group would then do.  
6 It's not -- it wasn't clearly stated that that was the  
7 intent, but it's the interpretation. So I think -- again,  
8 I think we need that history to be able to put it all back  
9 together again, in order to get on the right track of  
10 what's the work group's charge, what are the key aspects  
11 that we want to accomplish in the formulation of an RFP.

12 This is the report from November 23rd of 2011  
13 for the buy/sell work group.

14 MS. AVERY: Okay.

15 MS. CREDILLE: Then he has a summary document  
16 from February 20th, a subsequent document.

17 MS. AVERY: So we'll get them all together in  
18 one pdf file and send them out to all members.

19 MR. PICK: It will be helpful to us and  
20 refresh our memories of all of the elements that led up to  
21 today.

22 MS. HANDLER: So then, for next meeting, can  
23 we be prepared for it to be really a working session, so  
24 that out of it comes, you know, specific things that are

1 going to -- sort of guide that next group, where we're  
2 actually using -- going back to an old-fashioned flip chart  
3 paper or having technology set up, or somebody can be doing  
4 it on line and we can visualize it and see it and make the  
5 tweaks, so we have a product at the end of the discussion  
6 that can then be handed to the work group that says these  
7 are the parameters under which we want you to come back  
8 with the specifics for, you know, approval of an RFP.

9 CHAIRMAN WAXMAN: Totally agree, and I was  
10 trying to get there. Absolutely.

11 MR. PICK: We still have a motion on the  
12 floor, don't we?

13 CHAIRMAN WAXMAN: I thought we did.

14 MR. PICK: Did we pass it?

15 MS. CREDILLE: We passed it.

16 MR. URSO: I think it was passed.

17 I just wanted to mention that it's always been  
18 helpful in problem solving and analyzing situations to get  
19 as much data as possible, and it goes back to your  
20 question, Mike. What do we have out there already? And  
21 the one thing that sticks in my mind is, we keep talking  
22 about a successful buy/sell program in Missouri, and my  
23 thought is, why can't we have somebody come from Missouri,  
24 now as an expert, to help us generate the questions and the

1 thoughts in the areas that perhaps we want to improve upon?  
2 And so I'm just thinking, it might be an easy situation,  
3 since you know everybody in Missouri --

4 MR. SCAVOTTO: Oh, yeah.

5 (Laughter)

6 MR. URSO: -- to have somebody come and give a  
7 presentation. I don't think it would be that difficult.

8 MR. SCAVOTTO: My daughter is a healthcare  
9 attorney in Missouri and a CON attorney. My lawyer is the  
10 reigning king of CON in Missouri. It should be my  
11 daughter.

12 (Laughter)

13 MR. SCAVOTTO: But I bet someone from that  
14 agency would come up.

15 MS. AVERY: Can you supply us with the  
16 information and we can discuss with them?

17 MR. SCAVOTTO: Sure.

18 (Discussion held off the record.)

19 MS. BURMAN: I think it's either Missouri or  
20 Ohio -- Missouri, I believe -- the CON Act allows for the  
21 selling of beds. I believe that's how it started in  
22 Missouri, and I believe in Ohio, it's in the Licensure Act.

23 MS. CREDILLE: I certainly could have access,  
24 given that my organization -- outside of what I'm doing

1 with this committee, we're national. So, I certainly -- if  
2 you wanted to have additional people or contacts, I can  
3 certainly find that out, if you want to do that, in  
4 addition to Missouri, or not. I don't know who they are.

5 MR. FOLEY: Does the committee have to pay for  
6 all of the travel expenses?

7 MR. PICK: No, Chuck, you're going to pick  
8 them up.

9 (Laughter)

10 MS. HANDLER: Of course, technology is pretty  
11 amazing. You can arrange for webinars --

12 MR. SCAVOTTO: You could do it on line.

13 MR. FOLEY: Skype them.

14 MS. AVERY: Yeah, we'll figure it out. It's  
15 not easy getting that done, but -- with the in-person  
16 travel, but we'll figure it out.

17 MR. SCAVOTTO: The private practitioners in  
18 Missouri will tell you the impact will rule, and they'll  
19 give you a different perspective.

20 MR. PICK: Going back, if I may, I think it's  
21 still critical for us to formulate the questions before we  
22 start bringing people in.

23 MS. MITZEN: I agree.

24 MR. PICK: Because it's helpful to have the

1 perspective and information from others, but if we don't  
2 have a clear idea of what it is we want to be able to work  
3 through, we're not going to be able to ask the right  
4 questions.

5 MS. MITZEN: I absolutely agree with you. I  
6 was trying to figure out how that would work in a four-hour  
7 meeting or three-hour meeting. It seems to me that we need  
8 time for ourself to do that. I would envision that as a  
9 facilitated conversation, that someone who has no ownership  
10 in this needs to lead us in a discussion, because we have a  
11 lot of divergent opinions on the table, and I don't know if  
12 somebody from the Department can do this; but we need  
13 somebody who is not on this committee, helping to guide  
14 this conversation, so we can end up with something at the  
15 end that we can then act on. That would be my suggestion.  
16 And having an expert like that would be one of the things  
17 that we would want to ask for as part of the process, I  
18 think, rather than having them come in before we formulate  
19 our questions to start with.

20 MS. AVERY: And I'm going to put Toni on the  
21 spot, but she is -- the question is not related to the  
22 Department or the Department's position, because the  
23 Department does not have a position on this issue yet. But  
24 Toni worked in the industry in Ohio, and I asked her, can I

1 put you on the spot, just to show you her experience of how  
2 they got to a full-blown program.

3 MS. COLON: Just kind of my brief experience.  
4 I worked as a provider in the state of Ohio. I know we're  
5 speaking about that process, and I want to let everyone  
6 know, it's not as easy as I think some of the perceptions  
7 are. It was very specific as to when you can exchange  
8 beds. It's very limited. Very small period of time as to  
9 when a provider can sell or purchase their beds, and  
10 typically a provider would look at the middle of their  
11 fiscal year, look at their cost reports, how much money are  
12 they losing, and they would sometimes look at that as an  
13 opportunity to make their ROI's by the end of the year, by  
14 selling the beds that have been shelved. We used  
15 "shelved", because we were paying taxes on those beds.  
16 They were inactive, dead, unused, whatever adjective you  
17 choose to use, but they were shelved beds, and we, as  
18 providers or administrators or operators, would make a  
19 recommendation to the corporation to say, you know, if I  
20 sell 15, 20 beds -- and the average cost for a bed was  
21 approximately \$15,000. So, I don't know -- I haven't  
22 really heard values being spoken around here, but it was  
23 very, very costly to purchase. But it was -- if you sold,  
24 you made a ton of money, and you can recover by the end of

1 the year.

2 In addition to that, through that process, it  
3 was very specific as to selling within the county, outside  
4 of the county, very specific parameters and criteria that  
5 you needed to meet before that sale can take place. Some  
6 other variables that were put into play were, did you --  
7 there's a lot of competition in certain geographical areas,  
8 saturated by the number of nursing home providers in that  
9 area. So, you know, if you're my competition and we're in  
10 the same county and I'm losing money on 20 Medicaid beds,  
11 but, you know, your census, your occupancy has been  
12 averaging at 96 percent because you're private pay, you  
13 have a good mixed payer source population -- my payer  
14 source population is primarily Medicaid, and I'm dying,  
15 because quality is not there. I can't provide the higher  
16 level of services. I really don't want to sell to you,  
17 even though you have a proven track record of financial  
18 success, quality, services.

19 In addition to that, you can show need. You  
20 want to expand. My occupancy is at 76 percent. I don't  
21 have a history of good quality outcomes. You with me?

22 So, there's a lot of different variables that  
23 play into the question that we need to develop for this  
24 RFP. There is a lot of data that we need to compile within

1 our state. You know, yes, I'm in agreement that we should  
2 have representatives potentially from Missouri and Ohio,  
3 but we need to look at our own state. We need to look at  
4 our own demographics, county by county. Where are our  
5 aging populations? What is the occupancy within that  
6 county, within the providers within that county? Right?  
7 We need to look at our aging population percentages. This  
8 information is accessible. It is available, and I believe  
9 it's worthy to look at. I think that we need to look at  
10 providers, and I know within the survey process, we do go  
11 and complete annual surveys of providers. You guys are all  
12 aware of that, correct? We do look at total licensed beds,  
13 but also look at occupied beds and what the percentage is;  
14 and for our state, the average occupancy percentage is 76  
15 percent occupancy.

16 So, when we want to request a third-party  
17 consultant to come in, I think it's necessary -- based upon  
18 if we come to a consensus and say this is something we'd  
19 like to see happen, we really need to have the substance.  
20 We need to be able to say this is why we should do this.  
21 But with the industry, with the administration, with all of  
22 those parties that we represent, knowing that this current  
23 occupancy percentage is 76 percent, the question is, why is  
24 there a need? I believe we, as a committee, subcommittee,

1 have the responsibility to articulate why there is a need  
2 with very good research, very good data. How do we want to  
3 develop the parameters with that, I believe, privilege for  
4 providers to potentially do, based upon very, very specific  
5 criteria, and I understand, one of the -- I think I heard  
6 you state this, that we want to see development, and I  
7 think that that was the whole incentive of Bill 2905,  
8 right? But we also need to look at, are they really going  
9 to develop, if they were given that extra money for selling  
10 those beds? Do you see where I'm going with this? How is  
11 it -- what is their financial status currently? Now I'm  
12 speaking from the operator hat. If I sell you 15 beds and  
13 I'm getting \$150,000.00, am I going to put that -- and I'm  
14 the owner, am I going to put that in my new home I just  
15 purchased, like my own personal home I just purchased? Or  
16 am I going to put this in the home that I'm responsible for  
17 providing care and quality services to? I think that's  
18 really the root as to why -- I'd like to believe that is  
19 why we're all here, so we can root out those questions and  
20 really bring forth that information, because we all need to  
21 be able to take this information back to all of those we're  
22 representing and make a recommendation. "I recommend this,  
23 I recommend we support this because of these reasons", and  
24 I think it's important that we have an unbiased person come

1 to be a part of our team.

2 That's just my two cents. Thank you.

3 MR. FOLEY: Very good. Thank you.

4 MS. MITZEN: Thank you.

5 CHAIRMAN WAXMAN: Any questions, while we have  
6 her availability, about what she experienced in Ohio or  
7 what you're seeing in Illinois, now that you've been here  
8 how long, six, eight months?

9 MS. COLON: A year and a half. It still seems  
10 like yesterday. I do see there is specific need in  
11 specific counties with great providers. I've had the  
12 privilege of meeting a lot of great providers, and it's my  
13 opinion that they should be the ones that have this  
14 privilege, this opportunity to be able to expand.  
15 Unfortunately, there's a lot of variables that affect the  
16 outcome of nursing homes: i.e., reimbursement, delayed  
17 payment. You know, I also take that into account, and that  
18 affects their bottom line and staffing abilities and  
19 quality of care and services that they can provide.

20 But I think most importantly -- I think  
21 somebody mentioned community. We need to tie in the  
22 community, and I think that's also a very important, very,  
23 very important variable, is to be able to look within these  
24 communities. Why are we going to sell to a community

1 that's a younger population predominantly? But then we can  
2 also look at it, maybe that's where they want to bring  
3 their parents. Do you see where I'm going with this? They  
4 are the loved ones that are overseeing the care. So  
5 there's always two-sided use. You know, do we want to add  
6 to that community? What does that look like? So I think  
7 right now the State, the healthcare industry as a whole, is  
8 going towards more of like a care-coordinated approach, and  
9 I believe that we as a subcommittee have the obligation to  
10 keep those in mind as well. It's not an isolated decision.  
11 It's going to affect many variables, many other industries  
12 other than healthcare, hospital, home health, hospice. You  
13 know, we're looking at the continuum, and I just want to  
14 make sure we are not too narrow minded that we don't see  
15 the bigger scope, even though our job is to really narrow  
16 our questions.

17 I'm sorry. Am I speaking too much?

18 CHAIRMAN WAXMAN: No. Just out of  
19 curiosity -- I know people who I have never met before who  
20 decided to share their opinions with me about this whole  
21 issue. I'm curious. Are people coming to you and giving  
22 you opinions on what's going on on this committee? Are you  
23 under pressure, feeling like there is erroneous information  
24 out there or people are anticipating?

1 MS. COLON: I don't -- that's a loaded  
2 question, but I would say this, I would say this: I have  
3 been approached by individuals that have very strong  
4 opinions but have been part of the state for a very long  
5 time, whatever their experiences are, which then makes me  
6 more committed to want to evaluate and research and really  
7 look at our information within the state to make an  
8 educated decision -- not based on a personal agenda -- on a  
9 professional agenda, but to really look at, you know, the  
10 people that we serve and be able to make recommendations  
11 accordingly, based on fact, not on opinion and agenda, if  
12 that answers your question.

13 CHAIRMAN WAXMAN: Bill, the same question.  
14 Are you getting outside people dumping information on you  
15 that they think is occurring in this committee?

16 MR. DART: No, I'm certainly not.

17 CHAIRMAN WAXMAN: You're not?

18 MR. DART: No.

19 CHAIRMAN WAXMAN: Chuck might be.

20 MR. FOLEY: I guess the biggest problem I'm  
21 seeing out there, Mike, is at least -- and I've talked to  
22 several, several providers. They are really misinformed  
23 and don't know exactly what's going on and what's being  
24 done, because it's all over the place out there. I'm

1 hearing providers saying that "No, I don't want to see a  
2 bed sell concept. I shouldn't have to be able to sell my  
3 bed for whatever reason," and nobody is making anybody do  
4 anything. So, therefore, a lot of people out there are, in  
5 fact, being misinformed. They don't know. They don't  
6 understand. One provider group out there said to me,  
7 "Well, gosh, you know, I don't want to sell my beds. If I  
8 get empty beds, I don't want to sell my beds to somebody  
9 who is going to come in and build a new facility." First  
10 of all, nobody is making you sell beds. Second of all,  
11 keep this mind, that a buy/sell concept -- if you want to  
12 buy beds out there from anywhere to build a brand new  
13 facility, it's not going to be an exemption process, if  
14 you're going to build a brand new facility. That's going  
15 to be a full-blown CON, to my understanding. If you're  
16 just going to sell, you know, 10, 15, 20 beds and I'm going  
17 to buy them from you, then maybe that might be an exemption  
18 process of which the subcommittee had talked about the last  
19 time, but it could be an application process also. I don't  
20 think that decision has really been finalized yet.

21 So, I think there's a lot of misinformation  
22 that's going out there, and people just don't know, you  
23 know, what this subcommittee really is trying to do.  
24 That's why, maybe, I brought out the suggestion earlier

1 about this letter concept, that it seems like everything is  
2 off the board -- is across the board out there, and I think  
3 maybe some clarification needs to be made in the industry.

4 MR. PICK: It's hard to clarify when we don't  
5 know ourselves.

6 MR. FOLEY: You're absolutely correct.

7 CHAIRMAN WAXMAN: And I guess that's what I  
8 was going to say. I guess I'm somewhat naive to believe  
9 that what we're doing in this committee is not -- people  
10 are not making assumptions about and drawing conclusions  
11 before we have even gotten there. So I don't know -- I  
12 guess the question really now becomes, do we, as a  
13 committee, need to put something out there that says we are  
14 at this point in the process, that goes --

15 MR. FOLEY: I don't think we're there yet. I  
16 don't think that needs to be done just yet, but that's up  
17 to this committee.

18 MS. AVERY: One of the things, when I get that  
19 feedback and questions and I try to clarify, is to say,  
20 "You're welcome to come to the meeting. Transcripts,  
21 agendas, conference calls, everything is open. They're on  
22 the web. If you have questions you can always call up the  
23 Chair of this subcommittee. You can call up the Board  
24 Chair. You can call anyone you want to get that feedback,"

1 and I -- I stressed, as you said, nothing has happened,  
2 decisions aren't being made at this point, and when we do  
3 get to a point that the subcommittee is making a  
4 recommendation to the Board to do anything, there is public  
5 comment. There is access to come and speak about it.  
6 There is a way -- there's means to give your feedback that  
7 is really taken into consideration and seriously thought  
8 out.

9           So, I'm hoping that providers and other  
10 interested parties are really understanding that it is a  
11 very open and transparent process, that nothing is done in  
12 secret. I mean, when we talk to Toni, I talk to Toni, we  
13 don't have -- or Bill, we don't have any insight into the  
14 Department, which, you know, they think, "Oh, the  
15 Department isn't going to go for that." The Department  
16 hasn't said that, because the Subcommittee and the Board  
17 hasn't said. So, that's the process that I'm always  
18 defending. Sometimes people are really reluctant to  
19 believe that it's as transparent as it is.

20           MR. FOLEY: I think I fully express that to  
21 everybody I talk to, and I invite everybody to come to this  
22 committee, and I said I'm the only one from the outside  
23 that attends these committees. I'm not even a member of  
24 the subcommittee and I'm here.

1 MR. PICK: And we appreciate you coming,  
2 Chuck.

3 CHAIRMAN WAXMAN: We are very happy that you  
4 take your time to -- is this billable time for you, by the  
5 way?

6 (Laughter)

7 CHAIRMAN WAXMAN: I'm teasing.

8 MR. FOLEY: No, sir.

9 CHAIRMAN WAXMAN: Lunch is coming up to us, or  
10 are we --

11 MS. CLARKE: Yes. They're supposed to be up  
12 here now.

13 CHAIRMAN WAXMAN: Why don't we take a break  
14 and get ready for lunch.

15 (Lunch recess)

16 CHAIRMAN WAXMAN: Moving on -- and "on" isn't  
17 very far, as they say. So we have kind of put together a  
18 plan for our next meeting, which is December 3rd, and that  
19 plan will be to have staff distribute the two memos from  
20 Tim's work group and the synopsis of the legislation that  
21 talked about the creation of what the purpose was, so that  
22 when we meet in December, we can formulate our questions  
23 and be done with the document. I like Phyllis's suggestion  
24 and Cece's suggestion that we come out of that meeting with

1 a document, a product of what we want the consulting group  
2 to work on in the future.

3 That being said, then I think we can move on  
4 to Item 8, which is Other Business, and I think what we're  
5 doing with that Other Business item is simply giving a  
6 quick opportunity for Matt -- do you want to cover very  
7 briefly what Terry's last memo --

8 MR. HARTMAN: I don't think it's really me  
9 covering what Terry's last memo was as much as it is kind  
10 of the continued discussion on the Points of Consideration,  
11 and that is what Terry's understanding, mine and Cece's  
12 was. Not having been here, I'm not sure where we got to in  
13 the document. So, I'd love to partake in the discussion.  
14 I'm not sure I'm the correct lead.

15 CHAIRMAN WAXMAN: If you say something wrong,  
16 we'll just erase it.

17 (Laughter)

18 MR. HARTMAN: I honestly don't know where we  
19 left off.

20 MR. PICK: If I remember correctly, where we  
21 left off is, we were beginning to talk about the merits and  
22 the mechanics of how a buy/sell program would work, and  
23 Terry shared specific comments about who would be eligible,  
24 the criteria for buyers and sellers, the purpose of being

1 able to generate additional revenue to improve the facility  
2 itself and update the older, antiquated facility as a  
3 result of being able to sell off beds that are not being  
4 used, et cetera, and that's -- I think the document that  
5 Terry submitted was a recap of those comments.

6 But in light of our earlier discussion, I'm  
7 not sure this is really going to be very productive,  
8 because we're changing course as far as the sequence of  
9 events or steps we're going to go through.

10 MR. HARTMAN: Okay.

11 MR. PICK: But I wouldn't stop you.

12 MR. HARTMAN: First off then, I would just  
13 like to throw out the notion -- and this is straight from  
14 the mouth of Terry -- that Terry feels -- and I think my  
15 Association especially supports him in the notion -- that  
16 the walking down the road of the RFP might not be the right  
17 route to go. We feel that it unnecessarily is going to  
18 slow the process. Mr. Foley earlier said, you know, this  
19 table of experts was convened to come up with the plan, and  
20 we do -- and I understand the considerations that Courtney  
21 and Claire have in analyzing and compiling the information  
22 that we get, but I think there is maybe an interim step to  
23 making the step to go to the RFP process. It is what Neyna  
24 suggested, actually. Phyllis Mitzen and I worked together

1 on the Older Adult Services Conversion Committee for eight  
2 years, I think, and we actually, as a group, looked at  
3 potentially going the road of an RFP, having an outside  
4 third-party evaluator come in, but we took an interim step.  
5 We had people come in from Michigan, Oklahoma, Nebraska  
6 come in and talk to us about how they did some scale-back  
7 bed conversions, and we, as a group, took that information  
8 and ran with the ball, drafted a piece of legislation and  
9 went forward. And I think that really that is the goal of  
10 this group.

11           You know, we as a state are faced with a  
12 severe financial crisis, but now we're going to -- now we  
13 have money to suddenly pay for this independent evaluator?  
14 Okay. Why are we going to do that? To me it seems like a  
15 step that is going to slow this process down potentially  
16 months, years, that I don't know as a group we should say  
17 unilaterally we're going there. So I think there's some  
18 interim steps to take. Make an outreach to those states,  
19 to the people from Missouri, Ohio. Ask them to come in and  
20 give a presentation. I understand that Claire and  
21 Courtney's time is limited. We all have a million  
22 different strings pulling us in a different way.  
23 Mr. Constantino as well. These people have lived the  
24 process, though. They can come in, they can talk to us,

1 and they're going to have best practices of what went  
2 right, what went wrong that they can give us. They're not  
3 just going to talk and walk out of the room. They have  
4 documentation of where they've been that I think can be  
5 helpful. So, that's point one.

6 And then from that, you know, if the will of  
7 this group -- and, you know, I'm just a proxy. I'm just  
8 here because Terry couldn't be. If the will of this group  
9 is you're still going to move forward with the independent  
10 third-party evaluator, maybe you're right, Eli. Maybe we  
11 don't walk down the road of going through the Points of  
12 Consideration. I think because of my stance and my  
13 Association's stance, it's still important to go through  
14 the points, because we don't feel that walking down the  
15 road of that independent evaluator is the road to go.

16 MR. PICK: Why didn't you speak up when we  
17 were voting on it?

18 (Laughter)

19 MR. HARTMAN: I'm not allowed to vote on  
20 substantive issues.

21 MR. URSO: You can talk.

22 MR. RAIKES: That's where I am.

23 CHAIRMAN WAXMAN: Cece, do you have anything  
24 you want to add?

1 MS. CREDILLE: Well, I thought we were going  
2 to speak to the Points of Consideration, so I have been  
3 speaking with members of Illinois Healthcare, as well as  
4 Terry. So, that's what I thought we were going to do. But  
5 I don't know if we should even discuss it, because we've  
6 now agreed we're going the RFP route.

7 CHAIRMAN WAXMAN: Okay.

8 MS. AVERY: It could still be taken into  
9 consideration, the feedback. I think it would be good to  
10 do.

11 CHAIRMAN WAXMAN: I thought that the purpose  
12 of the meeting in December was to kind of revisit all of  
13 this stuff and then formulate a plan of how to incorporate  
14 the thoughts of this group, including the need to look at  
15 an RFP, because I think your motion says "consideration  
16 of".

17 MS. AVERY: Yes.

18 MR. PICK: It wasn't to -- we didn't pass a  
19 motion saying that we were going to do an RFP. We're  
20 considering.

21 MR. HARTMAN: It's not a fate accompli?

22 MR. PICK: I was very diplomatic.

23 CHAIRMAN WAXMAN: If you want to take a few  
24 minutes and raise your issues again, it will raise thought

1 to people's process as they read the memos that are being  
2 resent and the legislation that is being resent. So feel  
3 free. Otherwise you can hold it until next month, whatever  
4 you guys want to do.

5 MS. CREDILLE: I don't know what the group  
6 wants to discuss.

7 MR. HARTMAN: It's a lengthy document. My  
8 understanding is you guys got this deep into it last time,  
9 and with the hour of one upon us, are we going -- I can  
10 listen to myself talk all day long. Does the group have  
11 that kind of time to devote to going through the whole  
12 document? Are we going to cover ground we already covered?  
13 So, that's one concern, I guess; and then the other piece  
14 is, you know, Eli, you pointed out, maybe I should have  
15 spoken up a little forcefully. So, my apologies, but then  
16 I guess what I think the next step is is that maybe  
17 there's -- the concept of looking at other steps as well  
18 and coming back to the group with that -- the notion of  
19 asking those states to come with a presentation. Is that a  
20 motion that can be made, that we have that as a point of  
21 discussion for the next meeting? Can we put that in the  
22 record as a motion? And then in one hour, are we going to  
23 be able to get through the entire Points of Consideration  
24 document? I don't know. I'm going to defer to you.

1 MS. CREDILLE: We only got through part of  
2 page 1 and a little bit of page 2 from the last meeting.

3 MR. HARTMAN: So, first things first. Can I  
4 make a motion as a proxy? So, I guess my motion is that we  
5 also -- I don't make motions; I speak about them. I don't  
6 know how to make the motion.

7 MR. PICK: You've got to start sometime.

8 MR. HARTMAN: Make a motion that as an  
9 alternative to, or as an interim step to, walking down the  
10 road of putting out an RFP for an independent third-party  
11 evaluator, we make outreach to other states who have put  
12 into place a bed buy/sell/exchange program to present to  
13 this group and offer their best practices to us for our  
14 analysis.

15 CHAIRMAN WAXMAN: Someone wish to second that  
16 motion?

17 (No response)

18 MS. CREDILLE: I'll second it.

19 CHAIRMAN WAXMAN: Okay. All in favor.

20 MR. PICK: Should we have some discussion  
21 first?

22 CHAIRMAN WAXMAN: Okay.

23 MR. PICK: If I may, I think that the  
24 extending of invitations to other programs, other states is

1 very much appropriate and needs to be part of the process.  
2 I guess I'm -- my difficulty is the sequence in that rather  
3 than having that be part of proceeding to what we want to  
4 clarify as a committee and work group on what are the  
5 critical questions we want to ask. I think we'll only  
6 confound issues for us. I think it's important for us as a  
7 group to continue to work in a way that makes our questions  
8 and issues very crystal clear and so that we can focus on  
9 them as we go through the process of gathering information,  
10 interviewing, and then, if that's what we ultimately  
11 decide, soliciting RFP. But before we have the questions,  
12 I think we're only going to -- we'll be going in circles to  
13 invite people to provide more information about what their  
14 programs are doing, what's good or not good about them,  
15 which to some extent, Claire, you know, went down this  
16 path, not by invitation, but.

17 MS. CREDILLE: But by inviting outside states  
18 who have experience with them, they can help you come up  
19 with questions. When you're sitting with representatives  
20 of two or three states that say, "This is what works; this  
21 is the pitfalls; this is what doesn't work; this is what's  
22 great; this is what's happened on the -- in the community  
23 side; this is what's happened on the access side; this is  
24 what's happened on the provider side, the seller side, the

1 buyer side," suddenly you have questions. Because right  
2 now, we're going to be sitting with yet our own ideas at  
3 the table and not people from the outside again.

4 MR. FOLEY: I think I really want to agree in  
5 that I think we spent a lot of time on this. I think Tim  
6 did an excellent job also generating a lot of questions,  
7 and we have this other document for points of  
8 consideration. I think we've got a lot of thing before us.  
9 If you think we need questions beforehand, then I'd like to  
10 see if it's possible that one could formulate some kind of  
11 subcommittee committee before now and our next committee  
12 meeting. But I think at that meeting itself, based on all  
13 of the information that we have before us, we could  
14 probably generate a lot of our own questions, and if there  
15 are other questions that need to be asked after they leave,  
16 we can write them a letter or give them a phone call. But  
17 I think, gosh, I hate to see this be continued and  
18 continued and continued. I think the industry out there  
19 wants to know what's going on, and I think they have a  
20 right to know, and I think we just need to put this to  
21 rest. Either we're going to do something with buy and sell  
22 or we're not going to do something with buy/sell. Make  
23 sense?

24 MR. SCAVOTTO: In today's discussion, I didn't

1 hear anybody say that we weren't going to talk to other  
2 people. I didn't hear that. So, I'm getting that  
3 impression, that that's perhaps not part of the agenda. I  
4 mean, that's my interpretation of this morning's  
5 discussion, is that we were going to -- we were going to  
6 try to get as much information as we could, including  
7 Missouri, Ohio and, as many other states as we can.

8           The important thing to me was what Courtney  
9 said, and what I heard Courtney say -- and maybe my  
10 interpretation is wrong, but this is what I think I heard  
11 you say, is that if we're going to be moving forward with  
12 this, if this has a chance, it's got to go forward with  
13 independent confirmation and understanding of the data, and  
14 the take-away that I got is that our best chance for  
15 success legislatively is to have our position backed up  
16 with an independent -- with independent research. Did I  
17 understand you correctly?

18           MS. AVERY: Yes.

19           MR. SCAVOTTO: And that, I thought, was the  
20 thrust of this morning's discussion, and I'm not sure that  
21 you're saying anything different. I don't think you are.

22           MR. HARTMAN: No. I'm saying that I think  
23 this group has the capabilities of doing that without  
24 necessarily needing to go down the road of an independent

1 evaluator. I think this group can analyze the data that  
2 those other states provide to us, states that have lived  
3 the notion of a program and walked through it, have  
4 evaluated it as it's gone forward. Toni spoke to how the  
5 program worked in Ohio. She spoke briefly, but even that  
6 little bit, there was somebody in the room today who has  
7 worked within a program already, and I think if those  
8 people come and give us the data that they've already  
9 compiled in living that program, that this table of experts  
10 should be able to come up with their own program.

11 I think that the other -- walking down the  
12 road of hiring an independent evaluator slows the process  
13 that's already taken quite a long time. The original bill  
14 was passed in 2009. We're four years down the road now,  
15 and it's a slow process, because you want to create a good  
16 program, but at the same time, you need to see progress  
17 eventually, and I think that it just slows the process  
18 down.

19 CHAIRMAN WAXMAN: The bill may have been  
20 passed in '09, but this committee didn't get created until  
21 2010.

22 MR. LOWITZKI: I'm actually not convinced that  
23 it does slow the process down. I think in some ways it may  
24 actually speed the process up. With the limited capacity

1 of the Department, of the limited capacity of the committee  
2 members -- we meet every three months, right, every two  
3 months? If we hired somebody to do some of this work,  
4 they're probably going to get that done faster than this  
5 committee is going to get that work done.

6 MS. AVERY: And I will make two or three  
7 points clear. We can still solicit some information.  
8 Claire and I can draft some questions to send ahead of time  
9 and send out to the committee before we talk to those  
10 states, to make sure that we're hitting the right points  
11 for you all and hopefully get to feedback from them.

12 And the second one was to clarify when we  
13 started. But we have gone under the mandate of what Senate  
14 Bill 2905 has directed us to do with the Rules and stuff.  
15 So, we are moving into the next phases of what that bill  
16 directed the subcommittee to do.

17 And then the other point is the limited time.  
18 I can't tell you how much I call, beg, and plead outside of  
19 the normal group, "Can you please make it to the meeting?"  
20 I know that you've had challenges, when we've had the CON  
21 application committee to meet, because everybody is just  
22 pulled in all different directions, and everyone wants to  
23 be at the table to help to make the decisions and to meet  
24 and draft and craft what it is that we're charged to do,

1 but they're just limited and, yeah, we can probably get  
2 some stuff done. It will take a little longer. But it's  
3 also the perception that Staff will be directing it, and  
4 the product shouldn't come from just Staff. We should be  
5 the support to the subcommittee and not do that, because we  
6 can sit down and draft up some stuff and say, "Here it is,"  
7 but I don't think that's the fair way to do it.

8           And I don't think it will slow it down. I  
9 think that we can be on top of it enough and come up with  
10 some strategies that will be satisfying to everyone, and  
11 the subcommittee that meets to do this may say or come back  
12 to you, to the larger committee and say, "We don't think  
13 this is necessary to do."

14           MR. HARTMAN: Fair enough. And I just want to  
15 be really, really clear. I in no way wanted to condemn the  
16 work of Staff. I know you guys have enormous --

17           MS. AVERY: I'm not taking it that way.

18           MR. HARTMAN: -- pressure on your plate. So,  
19 just for clarifications, I respect and love what you do.

20           MS. AVERY: Not taking it that way.

21           MR. PICK: The only other thing I wanted to  
22 point out is that, again, serving on the previous work  
23 group, there's dissension even among people within this  
24 group about how we go with this, and that's what's on my

1 mind, is how we work through the dissension to get to the  
2 point where we agree on the details, because the line that  
3 I kept hearing was, "We don't agree" or "The devil is in  
4 the details," but I never got any details. So, you know,  
5 you can't resolve issues if nobody says that the reason  
6 it's objectionable is because of A, B, and C. We never got  
7 A, B, and C. All we got was "The devil is in the details"  
8 and "We don't agree".

9 CHAIRMAN WAXMAN: You know, you have --  
10 unfortunately, at this moment at the meeting, there's no  
11 one representing the other major group, and my sense is  
12 that their opinion may not be exactly the same as your  
13 opinion or your constituents' opinion -- let me phrase it  
14 that way -- and so I think in fairness, we have to at least  
15 have them at the table also, which is the A, B, and C that  
16 I think Eli is referring to. Chuck, did I see your hand?

17 MR. FOLEY: No, that's all right.

18 CHAIRMAN WAXMAN: I think -- you know, my gut  
19 says there is no reason why we can't move forward, either  
20 with or without the use of an outside source. I think  
21 they're not mutually exclusive. They can be done  
22 simultaneously, if the group decides they want to go that  
23 way. I think that we really do have to have come up with a  
24 working document in December and that from that work

1 group -- and, again, as usual, if somebody would like to be  
2 on the work group, volunteer, please let me know or let --

3 MR. PICK: Matt is volunteering.

4 MR. HARTMAN: I'm volunteering for Terry. I'm  
5 his proxy. He's on the hook. I actually asked him about  
6 it -- I stepped out at lunch. So, he said he would like to  
7 participate.

8 CHAIRMAN WAXMAN: Okay. Again, we'll take  
9 that. Courtney will make note of that. I mean -- and  
10 anybody else that -- did we decide if work groups have to  
11 be limited to a certain number?

12 MS. AVERY: No. It will trigger the Open  
13 Meetings Act, but the work group is usually open, is what  
14 was irritating Tim. There would be more participants  
15 meeting with the work group but --

16 MR. PICK: I thought three was the maximum.

17 MR. URSO: We have to have less than a  
18 majority of a quorum. A quorum is eight right now.

19 MR. LOWITZKI: But where we do seem -- the  
20 bylaws do state that?

21 MR. URSO: Eight. It used to be ten. So that  
22 would be about four.

23 CHAIRMAN WAXMAN: So we've got one out of  
24 four, if anyone wants to step up.

1 MR. PICK: I will work with Terry. Cece?

2 MS. CREDILLE: Yes.

3 CHAIRMAN WAXMAN: Eli and Terry.

4 MR. FOLEY: And Mike Scavotto? Did I see his  
5 hand coming up?

6 MR. SCAVOTTO: No.

7 (Discussion held off the record.)

8 CHAIRMAN WAXMAN: I would hope that maybe Tim  
9 would step up, so we'd have the other point. The other one  
10 would be Judy --

11 MS. AVERY: Because I was thinking and talking  
12 about this and make sure that we had -- I'm still sort of  
13 confused on the two organizations, but to make sure we have  
14 representation on both, and I think Judy would be --

15 CHAIRMAN WAXMAN: I don't think there is  
16 anybody else that represents the other group, other than  
17 Judy or Tim.

18 MS. AVERY: How about if I put a call out?

19 CHAIRMAN WAXMAN: And Terry and Cece represent  
20 and --

21 MR. HARTMAN: Cece represents the Illinois  
22 Healthcare Association. Terry represents the Illinois  
23 Council.

24 MS. CREDILLE: I represent Illinois

1 Healthcare.

2 MR. HARTMAN: And when I have my Terry face  
3 on, I represent the Illinois Council on Long-Term Care.

4 CHAIRMAN WAXMAN: And that's the same group  
5 that Eli is representing?

6 MR. PICK: Yep.

7 MR. URSO: Is the Illinois Healthcare the one  
8 that Tim and Judy Amiano --

9 MS. CREDILLE: No, Dave Vogel is the head of  
10 Illinois Healthcare.

11 MS. AVERY: And, Eli, you can just not  
12 represent -- you can do that?

13 MR. PICK: I'm not a provider anymore. I sold  
14 my facility.

15 MS. AVERY: That was the other one, a  
16 provider. But you have the experience, so can you take  
17 your hat off and represent some of these others?

18 MR. PICK: I'm not -- I still -- I serve as a  
19 non-voting member of the Board, because not being a  
20 provider, I can't vote on issues there.

21 MS. AVERY: So you can bring a provider's  
22 perspective?

23 MR. PICK: I can.

24 MS. AVERY: So we can have it a little more

1 diverse. I'll put "provider perspective".

2 MR. URSO: You can have more people, but it  
3 will trigger the Open Meetings Act.

4 MS. AVERY: Well, when the work group meets,  
5 we don't have to publish, right?

6 MS. CREDILLE: But there's four of us, Frank,  
7 so does that make it open?

8 MR. URSO: It's more than four.

9 MS. AVERY: So five would make it open. So,  
10 when a work group meets, Mike, we don't have to post --  
11 okay. But we do keep minutes. Okay.

12 MR. FOLEY: Courtney I would like to volunteer  
13 also, even though I'm not a committee member, representing  
14 the public in the activities as well.

15 MS. AVERY: I think yours will come in when  
16 the work group comes out with whatever they come out with,  
17 because then it's the open meeting.

18 MR. URSO: He's not a member. He's a member  
19 of the public.

20 MS. AVERY: Oh, that's right. I'm sorry.

21 MR. FOLEY: If you don't mind.

22 MS. AVERY: No, I don't. Okay. I'll put a  
23 member of the public.

24 CHAIRMAN WAXMAN: Here's a theoretical

1 question. If Terry is on the committee and Matt is no  
2 longer a proxy, can Matt then be on the committee as a  
3 public person?

4 MR. LOWITZKI: You're asking if a proxy is on  
5 the committee, would it still trigger the Open Meetings  
6 Act?

7 CHAIRMAN WAXMAN: Yeah, but he won't be a  
8 proxy at that point in time.

9 MR. LOWITZKI: I had the same question. If  
10 Greg were to participate, would that trigger the Open  
11 Meetings Act?

12 MR. PICK: He's not an official member.

13 MR. LOWITZKI: He will be my proxy at some  
14 point. I can tell you that. So, that's a question for  
15 you. If somebody who has been or will be a proxy, does  
16 that trigger the Open Meetings Act?

17 MR. URSO: I need to give that a little  
18 thought. Maybe for the December meeting, you'll --

19 CHAIRMAN WAXMAN: It's a theoretical question.

20 MR. PICK: I guess in my mind the question is,  
21 is the person serving as a proxy on the work group or are  
22 they not? If they're not serving as a proxy but then  
23 they're a public member -- if they're there as a proxy,  
24 they're a member.

1 MR. URSO: So what role does that person play  
2 on this work group?

3 MR. WAXMAN: Well, if I can use Matt as an  
4 example, I would see Matt the same as Chuck.

5 MS. CREDILLE: But Matt is not trying to come.  
6 He doesn't want to -- he's just saying that Terry wants to  
7 be on the committee, because he talked to Terry.

8 MS. AVERY: I think Mr. Waxman wanted to bring  
9 him in for his expertise.

10 CHAIRMAN WAXMAN: Yeah.

11 MR. URSO: The only time that an authorized  
12 proxy is a proxy is when whoever authorized them to be a  
13 proxy is not there. So, if Matt came to a meeting with  
14 Terry --

15 MR. HARTMAN: Terry is a member and not me.  
16 I'm a member of the public.

17 MR. URSO: Right. He's just a member of the  
18 public, so to speak, because he's not functioning in the  
19 proxy capacity.

20 CHAIRMAN WAXMAN: So he's not triggering the  
21 Open Meetings.

22 MR. PICK: I guess the operative is that  
23 Mr. Waxman wouldn't be appointing Matt, because he's not an  
24 official member of the committee.

1 MR. URSO: Just like you wouldn't be  
2 appointing Mr. Foley.

3 CHAIRMAN WAXMAN: But I was just wondering if  
4 Matt wanted to be there.

5 MR. HARTMAN: I would be happy to be there and  
6 offer some words, but with Terry and Cece and Mr. Foley in  
7 the room, I think I'd become largely a fourth wheel.

8 CHAIRMAN WAXMAN: It was partly a theoretical  
9 question.

10 MR. HARTMAN: I understand. Sure.

11 CHAIRMAN WAXMAN: So, we now have a plan in  
12 place of what we're going to do next month. We do have a  
13 motion and a second. Do you want to withdraw that motion  
14 at this point in time?

15 MR. HARTMAN: In light of the fact that it's  
16 not a fate accompli, I don't think the motion needs to be a  
17 vote taken.

18 MS. CREDILLE: I seconded it. I can unsecond  
19 it.

20 MR. HARTMAN: I'll just withdraw the motion.

21 CHAIRMAN WAXMAN: The motion is withdrawn.

22 Thank you.

23 Any other "Other Business" to bring forth to  
24 the committee?

1 MS. AVERY: Well, one other that is minor, I  
2 hope. In December, if we can get the next two meetings on  
3 the calendar, they'll appreciate it. So, if you can come  
4 prepared to say what February and April meeting dates --

5 MS. JOHNSON: In February, in inclement  
6 weather, is it possible just to satellite or telephone  
7 conference the meeting?

8 CHAIRMAN WAXMAN: That's fine. We'll try it  
9 again. We've done it a few times, and it hasn't been the  
10 most productive, in my opinion, but I'm willing to try it  
11 again.

12 MR. FOLEY: Is that only if the weather is bad  
13 or projected to be bad?

14 CHAIRMAN WAXMAN: We will come to your house  
15 and watch Springfield.

16 MS. JOHNSON: Sure.

17 (Laughter)

18 CHAIRMAN WAXMAN: And I appreciate your  
19 stipulation that if the weather is bad or anticipated --  
20 that's fine. Thank you for adding that.

21 MS. AVERY: We'll schedule a teleconference  
22 room, just in case. In December, we'll have those dates,  
23 so then we'll schedule those.

24 MR. PICK: So, December 3rd is our next

1 scheduled meeting, and we're trying to schedule one in  
2 February?

3 MS. AVERY: No, not right now. We'll do it in  
4 December.

5 CHAIRMAN WAXMAN: Anything else? Where do we  
6 stand in terms of membership? Are we down --

7 MS. AVERY: The Committee has decided that  
8 they wanted to look for an academic professional to sit on  
9 the Committee, and we tried once, but I don't think he ever  
10 responded to Eli or us.

11 MR. PICK: She didn't follow through with the  
12 application.

13 CHAIRMAN WAXMAN: So does anyone else have an  
14 academic person that they might want to recommend to the  
15 Committee?

16 MS. AVERY: And if you do, just send it to me,  
17 and I'll forward it to the Chair.

18 MR. PICK: Can I suggest we send it to the  
19 entire committee, since we're a fairly small subset at this  
20 point; so, maybe an e-mail to the entire roster, soliciting  
21 for candidates?

22 CHAIRMAN WAXMAN: Are we only down one  
23 position then?

24 MS. AVERY: No.

1 CHAIRMAN WAXMAN: So, besides an academic kind  
2 of person, if anyone has a suggestion for someone else that  
3 might be appropriate to the Committee --

4 MS. AVERY: I think we're down three.

5 (Pause)

6 MR. URSO: On August 27th, we were down three.  
7 I don't know where we were on October 9th.

8 MS. AVERY: We're down three. We have 16  
9 members.

10 CHAIRMAN WAXMAN: If anyone has any  
11 suggestions for one member or two -- again, I'm not unhappy  
12 having a smaller group. We've fallen into, I think, a  
13 really good group of people.

14 MR. PICK: And we solved the core mission.

15 CHAIRMAN WAXMAN: Anything else to bring  
16 before the Committee?

17 MR. PICK: How about a motion to adjourn?

18 MR. RAKES: Second.

19 CHAIRMAN WAXMAN: All in favor.

20 ("Ayes" heard)

21 CHAIRMAN WAXMAN: Any opposed?

22 (No response)

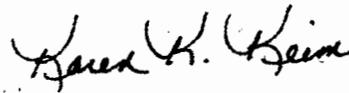
23 CHAIRMAN WAXMAN: Meeting adjourned.

24 END TIME: 1:15 p.m.

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CERTIFICATE OF REPORTER

I, KAREN K. KEIM, RPR, CRR, a Certified Court Reporter, do hereby certify that the proceedings in the above-entitled cause were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



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KAREN K. KEIM

CRR, CSR-IL, CCR-MO, RPR

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