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ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
LONG-TERM CARE ADVISORY SUBCOMMITTEE MEETING

REPORT OF PROCEEDINGS
Bolingbrook Golf Club
2001 Rodeo Drive
Bolingbrook, Illinois 60490
August 19, 2014
10:08 a.m. to 1:27 p.m.

Reported by: Melani e L. Humphrey-Sonntag,
CSR, RDR, CRR, CCP, FAPR
Notary Public, Kane County, Illinois

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PRESENT:

- MR. MICHAEL WAXMAN, Chairman;
- MR. WILLIAM BELL, Vice Chairman;
- MS. JUDY AMIANO, Member;
- MR. WILLIAM CASPER, Member;
- MR. PAUL CORPSTEIN, Member;
- MS. CECILIA CREDILLE, Member;
- MS. KELLY CUNNINGHAM, Member;
- MS. PATRICIA O' DEA EVANS, Member;
- MS. CAROLYN HANDLER, Member (via telephone);
- MR. TIMOTHY PHILLIPPE, Member;
- MR. MICHAEL SCAVOTTO, Member; and
- MR. GREG WILL, Member.

ALSO PRESENT:

- MR. DALE GALASSI, HFSRB Member (via telephone);
- MR. CHARLES FOLEY, Visitor; and
- MR. JOHN FLORINA, Visitor.

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STAFF PRESENT:

- MR. FRANK URSO, General Counsel ;
- MS. COURTNEY AVERY, Administrator;
- MR. NELSON AGBODO, Health Systems Data Manager;
- MS. CLAIRE BURMAN, Rules Coordinator;
- MS. CATHERINE CLARKE, Board Staff;
- MR. MICHAEL CONSTANTINO, IDPH Staff
(via telephone);
- MR. BILL DART, IDPH Staff (via telephone);
- MS. ANN GUILD, IDPH Contractual Staff; and
- MR. GEORGE ROATE, IDPH Staff.

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I N D E X

Roll Call	5
Approval of Agenda	8
Approval of 6/24/14 Meeting Transcript	8
Changes in LTC Subcommittee Membership	9
Proposed Venues for LTC Advisory Subcommittee Meetings	18
Update, Revisions to LTC Rules and Applications	26
LTC Bed Buy/Sell Program	81
Other Business	162
Next Meeting Date	164
Adjournment	170

**REPORT OF PROCEEDINGS -- 08/19/2014
ROLL CALL**

1 (HFSR Board Member Galassi,
2 Member Handler, Mr. Constantino,
3 and Mr. Dart were not present.)

4 CHAIRMAN WAXMAN: In lieu of a roll
5 call, why don't we just go around the table and
6 introduce ourselves. It will help the court reporter.
7 Welcome, Court Reporter.

8 THE COURT REPORTER: Thank you.

9 CHAIRMAN WAXMAN: You're in for a
10 long ride.

11 THE COURT REPORTER: Thank you so much.

12 CHAIRMAN WAXMAN: Okay. Here's the
13 first thing: If you have to go potty, you have to let
14 me know.

15 Lunch at noon?

16 Lunch is scheduled for noon?

17 MS. CLARKE: Yes.

18 CHAIRMAN WAXMAN: Okay. Courtney?

19 We'll start with Courtney.

20 MS. AVERY: Oh. Good morning. Courtney
21 Avery.

22 And, hopefully, the phone will be here
23 shortly for -- we have some people that are going to
24 be on the line --

**REPORT OF PROCEEDINGS -- 08/19/2014
ROLL CALL**

1 MS. BURMAN: Two.
2 MS. AVERY: -- Carolyn and
3 Mike Constantino.
4 CHAIRMAN WAXMAN: Oh, okay.
5 MS. AVERY: Oh, and Bill Dart.
6 CHAIRMAN WAXMAN: Okay.
7 MS. BURMAN: And Bill Dart?
8 MS. AVERY: Yes.
9 MR. ROATE: Good morning. George Roate,
10 IDPH staff.
11 MR. AGBODO: Nelson Agbodo, HFSR staff.
12 MEMBER WILL: Greg Will, SEIU
13 Healthcare, Illinois, Indiana.
14 MEMBER CORPSTEIN: Paul Corpstein,
15 IDPH staff.
16 MEMBER CASPER: Bill Casper, CJE Senior
17 Life.
18 MR. FOLEY: Charles Foley, Foley &
19 Associates.
20 MR. FLORINA: John Florina, visitor.
21 MS. GUILD: Ann Guild, visitor.
22 MEMBER CREDILLE: Cece Credille, IHCA
23 representative.
24 MR. URSO: Frank Urso, counsel for the

**REPORT OF PROCEEDINGS -- 08/19/2014
ROLL CALL**

1 Board.
2 MEMBER AMIANO: Judy Amiano, Franciscan
3 Communit ies.
4 MEMBER CUNNINGHAM: Hi. Kelly
5 Cunningham, Healthcare and Family Services.
6 MEMBER SCAVOTTO: Michael Scavotto,
7 Committee member.
8 MEMBER PHILLIPPE: Tim Phillippe,
9 Christian Homes.
10 MEMBER EVANS: Pat O'Dea Evans, Advocate
11 Health Care.
12 MS. BURMAN: Claire Burman, Review Board
13 staff.
14 CHAIRMAN WAXMAN: Mike Waxman, Chair.
15 VICE CHAIRMAN BELL: Bill Bell, Cochair.
16 CHAIRMAN WAXMAN: Mike, is there
17 somebody sitting next to you? Or is there --
18 MEMBER SCAVOTTO: Haven't seen him.
19 CHAIRMAN WAXMAN: Okay. Thank you all
20 for coming. It's great to see some people we haven't
21 seen in a while.
22 I appreciate you being here. We'll aim to
23 keep the meeting on time, and we'll be out by
24 six o'clock.

REPORT OF PROCEEDINGS -- 08/19/2014

1 Lunch is noonish so we'll schedule that.
2 I think everybody remembers that the washrooms are
3 down that way. So

4 I need approval -- I need a motion to
5 approve the agenda.

6 MEMBER PHILLIPPE: So moved.

7 MEMBER SCAVOTTO: Second.

8 CHAIRMAN WAXMAN: I have a motion, need
9 a second.

10 MEMBER WILL: Second.

11 CHAIRMAN WAXMAN: Have a motion, have a
12 second.

13 All in favor?

14 (Ayes heard.)

15 CHAIRMAN WAXMAN: Any opposed?

16 (No response.)

17 CHAIRMAN WAXMAN: Motion carries.

18 I need a motion to approve the transcripts
19 of the minutes of the June 24th meeting.

20 MEMBER SCAVOTTO: So moved.

21 CHAIRMAN WAXMAN: Michael, thank you.
22 Need a second.

23 MEMBER AMIANO: Second.

24 THE COURT REPORTER: Who said that?

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 MEMBER AMIANO: Judy.

2 THE COURT REPORTER: Thank you.

3 CHAIRMAN WAXMAN: Thank you.

4 All in favor?

5 (Ayes heard.)

6 CHAIRMAN WAXMAN: Any opposed?

7 (No response.)

8 CHAIRMAN WAXMAN: Okay. Those are easy.

9 The next get a little more complicated.

10 Who is addressing -- that is an
11 understatement, actually.

12 Who is addressing the Subcommittee
13 membership changes? Courtney, is that you?

14 MS. AVERY: Claire.

15 CHAIRMAN WAXMAN: Claire.

16 MS. BURMAN: Okay.

17 We have, as you know, a number of openings
18 on the Subcommittee, and two e-mails were sent out to
19 the membership here asking for your help in finding
20 some new people that might have an interest and the
21 time to be part of our Subcommittee workings, so we
22 are still waiting for responses.

23 There are two proposed members that are
24 being considered, and it will be --

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 MS. AVERY: Three.

2 MS. BURMAN: Three? Oh, that's right.
3 Three.

4 And we would welcome any recommendations
5 that you feel would be helpful. But we can't -- we
6 can't wait much longer for that. We need to get this
7 wrapped up for now.

8 I think the other thing to keep in mind is,
9 if you recall -- I believe it was over a year ago --
10 we put terms forth for people to volunteer for,
11 one-year term, two-year term, three-year term, and the
12 group that was put into the one-year term is about to
13 expire October 1st of this year.

14 CHAIRMAN WAXMAN: But if I remember
15 correctly, Frank, is it -- anyone in that group can
16 volunteer to stay on, can they not?

17 MR. URSO: We did say something
18 about that. I'm looking at it right now.

19 It says, after a member's term has expired
20 and the member is no longer on the Subcommittee for at
21 least one year, that person can be reappointed to the
22 Subcommittee.

23 CHAIRMAN WAXMAN: Okay. So that there
24 has to be a year of separation; correct?

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 MS. BURMAN: Okay. So that -- that is
2 basically all there is to say at this point.

3 So if -- if you have anybody that you think
4 might have an interest, we'd certainly love to have
5 them being considered.

6 (Discussion off the record, after
7 which HFSR Board Member Galassi,
8 Member Handler, Mr. Constantino,
9 and Mr. Dart joined the
10 proceedings via telephone.)

11 MR. ROATE: Good morning. Could you
12 please introduce yourself again. We just got -- we
13 just patched in.

14 HFSR BOARD MEMBER GALASSI: This is
15 Dale Galassi.

16 MEMBER HANDLER: Carolyn Handler.

17 MR. CONSTANTINO: Mike Constantino.

18 MR. DART: Bill Dart.

19 CHAIRMAN WAXMAN: Welcome. We
20 appreciate you guys calling in.

21 We -- just to catch you up to date, we've
22 done roll call in the building. We've approved the
23 agenda, and we've approved the meeting transcripts.

24 We are talking about Item 4, the changes in

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 the Long-Term Care Subcommittee.

2 Claire has identified that there are three
3 or four applications that Courtney's sitting with. No
4 decisions, as I understand it, have been made about
5 any of those three or four applications.

6 Also, we reminded people that some one-year
7 terms will be expiring in October and, according to
8 the bylaws, there should be one year of absence before
9 those people can be reappointed to the Board.

10 Frank, is there any exception to that rule?

11 Or should we consider that or . . . should
12 I not even go there?

13 MR. URSO: Well, you can always amend
14 your bylaws if you think that it's too limiting.

15 CHAIRMAN WAXMAN: What's bothering me
16 now is that we've been struggling to get members to
17 join and we have some members whose term may be
18 expiring that may be very, very active and very
19 important -- as all members are -- and maybe we need
20 to adjust the bylaws so that they can be reappointed.

21 MR. URSO: You know, as I review the
22 bylaws again, in this same paragraph it talks about
23 membership.

24 What was approved -- it says the maximum

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 number of consecutive terms that a member can serve on
2 the Subcommittee is two consecutive terms, and then
3 the next sentence goes on to that one year of absence,
4 so to speak.

5 CHAIRMAN WAXMAN: So are my -- am I
6 hearing that the one-year term can be repeated and
7 then a year?

8 MR. URSO: That's what it looks like.
9 It looks like after two consecutive terms is
10 what the Committee approved.

11 CHAIRMAN WAXMAN: Okay.
12 So for those of you who are in the one-year
13 category that's expiring, if you wish, you can let
14 myself or Courtney or Claire know that you want
15 another year, and that should be acceptable.

16 So if you could do that before the
17 October date, that would be great so we have an idea
18 of what to look forward to in terms of membership.

19 MEMBER SCAVOTTO: Do we --

20 MS. AVERY: Do you want us to send the
21 list out again?

22 CHAIRMAN WAXMAN: Yeah.

23 MS. AVERY: Okay.

24 MS. BURMAN: Yeah.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 MEMBER SCAVOTTO: I'm just kind of
2 curious. I forget where I am on that -- on that
3 continuum.

4 CHAIRMAN WAXMAN: You're among the group
5 that's permanently appointed.

6 (Laughter.)

7 MEMBER SCAVOTTO: That's not quite what
8 I recall so . . .

9 Do you have the list, Frank?

10 MEMBER CASPER: Yours is a sentence.

11 MS. AVERY: You were --

12 MEMBER SCAVOTTO: The list -- it's like
13 the IRS e-mail? It's just gone. Right?

14 MR. URSO: Claire?

15 MS. BURMAN: Yes, I'd be happy to send
16 that out to everyone again.

17 MS. AVERY: I think you are listed for
18 one year.

19 MEMBER SCAVOTTO: Okay. That's what I
20 recall.

21 MEMBER CASPER: Could I just ask a
22 question, being a new member?

23 CHAIRMAN WAXMAN: Bill.

24 MEMBER CASPER: Normally when you set up

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 a rotation for a board like that and there are one-,
2 two-, and three-year terms, it's -- when you begin
3 that process. And a full term then becomes a
4 three-year term, and the one-, two-, and three-year
5 terms are normally just set up to set up that rotation
6 from the beginning.

7 So wouldn't it -- Frank, wouldn't it be that
8 somebody -- that normal reappointments or -- normal
9 appointments would be for a three-year term unless
10 somebody's filling a term that's vacant?

11 Isn't that . . .

12 MR. URSO: Well, that's not what was
13 approved by this Committee.

14 MEMBER CASPER: That's not what it says?
15 Okay.

16 MR. URSO: It basically says that
17 there's a one-year term with six members on it, a
18 two-year term with six members on it, and a three-year
19 term with seven members on it.

20 That's the way that they --

21 MEMBER CASPER: Okay.

22 MR. URSO: -- they approved it with
23 different time frames: October 1st, 2014, the first
24 term ends; October 1st, 2015, the next term -- series

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 of terms -- ends; and then October 1st, 2016.

2 CHAIRMAN WAXMAN: Bill, we did that
3 because in the very beginning, when the Committee was
4 created, there was no discussion of terms at all.

5 So, you know, we started out with
6 19 members, some of which are still here and some of
7 which are no longer with us. And at some point the
8 Committee decided that there needed to be some
9 rotation, and that's the methodology that was created
10 to do that. So . . .

11 Okay. So, again, those of you who are in
12 the one-year category, I would hope you would consider
13 giving us another year. Because we are now in the
14 nitty-gritty of what we've been trying to do for the
15 last two years, and we're getting some good action,
16 and good members are hard to find so . . . so
17 please --

18 MS. BURMAN: There's just one more point
19 that I wanted to bring up.

20 In terms of the three-year-term group, we
21 thought that it was a good idea to include all of the
22 State agency representatives as having three-year
23 terms because we feel there should be a constant
24 presence from those agencies.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC SUBCOMMITTEE MEMBERSHIP CHANGES**

1 The individuals, of course, can change,
2 but we would like to see a constant representation
3 from them.

4 CHAIRMAN WAXMAN: It's scary.

5 MS. BURMAN: Nobody got up to leave yet.

6 VICE CHAIRMAN BELL: Is there a reason
7 that the State agencies have to be on a term? Could
8 the State agencies just be ongoing members?

9 MS. BURMAN: That's, of course, an
10 option.

11 MS. AVERY: We would have to amend the
12 bylaws for that one.

13 VICE CHAIRMAN BELL: Would you?

14 CHAIRMAN WAXMAN: That would be a bylaw
15 adjustment again.

16 MS. BURMAN: That wouldn't be a bad
17 idea. Then you don't have to use that as --

18 MR. URSO: The State agencies could be
19 on a perpetual membership because they like it so
20 much.

21 VICE CHAIRMAN BELL: Not necessarily the
22 person but the agency.

23 CHAIRMAN WAXMAN: Right, joining
24 Mr. Scavotto on the perpetual . . .

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 MS. AVERY: Do you want language drafted
2 for that? Or are you thinking of amending the bylaws,
3 or shall we wait until October?

4 CHAIRMAN WAXMAN: Let's wait until
5 October.

6 MS. AVERY: Okay.

7 CHAIRMAN WAXMAN: Okay.

8 Any questions on Item 4?

9 (No response.)

10 CHAIRMAN WAXMAN: Okay.

11 Who is No. 5 belonging to? Courtney?

12 MS. AVERY: What is No. 5?

13 VICE CHAIRMAN BELL: Proposed venues.

14 MS. AVERY: Oh, yes.

15 So now that we have adequate conference
16 rooms at our location that we just recently moved to
17 in May -- it's at 69 West Washington -- we were
18 thinking that maybe we could host our meetings there
19 because we have conference rooms that are larger and
20 that would accommodate us at that space.

21 There's parking, there's restaurants, and
22 it would cut down on the costs of having to rent
23 space here.

24 So I wanted to get some feel for meetings

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 downtown at our offices at 69 West Washington.

2 I know it might be a hike for some people
3 who come from Springfield or -- and if you have to
4 come in the night before, lodging is paid for by the
5 Board.

6 So I just wanted to get some ideas or
7 feedback on the possibility of moving some of the
8 meetings, all the meetings, to that location to cut
9 down on costs.

10 VICE CHAIRMAN BELL: Does that room have
11 videoconferencing capability?

12 MS. AVERY: The Public Health conference
13 room does, and we can schedule that one.

14 And then there is a conference room in
15 another -- a videoconference in another State agency
16 that's located in the building and -- I think it's the
17 Office of Inspector General -- that we can use, also,
18 that we have access to.

19 VICE CHAIRMAN BELL: Frank, the bylaws
20 allow for videoconferencing, don't they?

21 MR. URSO: Yes.

22 VICE CHAIRMAN BELL: Okay.

23 MEMBER EVANS: I think it's a good idea.

24 MS. AVERY: Okay. So we'll look into

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 the possibility of it.

2 MEMBER EVANS: I don't know about other
3 members that have farther to travel maybe.

4 MEMBER CASPER: I guess I would have one
5 question, and that is probably -- many of the members
6 don't submit travel costs. But if there's parking
7 downtown for the day, you might look at what the cost
8 of reimbursement for parking is in relation to room
9 rental costs. The primary reason --

10 MS. AVERY: It will kind of even out
11 even though there's some that submit for mileage
12 reimbursement --

13 MEMBER CASPER: Yeah. Okay.

14 MS. AVERY: -- so we'll get close to it
15 or break even.

16 I don't think it will save a ton of money
17 but . . . and then it's more accessible if we do need
18 the videoconferencing.

19 The only other caveat to that is we will
20 probably have to schedule at least two meetings so, if
21 we want those conference rooms, we could have them.
22 We can always cancel or reschedule, but at least we'll
23 have them secured.

24 CHAIRMAN WAXMAN: I mean, for me it's

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 easier to drive here than drive downtown. I mean,
2 driving downtown's a pain. Although 294 today was
3 unbelievable. There were two accidents coming south.

4 MS. AVERY: Do you always drive?

5 MEMBER EVANS: Take the train.

6 CHAIRMAN WAXMAN: Do I always drive in?

7 Yes. Yes.

8 MS. AVERY: It's up to you all.

9 MEMBER CREDILLE: I would worry that,
10 the people that are coming from Springfield, that that
11 would be more difficult and then they might not
12 attend, and there's merit to having everybody in
13 the room.

14 CHAIRMAN WAXMAN: Yeah. I --

15 MEMBER CREDILLE: I mean, I'm
16 comfortable either place, but I would hate to see that
17 we had half a room.

18 CHAIRMAN WAXMAN: Yeah. I mean, I will
19 do either place. There's no question about that.

20 But . . .

21 MEMBER PHILLIPPE: I'm okay with it,
22 coming down south. I'm okay with it.

23 I actually like riding the train downtown.

24 CHAIRMAN WAXMAN: I just don't like

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 being dependent upon other people's schedules.

2 All right. So you'll look --

3 MS. AVERY: Do you want to leave it
4 here? Is that --

5 CHAIRMAN WAXMAN: I don't know that
6 there's a conclusion yet. I don't know that people
7 have decided.

8 Yes.

9 MEMBER CUNNINGHAM: I'm Kelly
10 Cunningham. I'm from Healthcare and Family Services,
11 one of the State agency reps, and I'm not frequently
12 in attendance due sometimes to the difficulty in
13 traveling to Bolingbrook, you know, for these
14 meetings.

15 I mean, one advantage I can see if you're --
16 particularly, I mean, if you're interested in State
17 agency participation and sort of perpetual
18 participation, whether it be the same person or not --
19 I think the variety -- the majority of State staff
20 that would be participating in these meetings -- or
21 staffing them, at least from other agencies -- are
22 coming from Springfield.

23 And that would -- you know, the
24 videoconferencing option, if that's allowed in the

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 bylaws, would, I think, be beneficial for that
2 purpose.

3 MEMBER EVANS: I would suggest that we
4 reserve the space now, you know, so we don't lose it
5 for the telepresence, you know, availability --

6 MS. AVERY: Okay.

7 MEMBER EVANS: -- and then we can
8 further, you know, delineate if that's going to work.
9 But I hate for us to lose that option of that space.

10 MS. AVERY: How about we try one meeting
11 and see how it goes? Or maybe two, see how it goes.

12 CHAIRMAN WAXMAN: Why are you committed
13 to two?

14 MS. AVERY: I just want to get the room
15 scheduled because the videoconferencing rooms are just
16 a premium --

17 CHAIRMAN WAXMAN: Okay.

18 MS. AVERY: -- so you have to get them
19 when you can get them.

20 CHAIRMAN WAXMAN: I thought that there
21 was some State rule about . . . you've got to have two
22 meetings --

23 MS. AVERY: No -- it's a contest.

24 MEMBER PHILLIPPE: Can I ask a question?

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 Is it more efficient for people really to
2 have it in a regular area like that rather than coming
3 here? I mean, traveling and bringing laptops and --
4 is it harder so that it would be more efficient to
5 have a regular location?

6 MS. AVERY: I think it goes back to what
7 Kelly said because we get a lot of requests for video
8 or conference call. Like now, these two little
9 devices are costing us \$200. When we have that
10 equipment that's standardized there in the room, it's
11 about 4 something.

12 So like I said, we won't save a ton, but
13 it's more of the accessibility to the technology.

14 MEMBER PHILLIPPE: Okay. So, really, in
15 terms of like meetings and people coming from
16 Springfield, people could videoconference in --

17 MS. AVERY: Yes.

18 MEMBER PHILLIPPE: -- is the idea, so we
19 might actually get better attendance.

20 MS. AVERY: We may.

21 MEMBER PHILLIPPE: And being on the
22 phone is not nearly as good as videoconferencing --

23 MS. AVERY: It's not at all.

24 MEMBER PHILLIPPE: -- especially when

**REPORT OF PROCEEDINGS -- 08/19/2014
PROPOSED VENUES FOR LTC SUBCOMMITTEE MEETINGS**

1 it's not a room set up for teleconferencing.

2 HFSR BOARD MEMBER GALASSI: I would
3 agree with that.

4 CHAIRMAN WAXMAN: I agree.

5 MS. AVERY: And I just sent Carolyn an
6 e-mail -- text message asking can they hear, and she
7 said "Not very good," so we'll have to speak up a
8 little bit for them.

9 CHAIRMAN WAXMAN: Okay. So if we save
10 all this money, then can the State furnish water?

11 MS. AVERY: We have water there.

12 CHAIRMAN WAXMAN: Last time we met
13 there, we didn't have water.

14 MS. AVERY: No. We now have water --

15 CHAIRMAN WAXMAN: Okay.

16 MS. AVERY: -- in our new location. We
17 did not have water on Michigan and Adams.

18 CHAIRMAN WAXMAN: Just checking the
19 rules.

20 MS. AVERY: And there are nice vending
21 machines and restaurants so it's really great.

22 CHAIRMAN WAXMAN: Indoor plumbing?

23 MS. AVERY: Indoor plumbing.

24 VICE CHAIRMAN BELL: Dirt floors

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 but . . .

2 CHAIRMAN WAXMAN: So schedule it,
3 Courtney.

4 MS. AVERY: Okay. I'll wait until we
5 get to that later and we'll decide.

6 CHAIRMAN WAXMAN: Okay. Any other
7 questions or comments on the venue item?

8 (No response.)

9 CHAIRMAN WAXMAN: Okay.

10 Item 5, update, revisions to long-term care
11 rules and applications.

12 And who is -- I know Mike and Cece have done
13 a ton of work on this, but who is going to open the
14 discussion?

15 MS. BURMAN: That would be me.

16 CHAIRMAN WAXMAN: Ms. Claire.

17 Go ahead.

18 MS. BURMAN: Okay.

19 Hopefully, you, as a group, had time to go
20 through some of the materials that were forwarded
21 to you. I know that it takes time, and we aren't
22 always going to be doing this. That is the promise.

23 I think we'll start with the simpler piece
24 first. That's the application form. That's the thing

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 that people send in when they have a project. And
2 this, hopefully, has been updated to meet all of the
3 recommendations that the work group put forth.

4 And Mike Constantino worked on this, and he
5 sent a nice compact summary so we can keep it short.

6 Within the new document everything has been
7 hyperlinked for all references to the rules and
8 definitions. That makes it easier for the person
9 who's putting the application together.

10 They removed the specialized long-term care
11 requirements because those are no longer going to be
12 part of what we do.

13 The appendices have been reordered as
14 requested so they make sense with the text of the
15 rules for finance and economics.

16 And then Mike added an Excel worksheet as
17 Appendix F for the projected financial information.

18 So -- and there are a couple of other tweaks
19 that we have to take care of, like making sure that
20 the exact language of the rule is reflected in the
21 exact language of the application form.

22 For example, in some cases it says in the
23 rule that there are examples, and then they have a
24 laundry list of examples, and in the application form

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 it says that they are requirements, so that needs to
2 be corrected.

3 But other than that, I think that we're in
4 fairly good shape until we do some rule changes, and
5 that would be the next point at which the application
6 would be revised yet again.

7 MEMBER SCAVOTTO: I agree with it.

8 Changes to the application were made
9 consistent with what we wanted. We're good.

10 MS. BURMAN: Okay. That's good.

11 But anytime you want to tweak the rules,
12 then the application has to wait for that to happen
13 before it's amended because everything starts with the
14 Act. That's the big mother lode of what we do, and
15 then the rules are actually the implementation of the
16 Act, and the application form comes from the rules.

17 That's the pecking order of how it's
18 supposed to work. So --

19 CHAIRMAN WAXMAN: So if I -- I didn't
20 mean to stop you.

21 MS. BURMAN: Oh, no. No, no.

22 CHAIRMAN WAXMAN: So if I can summarize,
23 this Board needs to approve the new application; the
24 new application then goes before the Mother Board? Is

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 that what we need to do?

2 Frank? Courtney?

3 MS. AVERY: We will update a lot of
4 changes because there is nothing that's really
5 affecting the Act or the rules at this point.

6 I think they'll be fine with it. So they'll
7 get this --

8 CHAIRMAN WAXMAN: So do we need to
9 approve the application?

10 MS. AVERY: Yeah. I would
11 recommend that.

12 CHAIRMAN WAXMAN: Okay.
13 So I need a motion to approve -- Tim?

14 MEMBER PHILLIPPE: So moved.

15 CHAIRMAN WAXMAN: And a second?

16 MEMBER CREDILLE: Second.

17 CHAIRMAN WAXMAN: Cece.

18 All in favor?

19 (Ayes heard.)

20 CHAIRMAN WAXMAN: Any opposed?

21 (No response.)

22 CHAIRMAN WAXMAN: And, again, on behalf
23 of the entire Committee, I want to thank Michael and
24 Cece for all the time and work that they put into that

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 application process.

2 MEMBER SCAVOTTO: Wait. Wait. Wait.
3 Wait. We're not done with that report.

4 MS. BURMAN: No. That was just Part 1.

5 MEMBER SCAVOTTO: All right. Good.

6 MR. URSO: So don't thank them yet.

7 MEMBER SCAVOTTO: Don't thank us yet.
8 We're not done.

9 MEMBER PHILLIPPE: How about thanking
10 them for Part 1?

11 (Applause.)

12 MEMBER PHILLIPPE: A lot of detail work.

13 MEMBER SCAVOTTO: They're good on
14 Part 1. The fun has just begun.

15 CHAIRMAN WAXMAN: I was going there.
16 I really was, Mike. I was going there.

17 Go ahead, Part 2.

18 MS. BURMAN: All right. Part 2 is the
19 actual set of rules for long-term care.

20 Again, these are just for general
21 long-term care. There -- this also includes some text
22 boxes that gives you additional information as to
23 either the basis for the change, if that seemed
24 necessary, or additional information along the lines

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 of why it might not work well.

2 And that's -- that was put in there because
3 that is the kind of information that the Mother Board
4 would expect to be receiving, and it didn't seem the
5 right thing to do to not share that with you first
6 because it is your document and you need to know the
7 full picture, too.

8 There are so many aspects to these changes,
9 and some of them trip over each other, so there are a
10 number of them that we need to discuss.

11 And I was wondering, Mike, would you want to
12 pick out the ones that you wish . . .

13 MEMBER SCAVOTTO: Well, in general,
14 I would say most of the recommendations that the work
15 group made were incorporated into a rule change, and
16 we're appreciative of that.

17 There are two points that we need to go back
18 and work on some more, and Frank and Claire and
19 I talked about that the other day. We -- and I'll go
20 through those with you real quickly.

21 You'll recall that we spent a lot of time on
22 the 90 percent occupancy issue --

23 MEMBER CREDILLE: Yes.

24 MEMBER SCAVOTTO: -- and that's

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 reflected in here. Now we need to go through and make
2 sure that we're consistent, and our recommendation was
3 that the 90 percent occupancy standard for renovation
4 or modernization be dropped. There shouldn't be any
5 standard.

6 And if you -- and our thinking was, if you
7 could finance it, you should be able to do it. And
8 that's been incorporated.

9 However, there . . . we missed an
10 opportunity on this one because there was also a
11 requirement that requires a 30-minute drive time, and
12 in most of the population in Illinois and in Chicago,
13 a 30-minute drive time is just not logical.

14 So there may be a way to do this -- Frank
15 suggested the other day that there was. You have a
16 standard that talks about urban and rural areas, and
17 that may be a way to accomplish that. So this -- the
18 one-size-fits-all standard that's in the application
19 is just significantly out of whack with reality.

20 MS. BURMAN: Can I interrupt you just
21 for a second?

22 MEMBER SCAVOTTO: Yeah. Go ahead.

23 MS. BURMAN: Just so that everyone
24 knows, he's specifically talking in this set of

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 discussion about the maldistribution rules, which are
2 1125.580(b), as in "boy," and so that's where this all
3 comes in.

4 MEMBER SCAVOTTO: So to wrap up that
5 point, I think Cece and I will take another run at
6 that and see if we can -- that one ought to be wrapped
7 up pretty easily.

8 The second issue is the generation of
9 documented referrals from hospitals and physicians.

10 And initially when we went through this, the
11 information that we were getting at the work group,
12 corroborated by some of the staff, was that the data
13 that we're getting was not easy to come by and was not
14 necessarily reliable.

15 So when we started discussing this the other
16 day, you know, maybe -- we probably could go back and
17 take another look at this.

18 The -- there's two sections of this --
19 Charles, if I get this application issue wrong, you
20 can correct me but there's two aspects on the
21 application. There's existing projects and then
22 there's new projects, new facilities.

23 So for existing projects you can use
24 historical data. And I guess it's traditional that

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 the applicant goes and gets a list from the hospitals
2 of how many referrals they've sent, or you can even
3 use your actual data, which makes me wonder why we
4 need the historical stuff from the hospital.

5 But, nonetheless, that -- it doesn't seem to
6 be a problem on the historical side.

7 On the . . . new facilities, where there is
8 no history, how do you provide those referrals? And
9 that is the issue that we've got to deal with. So
10 there may not be a good way to do that. No one's --
11 no one's got a basis.

12 I mean, obviously, there's potential to do a
13 market study, and it also gets -- it also brings in
14 the bed need formula, and that gets to be a -- a
15 spiral that just corkscrews into the swamp because
16 there's so many things affecting that bed need
17 calculation with -- with required occupancy standards
18 that I think we run the potential of the circular
19 firing squad.

20 So we want to -- I'm willing to take another
21 look at that, and then I think -- then I think
22 we're -- I think we're done because . . . and
23 that's -- those are the only comments that I can make
24 on this because virtually everything else we asked for

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 has been done.

2 And we appreciate that. But these are
3 two big things.

4 I think we can resolve the 30-minute drive
5 time pretty simply. And then I would think -- this
6 is -- this is one area -- Mike Constantino, I think
7 this is one area where you can be of great assistance
8 because this is the section the Springwood decision
9 impacted.

10 And we're taking the position -- and we
11 can -- we can revise the application to include
12 whatever data elements that we want. And the
13 30-minute drive time is inappropriate for some areas,
14 not for others.

15 There may be other issues that we should
16 look at, so stay in touch with me if there are things
17 that you want me to consider.

18 And that's all I have.

19 MS. BURMAN: Thank you. Thank you
20 very much.

21 Were there any questions or additional
22 ideas?

23 CHAIRMAN WAXMAN: Bill.

24 MEMBER CASPER: This is Bill Casper.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 I just -- could you -- maybe you can point
2 us to the section that talks about the referral data,
3 just so --

4 MEMBER SCAVOTTO: Oh, yeah.

5 MS. BURMAN: Sure. That's 1125.540.

6 MEMBER EVANS: As far as . . . this
7 is Pat.

8 As far as referral data, I mean, the
9 referral data for existing, yes, that's obvious.

10 But there would be referral data for new, as
11 well, because the hospital knows how many patients
12 they're discharging and where they've been discharging
13 them to.

14 So, I mean, that data is also available.

15 MEMBER SCAVOTTO: So if I'm going to
16 build a new facility in -- in -- and it hasn't even
17 been opened yet, is the hospital going to tell me how
18 many discharges it sent to that facility?

19 MEMBER EVANS: No, but it can tell you
20 how many it sent to other facilities.

21 MEMBER SCAVOTTO: That's historical.
22 I agree with you there.

23 MEMBER EVANS: I mean, there's
24 not going to -- actually, overall, you know,

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 discharges to skilled sites over the past year has
2 declined so . . .

3 MEMBER SCAVOTTO: It's a very
4 interesting discussion for me because you have -- you
5 have occupancy standards in our . . . will you answer
6 your phone?

7 MR. FOLEY: It's my iPad. I don't know
8 how to turn it off.

9 That would be a . . .

10 MEMBER SCAVOTTO: I've been wanting to
11 turn him off for years.

12 So you've got occupancy standards required
13 in the application and rules, and it's pretty clear
14 that that's just not in sync with what's going on in
15 the industry. It's going down.

16 And then we've got HFS setting sail with
17 managed delivery. Whether you buy into that or not,
18 that's the policy direction that they're going, and
19 that's arguing for lower utilization.

20 MEMBER EVANS: Yes.

21 MEMBER SCAVOTTO: Everything's going
22 down and our occupancy standards are up here. So,
23 I mean, I would submit that we're significantly out of
24 sync with reality on that position.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 And we . . . it's -- I don't think it's
2 going to be easy to change so . . . and I don't know.
3 We can make a recommendation, but the timing on
4 getting this thing through the Board is another issue.
5 We're not going to make any assessment on that.

6 That's -- Courtney, that's your call.

7 But . . . it just seems to me that there
8 are a number of places that we could shoot ourselves
9 in the foot on this, and . . . and I think we -- we
10 need to take another look at this.

11 MEMBER CREDILLE: Pat, and in the
12 current system, long-term care organizations or
13 facilities -- applicants -- are being asked to obtain
14 letters from the hospital and specific physicians that
15 guarantee the referrals that they're going to have.

16 And what's happening is that you can't get
17 folks to -- you can get historical data, but you can't
18 get people to commit to the future referrals.

19 MEMBER SCAVOTTO: Right. And I think
20 that was the problem that we had at the work group.

21 And it wasn't --

22 MEMBER CREDILLE: Well, and as
23 physicians have become employed by the hospitals over
24 time --

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 MEMBER EVANS: Right.

2 MEMBER CREDILLE: -- and you can't get
3 it from docs because now there are more employed
4 hospital physicians than there are private physicians.

5 MEMBER EVANS: Okay. Right.

6 So a comment on that is part of the reason
7 you can't is because they're not seeing a need. Okay?

8 It's not because they won't commit; it's
9 because they know that the marketplace has shifted.

10 And as far as my role, I'm working within a
11 venerable care organization, and we decide which
12 skilled sites we are going to utilize, and we try to
13 push all of the majority of our patients into those
14 settings.

15 MEMBER SCAVOTTO: Right. That makes
16 sense.

17 MEMBER CREDILLE: Correct.

18 MEMBER EVANS: And we don't want to have
19 them go anywhere. We want them to go to specific
20 sites.

21 So for us to put -- any of our CEOs -- to
22 put a letter forth that they recommend a new site,
23 that's not going to happen because we have already
24 determined where -- our market and where we want it

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 to be.

2 So that's why the letters are hard to get.
3 It's not because they're hard to get; it's because
4 there's no -- there is a lack of need.

5 MEMBER SCAVOTTO: Well -- go ahead.

6 CHAIRMAN WAXMAN: Chuck. I saw
7 Chuck's hand.

8 MR. FOLEY: Go ahead.

9 MEMBER PHILLIPPE: First of all, I was
10 going to say that what was said was very accurate.
11 I agree with that. We're seeing that experience with
12 ACOs.

13 However, ACOs only care about Medicare, and
14 Medicare is just a tiny sliver of the total group
15 being served today.

16 MEMBER EVANS: Actually --

17 MEMBER PHILLIPPE: Well, most of them,
18 that's all they care about.

19 MEMBER EVANS: Okay. We don't -- we
20 take all payers. So we're not just focused on
21 Medicare, no.

22 MEMBER PHILLIPPE: But typically that's
23 the role of ACOs. It's all about the Medicare.

24 MEMBER EVANS: It's a model.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 MEMBER PHILLIPPE: It's a model in the
2 Medicare program.

3 MEMBER EVANS: Right. It's a
4 model in the Medicare program, but there's other
5 models. We work with Blue Cross; we work with all
6 payers so . . .

7 MEMBER PHILLIPPE: True.

8 CHAIRMAN WAXMAN: Chuck?

9 MR. FOLEY: First of all, I don't think
10 that the State staff or the Board has ever interpreted
11 the letters from hospitals and/or physicians to be
12 commitment letters.

13 MS. AVERY: Right.

14 MR. FOLEY: All these letters are are
15 just simply a indicator and an indicator only of need.

16 We usually -- in terms of our experience,
17 we've never had a problem in getting letters from a
18 hospital. We have had problems in getting letters
19 from hospitals in terms, yes, of patient origin
20 data -- okay? Not with existing providers but with
21 new facilities. That is very, very difficult to
22 obtain.

23 But we are able to get from hospitals just
24 simply a letter that would give approximate

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 referrals annually, and we ask them to use the word
2 "approximately."

3 We ask them, also, to use a range in -- you
4 know, 2 to 4 a month, 3 to 5, 7 to 10 a month,
5 whatever -- okay? -- so that there is no commitment,
6 so to speak.

7 But, again, I think referral letters are
8 important in that it does give somebody -- again, as I
9 said, it is basically an indicator of need only and
10 that's it so . . .

11 CHAIRMAN WAXMAN: About how many
12 applications have you worked on since ACOs have
13 become, you know, key in the marketplace?

14 MR. FOLEY: At this point in time -- in
15 terms of working with ACOs, none at this point in
16 time. That really has not -- has not presented a
17 problem yet. That is a problem we're going to have to
18 address.

19 Hospitals would basically be out of the
20 picture because we're probably going to have to end
21 up going to the ACOs -- okay? -- to get letters
22 from them.

23 Again, whether or not they would provide a
24 letter, we don't know that yet. We'll just have to

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 take that up at the point in time when we feel that we
2 have to go out and contact the ACOs.

3 MEMBER EVANS: This is Pat again.

4 I agree that we would provide a letter if
5 there was a need, yes. I mean, that's the point
6 of it.

7 MR. FOLEY: Well, even when you say
8 "when there's a need," the Board's inventory and the
9 bed need methodology -- again, that is also an
10 indicator of need.

11 It does not really, truly mean that there is
12 or is not a need for beds because there's so many --
13 within the methodology itself there are so many
14 factors that would contribute to the figures, whether
15 there was a need or an excess of beds.

16 What you have to do is you have to deal with
17 reality, also, and reality is what is really going on
18 in that planning area. Okay?

19 The bed need inventory itself, the
20 methodology itself does not show that. There are
21 circumstances.

22 That's why we have variances within the
23 rules. Where there is not a bed need, you also have
24 the opportunity to address entitlement, you know, to a

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 variance -- a variance -- be it a continuum of care
2 variance and the other one that we have is the defined
3 population.

4 I think that what this Subcommittee needs to
5 do is to look at other kinds of variances, like an
6 access issue-type variance, a high-occupancy variance.
7 You could have a lot of facilities that are sitting
8 there with a high occupancy rate and there is not a
9 bed need. Should that prohibit that facility from
10 adding beds? No, it really shouldn't. Okay?

11 So, again, don't -- when you say "because
12 there is a need or not a need" -- again, we have to go
13 back and look at the planning area, look at the market
14 area, and see what their problems are.

15 Every application that we work on is
16 different. Nobody is to say. Every single area is
17 different.

18 MEMBER EVANS: I think we're talking
19 about if letters should be required, and I guess I am
20 saying that I think we should still require the
21 letters.

22 MR. FOLEY: And I agree, yeah.

23 CHAIRMAN WAXMAN: Bill?

24 MEMBER CASPER: I guess I'd make a

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 comment, too.

2 Because -- I'll try to be careful about how
3 I say this, but I think we have to be very careful
4 that this set of rules is not a set of rules that
5 locks out competition in the market perpetually.

6 And I think that to say -- for an ACO to say
7 "Our needs are being met now; therefore, there's no
8 ability for anybody to obtain a CON for new beds or an
9 addition to beds" would be a very wrong direction to
10 go in.

11 I think that I -- there might be a new
12 facility that comes into the market that somehow can
13 provide better customer satisfaction and better
14 outcomes than the ACO is receiving currently with the
15 current providers, and, voila, three years from the
16 opening date, the business is all shifted. For good
17 reasons.

18 And so, therefore, I think to say "Our needs
19 are met now; therefore there shouldn't be any new
20 competitors or new business developments in this
21 marketplace" would be using the CON regulations to
22 lock in the market for existing providers.

23 CHAIRMAN WAXMAN: All right. Bill,
24 I totally agree with you because I think we all are

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 aware that the market has changed so dramatically in
2 terms of acuity level, in terms of demographics, in
3 terms of what families are looking for, and there are
4 facilities out there that can't meet those needs.

5 And even though they're there now, that
6 doesn't mean that there aren't better alternatives
7 sitting on a drawing board.

8 So I totally agree with what you just said.

9 MEMBER EVANS: I agree with that,
10 as well.

11 CHAIRMAN WAXMAN: I'm sorry?

12 MEMBER EVANS: I agree with that, too.

13 CHAIRMAN WAXMAN: All right.

14 MR. FOLEY: Our Act uses the word
15 "innovation," and I think I have to agree also with
16 Mr. Casper. I mean, we are trying to push for
17 innovation out there of something new, something
18 different. And even though there may not be a bed
19 need, so to speak, a new applicant may want to take a
20 different approach in how they deliver, you know,
21 services, via short-term rehab or on a long-term
22 care basis.

23 So I agree, again, with Mr. Casper, period.
24 I'll just end it at that.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 CHAIRMAN WAXMAN: Yes, Judy.

2 MEMBER AMIANO: I think there's been
3 some excellent points raised, all as they -- I'll
4 count myself as a historian on this because I think
5 I've been around since the beginning of time as this
6 conversation goes.

7 And one of the original concepts that we
8 wanted to achieve -- this goes back many years -- is
9 that we ended up with a different set of guidelines
10 that was more fluid, wasn't so prescriptive because of
11 the changing health care landscape needs, and we had a
12 set of rules that had been in place forever and
13 weren't fitting.

14 So it almost feels like we're trying to do
15 exactly the same but with a slightly different twist,
16 so I would just caution us to think "How can we think
17 outside of the box? How can we ensure that we're
18 creating a set of guidelines that is contemporary with
19 the marketplace as we know it today and allows for
20 some flexibility moving forward?"

21 As a provider, you know, obtaining those
22 letters, it's just an exercise in work, you know, in
23 time. And, frankly, I personally find it rather
24 useless. Yes, you can get them, but does the Board

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 really look at them? So are we really doing something
2 that's meaningful, I guess, in this exercise?

3 I mean, we can change the number of ACOs
4 that are in the bundle payments. We can do all those
5 things. And just because -- you know, I think as Pat
6 said -- we don't want you today doesn't mean you're
7 not in that tomorrow, and so it changes that rapidly.
8 And so I just -- I would really like to see us think
9 differently and not be so locked in that -- because
10 we've always done it this way -- that we continue in
11 that same thing. We have a really great opportunity
12 now to make some changes.

13 So I think, you know, the points that
14 Michael made were terrific in terms of, you know, we
15 made some good strides here. How do we keep pushing
16 it and get some comfort around -- you know, does the
17 Board really need to see letters from the marketplace?

18 What -- if we put ourselves in the Board's
19 seat, what they getting out of those letters? And is
20 there a different way to accomplish that?

21 CHAIRMAN WAXMAN: You know, being a
22 casual observer to the process, the letters are -- are
23 really nonbinding so --

24 MEMBER AMIANO: They mean nothing,

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 frankly.

2 CHAIRMAN WAXMAN: Right. So I would
3 consider them to be nonbinding and -- and the
4 application has to convince me in the whole and in its
5 entirety that the need is there, and the letters
6 don't do that.

7 So I agree with what you're saying and what
8 Michael has been proposing, what Cece's been
9 proposing.

10 Pat?

11 MEMBER EVANS: Well, I think with
12 any -- you know, this is a major endeavor for, you
13 know, someone to start a new facility. And I think,
14 if you don't have at least a discussion with the
15 provider that's going to be sending you the majority
16 of your, you know, rehab clients, that that's a missed
17 opportunity.

18 And I think it also is not -- it's kind of
19 perpetuating the whole silo mentality -- that, you
20 know, we all just operate as these independent
21 entities -- instead of looking at the fact that health
22 care is really a continuum and, you know, the person's
23 care is not just at the skilled site, just like it's
24 not just at the hospital.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 It's a continuum and I think we want to have
2 that -- we want to have a structured communication
3 between those two entities.

4 CHAIRMAN WAXMAN: Well --

5 MEMBER EVANS: And that's what the
6 letter represents, that there has been a meeting of
7 the minds, so to speak, between these two entities
8 that they are willing to work together.

9 And, yes, it's not a major, you know,
10 factor, maybe, in determining whether or not, you
11 know, a project is going to go through or not, but
12 I -- I certainly would hate to take that exercise
13 away, even if it's a formality.

14 CHAIRMAN WAXMAN: Well, I'd like to go
15 back to what Mr. Scavotto has said from Day One. This
16 is economics. The market demand will create the
17 existence and the ability of a new facility to
18 survive, and I think that is what should drive someone
19 to put the application together.

20 If I -- if someone said, "Here's a pile of
21 money; do you want to go build a new nursing home?"
22 I would certainly discuss that concept with everybody
23 I could think of.

24 Now, whether they put it in writing as

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 saying "I might give you two people or I might give
2 you four people," that's immaterial.

3 But certainly, in my ability to create a
4 business plan -- which is something anyone who is --
5 in any business sense of the world today -- is doing,
6 that would have taken place. Whether the letter is
7 any indication of anything other than an exercise
8 I'm not sure.

9 But I think that anyone who's going to put
10 money into a new facility has done everything you've
11 talked about because that's just good business sense.
12 And demand should be created and demand should be
13 there before we go anywhere else. That letter,
14 I don't know.

15 I saw someone over here.

16 MR. ROATE: I had my hand up. I just
17 wanted to point out that these data in these referral
18 letters are used in the assembly of the Board reports.

19 We take this information and we present it
20 to the Board as a -- I should say -- as an approximate
21 number of patients that could be referred to the
22 facility.

23 CHAIRMAN WAXMAN: Dale, are you still on
24 the phone?

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 HFSR BOARD MEMBER GALASSI: I am but I'm
2 not sure I understand that last comment.

3 Can someone amplify that, please? Or give
4 me a context?

5 MS. AVERY: The comment George
6 just made?

7 HFSR BOARD MEMBER GALASSI: Yes, please.

8 MR. ROATE: What I said was the referral
9 data -- or the data contained in the referral
10 letters -- is presented to the Board. It is used in
11 the State agency reports to offer a speculative number
12 of what patients may be referred to the facility upon
13 project completion.

14 And while we can't predict the future,
15 neither can -- neither can a market study.

16 CHAIRMAN WAXMAN: Dale, as a Board
17 member, does the application itself demonstrate that
18 there is a demand? Or do you specifically, as a Board
19 member, take that -- those letters and use them as
20 evidence? As opposed to the whole application
21 indicating that research has been done to support the
22 need for a new facility.

23 HFSR BOARD MEMBER GALASSI: You know,
24 Mike, I honestly think that the answer to that

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 question is different by different Board members. My
2 sense is we all have certain pieces of data that we
3 like to look at.

4 Some Board members want to hear the staff
5 recommendation. Some are looking at specific pieces
6 of data.

7 So, yes -- I think the easy answer to your
8 question is, yes, I think the majority of Board
9 members do take that information into account or at
10 least partially into account.

11 CHAIRMAN WAXMAN: Thank you, sir.

12 HFSR BOARD MEMBER GALASSI: As far as
13 the letters themselves, I'm not so -- yeah, I --
14 again, certain Board members are very interested in
15 the community perspective. Others, perhaps not so
16 much.

17 CHAIRMAN WAXMAN: Thanks, Dale.

18 Chuck?

19 MR. FOLEY: I just want to say, you
20 know, a comment Judy made -- and I do understand what
21 she's saying, and I go with her in terms of, you know,
22 this is something that we've been doing, you know, all
23 this time, and it doesn't mean that we have to
24 continue doing it.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 But, again, as I indicated earlier, it's
2 only a mechanism as an indicator of need. That's
3 all it is.

4 This is a planning process. And what this
5 process does -- it does, in fact, force people to sit
6 down and think.

7 Mike made a comment that you would assume
8 that -- I'm sorry.

9 Mr. Waxman made a comment that you would
10 assume that people would do a business plan or
11 something before they undertake, you know, such a
12 financial risk here. The number of applications that
13 our office has been involved in -- I could probably
14 count on one hand the number of applicants that
15 actually had a business plan.

16 Our process does not even really require
17 a market study. A market study, you know, does have
18 and could have and could be a valuable tool in the
19 planning process.

20 But these letters from hospitals -- you
21 know, again, it does force people to go out and to sit
22 down and to talk with people, you know, in the area to
23 see what's going on in the area. "If you do need
24 beds, what kind of beds do you need? What more in our

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 facility can we offer you?"

2 People really and truly -- without this
3 process, I really don't think that they would go to a
4 hospital.

5 I think the businessman has a site and
6 "Let's build a nursing home." Let's assume that
7 there's not a CON required. You have a site, "Let's
8 just go ahead and build a nursing home."

9 Because they go after the theory that, if
10 it's built, they will come. Okay? Obviously, that's
11 not necessarily true.

12 So, again, as part of a planning process --
13 which is what we are supposed to be about here -- this
14 does, in fact, force people to go through these
15 exercises and to think. There are times when people
16 cannot get letters. Okay? And if they cannot, the
17 Board has been faced with it in the past. Okay? But
18 then that is a Board decision.

19 And if it is that difficult for them, you
20 know, to get a letter, that's an issue for the Board.
21 You know, the staff will accept an application without
22 the letters. It may be, you know, negative on it, and
23 I think an applicant has the right to appear before
24 the Board and to explain what happened and why.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 You know, period.

2 CHAIRMAN WAXMAN: George, would you take
3 a marketing analysis equal to or greater than letters
4 of references?

5 MS. AVERY: Not right now.

6 MR. ROATE: I think they both have the
7 same weight.

8 Basically -- I mean, a market analysis is,
9 once again, a review. And I would think one of the
10 bases of a market analysis would be going into the
11 community and determining what their potential is for
12 referrals.

13 MS. AVERY: But that's the future. We
14 don't have that in the rules at this point.

15 MR. ROATE: Yeah.

16 CHAIRMAN WAXMAN: But we're trying to
17 make the rules for the future.

18 MS. AVERY: Right. Right.

19 CHAIRMAN WAXMAN: I mean, in my mind, a
20 market analysis is much deeper than a letter from a
21 best friend who you played golf with that says "I will
22 give you" -- did I strike a chord, Cece?

23 MS. AVERY: And if you recall,
24 Mike Constantino, when we started this discussion, has

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 been saying that, but we just haven't gotten to the
2 point where it's like, "Okay. This is what we would
3 like to recommend."

4 But that's been said from Day One.

5 MEMBER SCAVOTTO: Well, but
6 that's . . . that's what we're trying to get at here.

7 MS. AVERY: Yeah.

8 CHAIRMAN WAXMAN: Claire.

9 MS. BURMAN: What we're doing now isn't
10 working real well.

11 MS. AVERY: What?

12 MEMBER SCAVOTTO: There's plenty of
13 aspects of this process that aren't working well. The
14 industry's at one level, this process is at another,
15 and it's -- they're not going to connect unless we
16 change some of these things.

17 MS. AVERY: Yeah.

18 MS. BURMAN: What I wanted to say in
19 terms of market study versus the referral letters, the
20 one thing a market study does not provide that is
21 provided by referral letters -- and it is important --
22 is that you have a connection, and certain amounts of
23 referrals are going to be channeled to you.

24 Okay? A market study doesn't do that.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 It says, "In this geographic area we see
2 this amount of need for this kind of service," period.

3 MEMBER SCAVOTTO: Uh-huh.

4 MS. BURMAN: It doesn't tie into the
5 applicant's desired facility.

6 MEMBER SCAVOTTO: Neither does a
7 nonbinding letter of support.

8 MS. BURMAN: It's much stronger.

9 MEMBER SCAVOTTO: I don't think so.

10 MEMBER AMIANO: No.

11 MEMBER SCAVOTTO: I don't think so. And
12 I -- Charles and I have had this conference ad nauseam
13 before, and I will -- to the day I go to my grave,
14 I'll continue to disagree with him.

15 And it's -- the -- I believe you when you
16 say the business planning is -- leaves a lot to be
17 desired, but it's not -- it's not the process of the
18 certificate of need -- not the responsibility of the
19 CON process to protect an owner from itself. If the
20 owner can't do its business practices correctly, let
21 them fall by the wayside.

22 CHAIRMAN WAXMAN: Tim.

23 MEMBER PHILLIPPE: First, I don't want
24 to spend too much time talking about it because

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 I think it's a moot point. Okay?

2 I think -- on one side I'm kind of --

3 I don't think it's necessary to have the letters.

4 Okay? However, if you can't get the letters, that's
5 ridiculous.

6 So, either way, I don't want to spend
7 two hours talking about it because I think it doesn't
8 matter in the long run.

9 MEMBER SCAVOTTO: It doesn't.

10 MEMBER PHILLIPPE: In the long run it's
11 not that big a deal.

12 But the other thing I wanted to convey, as
13 long as we're talking about this, kind of the
14 hospital, there are competing factors going on in
15 terms of people, where they choose to go. Okay?

16 There are ACOs. They want to force people
17 to go to their buildings but legally they cannot.

18 Most -- maybe insurance companies can. But
19 for the Federal Medicare program, they cannot tell
20 them where they have to go.

21 But there is this -- well, one of the forces
22 in the marketplace right now is the ACOs who are
23 trying to do that, and they may not necessarily pick
24 the best buildings. They pick their people to refer

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 to for a whole variety of reasons, sometimes because
2 they own the buildings -- the hospital already owns
3 them or has a business relationship with them.

4 On the other side, you have citizens who
5 also have the right to go to wherever they want to go,
6 and so if we -- we don't want to set the rules up just
7 to say we're going to force people to go where the
8 hospital wants them to go. I don't think that's in
9 the best interests of the citizens.

10 We do an annual survey by a national
11 company, and what we find -- I just saw the results
12 for last year. And the number -- three reasons that
13 people pick our buildings: First was reputation,
14 second was location, and the third was the physician
15 referral, which means there -- where people choose to
16 go is complicated.

17 MR. FOLEY: Uh-huh.

18 MS. BURMAN: Right.

19 MEMBER PHILLIPPE: We can't just
20 assume they're going to go where the hospital tells
21 them to go.

22 MS. BURMAN: There's that solution.

23 MS. AVERY: What solution?

24 CHAIRMAN WAXMAN: George.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 MR. ROATE: Just speaking on the part of
2 a reviewer for the CON process, I would say that a
3 comprehensive market analysis would include referral
4 data with these numbers.

5 MEMBER SCAVOTTO: Uh-huh.

6 CHAIRMAN WAXMAN: Chuck.

7 MR. FOLEY: Yeah, I agree. A market
8 study could include whatever the State wants it to
9 include. A market study will tell you about
10 penetration rates, tell you about saturation rates.

11 If you want letters from hospitals, letters
12 from doctors, the State could dictate what should or
13 should not be, you know, in a market study.

14 But, again, I think that, if the State staff
15 is using hospital numbers in their analysis, in their
16 State agency report, if it is being used and if --
17 I guess I go back and ask the question, also, to State
18 staff: How many applications have been reviewed where
19 there has not been a letter by a hospital or
20 physicians because they could not be obtained?

21 CHAIRMAN WAXMAN: Except -- except that
22 question doesn't make sense, Chuck, because the
23 current rules say that there needs to be a letter.
24 So you're not going to have anyone not turning in

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 letters.

2 My problem --

3 MR. FOLEY: But that's not correct.

4 That's not correct.

5 MS. AVERY: No. And as he said earlier,
6 you do have the opportunity to explain what were the
7 barriers, what were the issues that you don't have
8 these letters.

9 And beforehand George and Mike will call and
10 say, "You don't have the letters included. Is that an
11 oversight? What's the issue?" And that goes into the
12 report, also.

13 MR. FOLEY: Yeah.

14 CHAIRMAN WAXMAN: I guess, if there's
15 one thing that I've learned in being in health care
16 for 30 years, is that so much business is done based
17 on relationships and handshakes and dinners and golf
18 courses and football games.

19 And consequently --

20 MR. FOLEY: Those days are gone.

21 CHAIRMAN WAXMAN: -- I -- but if you
22 want -- you want to perpetuate it by requiring the
23 letters, which I -- which really have no credibility
24 because they're being done, in most cases or in a lot

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 of cases, based upon relationships and not reality.

2 MR. FOLEY: Not really. I really don't
3 agree with that.

4 CHAIRMAN WAXMAN: Well, then we're going
5 to be different.

6 MR. FOLEY: And that's fine. We
7 all -- that's why we're here. We all have
8 different hats.

9 MS. AVERY: So --

10 MR. FOLEY: And, again, if it's a tool
11 that the staff -- and I agree with Tim that we're
12 spending too much time on this.

13 MEMBER EVANS: Right.

14 MR. FOLEY: But if it's a tool that
15 staff is using and unless we could come up with a
16 better alternative, another indicator of need, why not
17 continue it?

18 If we want to work in the future in terms of
19 eliminating the letters but, yet, substitute it with
20 another indicator of need, I don't have a problem
21 with that. You know, period.

22 But I think, if the staff is using it, if
23 they like it as a tool, if it's, you know, a good
24 indicator to them, if it helps the Board, well, then,

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 why not?

2 CHAIRMAN WAXMAN: So, Michael, in
3 your discussions of eliminating the letters, are you
4 proposing that a market analysis be included? Are you
5 proposing that --

6 MEMBER SCAVOTTO: We did suggest
7 that, yeah.

8 CHAIRMAN WAXMAN: Okay.

9 MEMBER SCAVOTTO: We recommended that
10 they be -- the letters be dropped and that a market
11 study be considered.

12 We could probably take that recommendation a
13 little bit further and develop it more.

14 MS. AVERY: And I was just about to ask
15 if we should look at -- I forget -- what other states
16 are doing, come up with some kind of recommendations
17 for the Subcommittee, look at what we would need as
18 far as -- in order to inform the Board, have a
19 comprehensive look at what this place is proposing to
20 do. Will there be patients when the doors open is the
21 important part of it for Board members even to
22 consider when they review the application.

23 So we can go back and talk with Mike and
24 Cece again on a conference call for the hundredth time

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 but gather that information prior to and send
2 it out --

3 MEMBER SCAVOTTO: Don't you have it --

4 MS. AVERY: -- and see what we can do.

5 MEMBER SCAVOTTO: Don't you have it
6 already, Claire?

7 MS. BURMAN: Yes. We have to wade
8 through it.

9 MS. AVERY: But it's not in this format.

10 MEMBER SCAVOTTO: You haven't
11 formatted it?

12 MS. AVERY: It's not formatted for this.

13 CHAIRMAN WAXMAN: Bill.

14 MEMBER CASPER: I just would make
15 one additional comment because I think that's a great
16 recommendation.

17 I think the thing we're all -- the elephant
18 in the room at this point is that, while there may be
19 some providers out there who have deep pockets and
20 don't mind throwing money at the wall and seeing if it
21 sticks, most projects need financing.

22 And no lender is going to lend to an
23 operator unless they have a market feasibility study
24 that includes where they think they're going to get

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 the business from, where the revenue's going to
2 come from --

3 CHAIRMAN WAXMAN: Right.

4 MR. FOLEY: That's correct.

5 MEMBER SCAVOTTO: That's right.

6 MEMBER CASPER: -- and what commitments
7 they have to obtain that.

8 So however you document that -- letters
9 could be one thing, but I think a market feasibility
10 that requires those elements would meet the test.

11 CHAIRMAN WAXMAN: Bill, can I share,
12 without naming names, our conversation before the
13 meeting started?

14 MEMBER CASPER: Sure.

15 CHAIRMAN WAXMAN: Bill and I sat in a
16 meeting with physicians and other people before a
17 particular kind of unit was created in which these
18 physicians sat across from us and said they would give
19 X number of referrals if that unit was created.

20 And to this date they've maxed at half of
21 that number.

22 So, you know, saying it in front of you
23 should have more credibility than writing it on paper,
24 so that's why I don't think those letters are of much

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 value.

2 Tim?

3 MEMBER PHILLIPPE: I've got to go to,
4 really, kind of the basis of the whole discussion,
5 like -- say somebody builds a building and you say
6 there's no need. Okay? And they don't get the
7 referrals.

8 Who cares? Why do we have to care
9 about that?

10 What is the worst thing that happens? The
11 worst thing that happens is the community has a nicer
12 building, people have more choices, and somebody loses
13 money.

14 If somebody loses money, it's their game,
15 it's their responsibility. Usually what happens is,
16 actually, the debt holders actually have to cut the
17 debt, so somebody in New York or -- bought the bond
18 somewhere. So, I mean, again, it goes to the
19 argument. But like -- why do we really care? Why is
20 it so important to micromanage the process so that
21 somebody doesn't make a mistake?

22 HFSR BOARD MEMBER GALASSI: I agree with
23 that. In the big picture, yeah.

24 CHAIRMAN WAXMAN: That's what Mike has

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 been saying all along, let the system define who's
2 successful and who's not for whatever reason.

3 MEMBER EVANS: Isn't that our role,
4 though, to --

5 MS. AVERY: Then you --

6 MEMBER EVANS: -- try to ensure that we
7 don't overbuild these facilities?

8 MS. AVERY: Exactly. Or tie up beds.

9 MEMBER EVANS: That's the whole function
10 that we're supposed to be doing here. So why even
11 have any process on why we have a determination of
12 need at all?

13 MR. FOLEY: That's correct.

14 MS. AVERY: And if you have a facility
15 that's sitting there with 200 beds and there are only
16 a hundred that's occupied, then you have a facility
17 down the street that's in excess of -- or have a
18 waiting list and a certain payer mix and you're not
19 going to be accepted, that doesn't allow the other
20 facility that's overbedded -- that's not overbedded --
21 to expand.

22 Because when we look at our need, it's
23 saying that there's utilization in the area and this
24 facility is underutilized.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 But we hear it all the time, "They're not
2 accepting our patients; they're not accepting our
3 referrals because of payer mix."

4 So you get that situation.

5 MEMBER PHILLIPPE: So I'm going
6 to say --

7 HFSR BOARD MEMBER GALASSI: If I could
8 add to Courtney's comment, certainly there's a
9 procedure of --

10 THE COURT REPORTER: We can't hear you,
11 sir. Could you start over again, please? Sorry.

12 HFSR BOARD MEMBER GALASSI: I think I'm
13 adding onto Courtney's comment that that is the
14 primary genesis of the Board's rule. I mean, the
15 Board's primary concern is assuring access to the
16 underinsured and trying to make sure we're not
17 overbuilding and overbedding in terms of competition.

18 CHAIRMAN WAXMAN: Tim.

19 HFSR BOARD MEMBER GALASSI: That's what
20 I see our mission as -- what I see our mission as.

21 MEMBER PHILLIPPE: I'm not saying
22 there's no value to the process.

23 What I'm saying is on -- you've got a
24 continuum. Okay?

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 On one side we have the regulations to try
2 to ensure a good -- efficiencies, good care, all the
3 things that -- the purpose of the Board.

4 On the other side, you want innovation. You
5 want, really, to have the programs that people need
6 and want. Okay?

7 And what we're trying to do is find where
8 that middle ground is, isn't it?

9 No one's recommending we want to go to Texas
10 and have no certificate of need. There's a variety of
11 reasons -- at least I'm not.

12 So the question is, where on the continuum
13 should we be?

14 CHAIRMAN WAXMAN: Right.

15 MEMBER PHILLIPPE: If we move so -- if
16 we have many rules and issues in the application to
17 try to micromanage the decisions that people make,
18 we're going to stop any innovation.

19 CHAIRMAN WAXMAN: Right. I agree
20 with you.

21 And I like what Bill said, that in today's
22 economy, to get financing you're going to do the
23 feasibility studies and the marketing studies, and,
24 therefore, you know, you have to put them together

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 before you get your money. And, therefore, it can
2 easily become part of the CON package and those
3 letters then become incidental.

4 Mr. Foley?

5 MR. FOLEY: I do agree with what you're
6 saying; however, it has always been -- I guess I'm the
7 oldest one in the group in terms of being around the
8 CON process.

9 Over the years it has always been, to my
10 understanding, the Board's objective of trying to keep
11 the costs down for an applicant.

12 You have to pay application fees, which can
13 be very expensive, to add -- even if they do or do not
14 use a CON consultant. Even if they don't use one, it
15 still could be a very expensive process.

16 I agree that a market study is necessary
17 when you go to get financing. Should it be part of
18 the CON process?

19 You know, I wouldn't mind it one way or the
20 other. But all I'm trying to say is a lot of people
21 look at it as being very expensive and they still
22 don't have a CON in hand. "Give me my CON first, then
23 I can do a market study, and if the market study is
24 not that powerful, then maybe I just will not do my

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 project." You know, period.

2 So it's damned if you do and damned if you
3 don't, so there's a good reason for it and -- and not
4 for it.

5 But I just want to make sure everybody has
6 both sides.

7 CHAIRMAN WAXMAN: I agree with Tim. We
8 don't want to waste any more time or take any more
9 time on this.

10 MR. FOLEY: Thank you. Thank you.

11 CHAIRMAN WAXMAN: So, Michael, what do
12 you need from us?

13 MEMBER SCAVOTTO: Nothing.

14 Cece and I will get on it and we'll be in
15 touch with Claire.

16 MEMBER PHILLIPPE: Okay.

17 CHAIRMAN WAXMAN: Do you want to --

18 MEMBER SCAVOTTO: Anyone else who wants
19 to experience the punishment, give me a call.

20 CHAIRMAN WAXMAN: John, you've been
21 very quiet. Do you have an opinion? And then I'll
22 move on.

23 MR. FLORINA: You're asking me for an
24 opinion?

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 CHAIRMAN WAXMAN: Yes.

2 MR. FLORINA: You've got to be careful
3 when you ask for that.

4 No, I was just trying to go back to the root
5 of the whole process. You're trying to determine if
6 there is a need. If there a need, how are you going
7 to satisfy it with referrals?

8 So are you going to get cooperation from the
9 referral agencies to support that or not? It seems
10 that it's a question -- can you support what you're
11 determining the need to be?

12 And maybe I'm oversimplifying it, but we're
13 dealing with all the details of how to get to that
14 point.

15 So I don't think I offered you anything new
16 that you haven't talked about, but I was trying to
17 keep it simple.

18 CHAIRMAN WAXMAN: All right. I guess
19 you guys have to figure out whether the letter is
20 needed or not needed.

21 And I think you can make an argument both
22 ways -- or either way -- and you're going to have to
23 decide.

24 MEMBER SCAVOTTO: In that respect,

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 I mean, Tim's got . . . Tim kind of phrased it well.
2 Where do we want to be on the continuum?

3 So, obviously, we're -- we've made a lot of
4 progress with the 90 percent occupancy and tried to
5 find a balance with this.

6 We'll take another run at it.

7 CHAIRMAN WAXMAN: And I think Chuck
8 raised an issue -- an interesting point. I think,
9 if . . . from my experience, I would want the money
10 known before I get a CON. I'm -- that's my logic.
11 Therefore, I would have the marketability and the
12 feasibility and the projected financial statements
13 done before I put the CON process together.

14 Because if you get a CON and you can't
15 finance it, that's like walking by the candy store and
16 you can't get in the door. So I'd rather know I can
17 get in the door and buy the candy if I am allowed to
18 do that. I don't know.

19 Judy, what's your thought on -- what would
20 you do first?

21 MEMBER AMIANO: I would agree with Bill
22 on everything that's been said.

23 I would disagree with Mr. Foley in that
24 people have a business plan, you understand the

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 marketplace, you -- everyone -- there's no one that
2 does all-cash deals. So if you're getting financing,
3 you do not want to end up doing all of this work.

4 So -- and a part of that is you know the
5 marketplace you're going into; you've talked to
6 people, you know. But the actual act of getting
7 letters is -- I'll say it again -- I think is a
8 somewhat useless exercise of time because you're not
9 spending your time and effort and funds and resources
10 to go into a marketplace unless you think it's going
11 to be successful.

12 And you've created whatever relationships,
13 whatever that might look like, whatever that is along
14 the health care continuum.

15 And I would also say Tim makes an excellent
16 point in that, you know, today, where we're at,
17 patients still have a choice. It doesn't matter what
18 the hospital says; it doesn't matter what the
19 physician says. Patients have a choice.

20 So if you have a better mousetrap, a better
21 facility, you're providing better services -- whether
22 that's through the environment or clinical services or
23 whatever it is -- people have a right to make those
24 choices.

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 And so referral letters are, you know,
2 again, questionable.

3 And then the other piece of it is you serve
4 multiple places along the continuum. So the Medicare
5 population, the managed care population, they're all
6 little sub-subclasses, and then you've got your
7 long-term care population. So it's complicated
8 because there's not just one answer for everything.

9 So, you know, providers who do this every
10 day, you understand all of those issues. You
11 understand what it's going to take if you're willing
12 to expand. Because nobody wants to be not successful.
13 I mean -- you know, let's face it. Nobody goes into
14 something not wanting to be successful, so you've kind
15 of dotted all those i's and crossed all those t's.

16 CHAIRMAN WAXMAN: I agree. Thank you.

17 Does anybody else want to say anything
18 before we move on?

19 HFSR BOARD MEMBER GALASSI: I'd just
20 like to say -- this is Dale.

21 I was just going to comment that -- staff
22 and consultants in the room can confirm that but -- am
23 I correct that any applicant that comes before the
24 Board --

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 THE COURT REPORTER: Excuse me; excuse
2 me; excuse me. Would you speak a little louder,
3 please.

4 HFSR BOARD MEMBER GALASSI: Sure.

5 Any applicant that comes before the Board
6 with an application that doesn't have the financing
7 nailed down and documented, that applicant's going to
8 get a hard time.

9 THE COURT REPORTER: Thank you.

10 CHAIRMAN WAXMAN: Thanks, Dale.

11 HFSR BOARD MEMBER GALASSI: You're
12 welcome.

13 CHAIRMAN WAXMAN: Anybody else want --
14 Chuck.

15 MR. FOLEY: Just one final comment, if
16 I may, and then I guess -- you know, in terms of the
17 letters -- Judy, I agree with what you're saying. It
18 is very difficult and could be time-consuming and a
19 total waste of time.

20 But at the same time, since we do not
21 require a market study right now, if I cannot get a
22 letter from a hospital, if I cannot get letters from
23 physicians indicating, you know, potential
24 referrals -- we're not saying it's actual; we're just

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 saying potential referrals -- that may make me think
2 twice about even filing an application in the first
3 place. You know, it does force you to go out and to
4 see what's going on in the marketplace.

5 Yes, it is time-consuming; yes, it is a pain
6 in the butt to do at times. I don't disagree with
7 that.

8 But if I can't get the letters, I'm not
9 going to file an application.

10 CHAIRMAN WAXMAN: Anybody else?

11 MR. AGBODO: I'll add one comment.
12 I'm new to it so I'm trying to learn the process.

13 MS. AVERY: You're not new.

14 MR. AGBODO: You know, what I'm trying
15 to understand on this process is anything that can
16 provide more evidence that a facility will not fail
17 and there will be -- you know, I think that is what
18 the Board has to do. That is what they are supposed
19 to do, is to reduce costs, you know, contain the costs
20 of the health care for the consumer.

21 Because I was thinking about, you know, the
22 example that Tim actually gave: Who cares if somebody
23 builds and spend money and cannot get people in the
24 building?

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 I think it's a problem for the Board because
2 it's just that they don't want to see it in the system
3 because, by doing that, they will shift the costs onto
4 somebody.

5 And I know some of the long-term care
6 facility kind of -- is kind of a network. So if they
7 build the building and they don't -- they can't fill
8 that building, they have to -- I mean, they have
9 invested money. They have to have a return on
10 investment. So somehow somebody's going to pay for
11 it, and then that is going to go onto the consumer.

12 So I mean -- the way I'm understanding it is
13 providing more evidence -- if it's a letter, if it's a
14 business study -- all that comes together to give more
15 information to the Board to do what they're intending
16 to do.

17 So that matter's standing. And I'm not
18 supporting either side, but that's what I would say.
19 But provided that it will not hurt anybody, that's
20 what I would say.

21 I don't understand -- if getting those
22 letters -- it's hard, it does not cost -- and
23 I understand, also, it was Mr. Chairman who said some
24 letter affect. But what I would argue about that is

**REPORT OF PROCEEDINGS -- 08/19/2014
UPDATE, REVISIONS TO LTC RULES AND APPLICATIONS**

1 how will you -- if you're saying "It's business," why
2 would you go get a fake letter to justify an
3 application?

4 Because the bottom line -- I mean, if that
5 application pass, you are going to get stuck
6 somewhere. You're not going to get what you really
7 want. I mean, the -- it costs so much for your
8 facility.

9 So if we believe that the full process --
10 nobody is, you know -- I mean, everybody's doing the
11 right thing -- I think the letters will make sense
12 to have.

13 So that's my best knowledge -- understanding
14 of the discussion.

15 Thank you.

16 CHAIRMAN WAXMAN: Michael, Cece, it's
17 back in your court. I think you've heard a lot of
18 different opinion -- well, you've heard two different
19 opinions: One to continue, one not to continue.

20 But I think, you know, the option of
21 acknowledging that a -- that most -- and Dale's
22 comment that financing has to be in place as a serious
23 indicator to get approval, and I think we all have to
24 agree that, to get financing, you're going to do some

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 market analysis, which would be much greater and
2 broader than a letter from a hospital because it's
3 all-encompassing.

4 So . . . I will leave that back in
5 your hands.

6 And thank you all for partaking in the
7 discussion.

8 We're moving on to Item 6.

9 Seems like we should break for two hours
10 before we get to Item 6.

11 Anyway . . . Courtney, who's doing Item 6?

12 MS. AVERY: That would be Claire and the
13 work group, Cece -- you're overworked.

14 MEMBER CREDILLE: You're right. We need
15 a two-hour break.

16 CHAIRMAN WAXMAN: Claire, do you want
17 to -- I knew it was Claire, but I thought I'd ask
18 you first.

19 MS. AVERY: Claire was the major -- on
20 the conference call that we had a couple weeks ago.

21 CHAIRMAN WAXMAN: 6 is the buy/sell
22 program.

23 MS. BURMAN: I would leave that to Cece
24 because she chaired the work group.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 CHAIRMAN WAXMAN: Cece, I tried to buy
2 you some time. I really did.

3 (Laughter.)

4 MEMBER CREDILLE: First, I'd like to
5 digress for a minute before we talk about the
6 conference call that most everybody in the room
7 was on.

8 (Laughter.)

9 MEMBER CREDILLE: And it was a small
10 subcommittee.

11 At the last meeting or the meeting prior,
12 I had made a recommendation that Claire work with
13 Chris Kenney to obtain some information to fill in the
14 gaps from some of the information that was provided
15 from the university study.

16 I misstepped. I did not understand the
17 process, that we should have set Chris Kenney up as a
18 vendor.

19 What we have at this point in time is I have
20 a bill from Chris Kenney for the work that she did for
21 this subcommittee for \$2500. I have talked to
22 Courtney, and there is no ability to pay for that
23 invoice because we didn't follow a process that I was
24 not aware of.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So I have spoken with folks in our
2 organization, and HCR Manor Care will pay the invoice
3 that has occurred for the work that was done on the
4 committee.

5 And in speaking with Claire, she was very
6 pleased with the information that she received
7 from Chris. Chris reviewed lots of documents that
8 Claire provided to her, and they had phone
9 conferences.

10 So what I would like to propose and put a
11 motion on the table is that, moving forward, that
12 Chris Kenney be considered as a vendor for this
13 subcommittee so that, if we need to utilize her in the
14 future for consultation, then we would have a
15 mechanism to pay for her.

16 MS. AVERY: I guess --

17 MEMBER EVANS: Is that a motion?

18 MS. AVERY: -- we would have to have
19 from you all a scope of services of what she's going
20 to do, not just to be on call.

21 And from what we did with the university,
22 I know that a lot of us were not happy with the
23 outcome of that. So I guess what would need to come
24 from you all, if Cece's recommendation is approved by

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 the Subcommittee, the scope of services and outcomes
2 and what we need her to actually do.

3 And then we can submit that to the
4 planning -- to the Board and try and get it approved
5 and sent through the proper channels throughout the
6 State for procurement.

7 But I'm -- I guess -- without really
8 focusing or knowing that this will come up today,
9 I don't know what she would do for us at this point.

10 CHAIRMAN WAXMAN: I think all -- I think
11 what Cece's really asking for is to have her, you
12 know -- is for this Committee to learn how we can
13 authorize consultants and other kinds of people to be
14 paid, you know, when we need to use them.

15 I guess somewhere along --

16 MS. AVERY: Well, that will come with
17 the scope of services. What exactly do we need her
18 to do?

19 We can't just say that we need her to be on
20 call just in case.

21 CHAIRMAN WAXMAN: Well, I think . . .
22 again -- I don't want to put words in Cece's mouth,
23 but I think what we're trying to do is provide another
24 basis for Claire to be able to call and talk to

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 someone in Ohio where it would seem there's some
2 similarities and useful information.

3 And if we need to do it down the road or in
4 the future, then we don't come back to the same spot
5 where we are today where, you know, she thought she
6 was getting paid and we didn't have a mechanism to pay
7 her. So I guess we're kind of saying "Help us
8 understand how we can, you know, have some dollars
9 dedicated," if we need them, to a --

10 MS. AVERY: Well, that's not -- we can't
11 just say we want to have dollars dedicated. It's an
12 entire procurement process that we have to follow to
13 get it approved, and it starts with that scope of
14 service and the goals and the outcomes, what we would
15 need her to do. It has to be very detailed and what
16 exactly would be her role here.

17 MEMBER CREDILLE: I guess
18 I misunderstood because I thought part of the problem
19 was we didn't have her set up as a vendor.

20 MS. AVERY: No, that wasn't the problem.

21 The problem was that we never did a scope of
22 service or a contract with her the typical way the
23 State operates, which is -- a vendor, it's called a
24 personal services contract. But what we did with the

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 university was a little bit different. It wasn't a
2 personal services contract because that was a whole
3 other entity.

4 Hers, as an individual and a consultant,
5 will be a personal services contract, and that's a
6 totally different way of doing things.

7 HFSR BOARD MEMBER GALASSI: Courtney,
8 this is Dale.

9 If the committee is telling us that they
10 feel the need for some additional consultant of the
11 systems or reference, how do we help them go
12 about that?

13 MS. AVERY: By starting with what we
14 would need for her to do and accomplish.

15 HFSR BOARD MEMBER GALASSI: Uh-huh.

16 MEMBER AMIANO: Is there any way to --

17 HFSR BOARD MEMBER GALASSI: That's
18 trying to define the scope of service?

19 MS. AVERY: Correct.

20 HFSR BOARD MEMBER GALASSI: Would that
21 be bullet points or narrative?

22 MS. AVERY: No. It's a form and it's an
23 argument that we have to make, similar to what we did
24 with our last two, with Mike Mills and Ann Guild. And

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 then it has to be approved by the Board. It has to be
2 approved before it goes to the State.

3 It has to be approved by the Board to submit
4 it, and Kathy signs off on it, and then it routes its
5 way through the Department and CMS and then we're
6 final.

7 HFSR BOARD MEMBER GALASSI: Got it.
8 Got it.

9 CHAIRMAN WAXMAN: Claire.

10 MS. BURMAN: Well, there is another idea
11 to obtain detailed and accurate information about the
12 Ohio experience. I talk, free of charge, with people
13 on staff at the Ohio agency. There are a number of
14 people that have been there for quite a long time and
15 were involved, also, in the formation of their
16 buy/sell program.

17 HFSR BOARD MEMBER GALASSI: And, Claire,
18 could you help --

19 MS. BURMAN: They're very good about
20 answering questions and sharing how they arrived at
21 different conclusions.

22 MEMBER AMIANO: I have no idea what this
23 person did for you, but it seems to me to be wrong to
24 have a provider have to cover the costs of a

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 consultant to this group. Is there no mechanism at
2 all to go backwards and do this?

3 MS. AVERY: And there isn't because
4 there, again, is a process.

5 And, plus, that was done last fiscal year.
6 It was done without any kind of contract. I had no
7 idea. My understanding, talking to Claire, that she
8 was billing us in those discussions and the documents
9 that were sent were just a referral.

10 So when Cece presented it, we didn't know
11 that there will be charges for discussions with her.
12 And everything that she reviewed was the same thing
13 that was -- come out of the university study.

14 So we had no idea so -- there was just no
15 way to get it done. I did ask questions. I did talk
16 with CMS. I did not just make the decision that, "Oh,
17 we can't pay her," but there was no way to get it
18 done.

19 Plus we were at the end of the fiscal year
20 when her bill came, and the process would not have
21 worked.

22 MEMBER AMIANO: So it seems -- you know,
23 what you're asking is what all of us would do in our
24 business. You know, before we engage in work, we have

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 the scope of service, "This is what it looks like."

2 MS. AVERY: Exactly. "What are you
3 charging per hour? This is our limitations."

4 MEMBER AMIANO: So it sounds like,
5 Courtney, if there's a need in the future, that's the
6 process to go through.

7 MS. AVERY: Right. If the Subcommittee
8 agrees that that's what you all want to do, we'll
9 present it to the Board and the Board will give me the
10 authorization to go ahead and work with the Department
11 of Public Health to get that contract done.

12 CHAIRMAN WAXMAN: I think what --
13 I think Cece's trying to now be in a position where --
14 where she's doing it in the right way or we're using
15 this person in the most appropriate way and trying to
16 be proactive rather than reactive, and I commend her
17 for that.

18 I also want to thank her and her
19 organization for picking up, you know, the expense.
20 That was really very, very nice of them.

21 But I think maybe, you know, you and -- if
22 you would be kind enough to work with Cece to figure
23 out what you need from her so that this lady can be a
24 resource in the future and that it won't be this

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 problem if we use her again, that's all I think we're
2 asking.

3 Mr. Attorney?

4 HFSR BOARD MEMBER GALASSI: This is
5 Dale.

6 My -- if I may, I don't think Courtney
7 should do what you just asked her to do. I think
8 she needs a definition of what the scope of service
9 would be --

10 MS. AVERY: Right.

11 HFSR BOARD MEMBER GALASSI: -- to put
12 that out there.

13 CHAIRMAN WAXMAN: And I guess I'm
14 suggesting that Cece and Courtney get together and the
15 two of them -- rather than take the time of this
16 whole meeting to work out what she needs.

17 MS. AVERY: And I have to add I'm pretty
18 sure that -- the question that we always get, which is
19 standard, "How else can we obtain this information or
20 this service?"

21 HFSR BOARD MEMBER GALASSI: Yeah.

22 MS. AVERY: That will come from CMS or
23 procurement.

24 HFSR BOARD MEMBER GALASSI: I agree.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MS. AVERY: So I can't -- I wouldn't
2 feel comfortable writing up everything. It would be
3 that I would work with Cece and --

4 CHAIRMAN WAXMAN: That's what I --
5 I thought that's what I said.

6 MS. AVERY: Yeah. I wouldn't be
7 comfortable just writing it. I will work with Cece to
8 do it.

9 But, again, it has -- I think we need that
10 in place before we take it to the Board for the Board
11 to say "Go ahead and start the process."

12 CHAIRMAN WAXMAN: Oh, totally --
13 totally agree.

14 MEMBER CREDILLE: I mean, we may not
15 need her again.

16 CHAIRMAN WAXMAN: Exactly.

17 MEMBER CREDILLE: All I was trying to do
18 was prevent --

19 CHAIRMAN WAXMAN: Be proactive.

20 MEMBER CREDILLE: -- a situation
21 where -- I mean, we all agree there was a gap in that
22 study and there were unanswered questions that we had
23 and we were uncomfortable with pieces of that study.

24 CHAIRMAN WAXMAN: Agreed.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER CREDILLE: So we filled a gap; we
2 got excellent information. And moving forward, if we
3 would need to look -- all I was trying to do, moving
4 forward, her or anybody else that we needed to
5 utilize -- I didn't know there was this --

6 CHAIRMAN WAXMAN: Right. I don't think
7 any of us did.

8 MEMBER CREDILLE: -- onerous process.

9 CHAIRMAN WAXMAN: Frank, do you --

10 MR. URSO: All I want to say is --

11 MS. AVERY: That's an understatement.

12 MR. URSO: -- is -- you know, the
13 discussion is about justifying why you need specific
14 services, which I think everybody would agree you need
15 to do that.

16 I also want to say that part of the
17 justification for this Committee to use various
18 experts -- and I don't think they should be limited to
19 not use experts because -- it's in the statutes. It's
20 in the Act that this group can use other experts in
21 the field as they see fit, so that has to be part of
22 the mix, also.

23 So I'm just bringing that to everybody's
24 attention, that you have the statute to help you in

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 justifying if you think you need a service from some
2 expert.

3 CHAIRMAN WAXMAN: Thank you.

4 So all I -- all we're asking is that the
5 two of you, at some point other than this meeting,
6 work on getting what you need so you can move forward.

7 And, Cece, I want to thank -- I think we all
8 want to thank Manor Care for picking up the bill in
9 this particular case. That's very nice.

10 MS. AVERY: But I don't want anyone to
11 walk away from the table thinking that the Board --
12 which, for my part, I didn't even alert them; I know
13 Kathy knows about it -- that the Board just said, "No,
14 we can't do it."

15 CHAIRMAN WAXMAN: I don't think you --

16 MS. AVERY: I was told, "If we can
17 figure it out, let's figure it out."

18 But we couldn't figure it out.

19 CHAIRMAN WAXMAN: Oh, I don't think
20 anyone at this table is --

21 MS. AVERY: No, I'm just -- I just
22 wanted to make sure that we -- everybody knows that we
23 did try.

24 CHAIRMAN WAXMAN: This is simply a

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 learning experience. This is the first time in the
2 two-plus years that, you know, this Committee has used
3 somebody outside of the normal realm. And, you know,
4 unfortunately, we weren't aware of any process to do
5 something beforehand, and now we're saying "Let's do
6 it beforehand so we don't get caught in it again."

7 MS. AVERY: Yeah.

8 CHAIRMAN WAXMAN: Okay.

9 Still in your court.

10 MEMBER CREDILLE: Yes.

11 At the last meeting we had, we agreed to
12 have a subcommittee based on the fact that there were
13 so many issues that were on the table. And we were
14 going to concentrate on the document that Claire had
15 put together, and we were going to try and look at,
16 actually, buyer and seller requirements.

17 And at the conclusion of the call, which was
18 nearly two hours long, we agreed, as a group, that
19 some of the things we had tabled at the last meeting
20 we actually needed to have further discussion as a
21 larger group because some of those larger issues were
22 driving how the process would work and was actually --
23 lack of decision on the larger issues was preventing
24 us from working on some of the minutiae and the

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 details.

2 And so the conclusion of our call was that
3 we needed to have a discussion, number one, on the
4 moratorium issue which we had tabled from the last
5 issue.

6 Secondly -- and they're tied together -- was
7 on the definition of a pilot and geography associated
8 with that.

9 Then there was the discussion of building a
10 new building with buying and selling beds versus
11 adding beds only.

12 There was a discussion, then, also, of
13 moving beds into an overbedded area or moving beds
14 into an underbedded area only.

15 And then, last but not least, Frank asked if
16 we would have a discussion again of occupancy and beds
17 that are not utilized.

18 But the number one issue that we agreed that
19 we needed to talk about first was to address, in the
20 buy/sell consideration, a moratorium discussion and
21 issue of whether a moratorium should be a requirement
22 of a buy/sell process.

23 MEMBER AMIANO: Can I ask a clarifying
24 question? Because I was not on the call.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So in the buy/sell, one of the points that
2 was in this document was that the buyer could not use
3 it to establish a new facility or a new service.

4 So if you do that, how does that work if you
5 have a full moratorium? That means there would be
6 absolutely zero ability, then, for anything new in any
7 marketplace.

8 Am I reading that correctly?

9 MEMBER CREDILLE: Depends on whether or
10 not there's a bed need.

11 If there's a bed need, you could.

12 MEMBER CASPER: A moratorium would
13 supersede that.

14 MEMBER AMIANO: But the moratorium -- if
15 you started with a moratorium today, then you could
16 only -- you'd stay with the same number of beds --
17 let's just say today we agreed there was a moratorium.

18 The number of beds in Illinois would stay
19 constant but -- you would be able to move beds within
20 the state of Illinois buy/sell as a component of that
21 based on whether there was a bed need, but the total
22 beds in Illinois would not increase.

23 But you also --

24 MEMBER CREDILLE: Today.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER AMIANO: Okay, Cece. But also in
2 here you did that.

3 So if I buy beds from you, I can't build a
4 new facility with it, nor can I add a level of service
5 to an existing building.

6 MEMBER CREDILLE: These are just points
7 of consideration. These are not --

8 MEMBER AMIANO: I'm trying to just
9 clarify, yeah.

10 MEMBER CREDILLE: -- must dos.

11 So that -- but that -- but the moratorium
12 piece was -- and -- a lack of precision or larger
13 group discussion, again, was preventing us from moving
14 forward with any discussion.

15 MEMBER CASPER: Bill Casper again.

16 Judy, I think you're absolutely correct.

17 If -- the discussion of the moratorium calls
18 into question a lot of other assumptions that were
19 made.

20 Because I would take -- I would take the
21 position that, clearly, if a -- and I'm not stating my
22 position on it one way or the other.

23 If a component of the buy/sell process is
24 that it be within the context of a moratorium on beds,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 then the prohibition on using the purchase of beds to
2 create a new building would have to go away because,
3 obviously, you can't set up a process that completely
4 eliminates the ability, in an area with need, to
5 create a new facility.

6 HFSR BOARD MEMBER GALASSI: Could that
7 person speak up?

8 MEMBER CASPER: Oh, sure. Sorry.

9 I said, if a moratorium on any new beds is
10 part of a buy/sell proposal, then I think that the
11 issue of the use of purchased beds to create a new
12 facility also has to be on the table because you -- my
13 opinion would be that you can't use the buy/sell
14 proposal to completely cut off the ability to develop
15 new facilities where need can be demonstrated.

16 MR. FOLEY: Even though there's no beds
17 needed?

18 MR. URSO: But doesn't that depend on
19 how you structure a moratorium and all the
20 ramifications from it?

21 MEMBER CASPER: Well, yeah.

22 MR. URSO: It could be -- once again,
23 you're considering all these different points and
24 trying to make sure that you're covering all the

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 bases, so you could structure it a different way.

2 MEMBER CASPER: Sure. But I -- my --
3 again, maybe we need to define "moratorium."

4 MR. URSO: Correct.

5 MEMBER CASPER: The way I would define a
6 moratorium on new beds means a moratorium on new beds.

7 MEMBER PHILLIPPE: This discussion is
8 just kind of reliving what we did on the telephone.

9 Actually --

10 CHAIRMAN WAXMAN: There are some people
11 who weren't on the phone.

12 MEMBER PHILLIPPE: And it's because
13 Judy's question is very accurate.

14 MEMBER AMIANO: I was asking to clarify.

15 MEMBER PHILLIPPE: That's exactly what
16 happened on the phone. Your question is a good one
17 because all these things are interrelated. And that's
18 what we came to, is, if we're going to just -- rather
19 than going around and around in circles, we probably
20 have to take one at a time --

21 MEMBER SCAVOTTO: It's a circular firing
22 squad.

23 MEMBER PHILLIPPE: -- and make a
24 decision, "We're going to propose this," and then

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 there -- maybe the moratorium is first and then we go
2 to the next one.

3 Is it just expanding or is it building new
4 facilities? Because a lot of people would have
5 feelings.

6 But we're going to have to do something like
7 that or we're just going to go around and around in
8 circles.

9 MEMBER SCAVOTTO: How did the moratorium
10 discussion come up in your call? What made you morph
11 to moratorium in any form?

12 MR. URSO: It was inevitable.

13 MEMBER CREDILLE: Right. It was
14 inevitable.

15 MEMBER CASPER: Mike, I think it was
16 because it was a component of the Ohio model. And so,
17 therefore, it came up --

18 MEMBER SCAVOTTO: Okay. Okay.

19 MEMBER CASPER: -- as part of the
20 discussion.

21 MEMBER EVANS: And what would be the
22 point of having a buy/sell if there wasn't a
23 moratorium?

24 MEMBER CREDILLE: Correct.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 CHAIRMAN WAXMAN: Yeah.

2 MEMBER PHILLIPPE: I mean, I --

3 MEMBER EVANS: There would be no point
4 to even go in that direction.

5 MEMBER PHILLIPPE: Why would we have a
6 buy/sell if you had no moratorium and you also still
7 allowed the 10 percent expansion rule? Then all
8 you're doing is just tweaking a little bit. It's a
9 tiny little thing to buy and sell because people are
10 going to do all the other options first.

11 So . . . that's -- that's how we got in that
12 whole discussion; right?

13 MEMBER CREDILLE: Correct. And then
14 we said --

15 CHAIRMAN WAXMAN: Didn't somebody
16 say -- on that phone call didn't someone say that the
17 bed need formula and the overbedded part of Illinois
18 was really an artificial moratorium?

19 MEMBER CREDILLE: I remember saying
20 that.

21 CHAIRMAN WAXMAN: Did I remember that?

22 MEMBER EVANS: Yeah.

23 MEMBER CREDILLE: I mean, in part we
24 have sort of a moratorium going on now because you've

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 got this 90 percent occupancy; the facilities can't
2 hit the 90 percent occupancy . . . buildings in
3 Illinois -- we talked about this last time. We're
4 running somewhere around 78 percent occupancy in
5 the state.

6 And if the CON requirement requires
7 90 percent, we land in a similar place. The buy/sell
8 won't work if you can go through a traditional process
9 for the CON and 10 percent free -- just like Tim said.
10 I agree. I agree.

11 CHAIRMAN WAXMAN: Now, the
12 90 percent -- we proposed 90 percent to disappear.

13 MEMBER SCAVOTTO: On renovation.

14 MEMBER CREDILLE: On renovation --
15 modernization.

16 MEMBER SCAVOTTO: But they're talking
17 about new facilities or additional beds.

18 MEMBER CREDILLE: So I mean, what -- the
19 situation we have in Illinois is we have an overbedded
20 state. We have it. We have -- our bed need formula
21 shows some bed need, but in the reality of beds per
22 thousand, we have an overbedded state.

23 (Discussion off the record.)

24 MEMBER AMIANO: Can I --

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 CHAIRMAN WAXMAN: Judy.

2 MEMBER CREDILLE: I'm not the expert.
3 Please direct to the group, Judy. I . . .

4 MEMBER AMIANO: Well, I think when we
5 originally started looking at this, you know, when we
6 talk about the number of licensed beds and then what
7 are really the number of setup beds -- because we
8 still have a large amount of old inventory in the
9 state where you might have three or four beds licensed
10 in a physical space that really is only occupied by
11 one. So people are holding those licenses.

12 So have we ever kind of gotten to what is
13 the real picture?

14 CHAIRMAN WAXMAN: No. But that -- that
15 issue keeps coming up in all the discussions, too --

16 MS. AVERY: No.

17 CHAIRMAN WAXMAN: -- is that -- what is
18 our real number?

19 You know, it's licensed beds; it's occupied
20 beds; it's usable beds. That keeps coming up and,
21 like the moratorium, it just keeps reoccurring.

22 And as one of those two gentlemen said,
23 you've got to take one issue and make a decision and
24 then everything else kind of falls.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER AMIANO: I would agree.

2 MEMBER CREDILLE: Well, what's scary to
3 me is we have beds off-line. Our bed need formula is
4 based on licensed beds. Okay?

5 So, today's world, it's based on licensed
6 beds. Everyone in this room believes -- and knows --
7 there's some percentage of beds of the license that
8 aren't being used --

9 CHAIRMAN WAXMAN: Correct.

10 MEMBER EVANS: And will never be used.

11 MEMBER CREDILLE: -- and will never be
12 used.

13 CHAIRMAN WAXMAN: Correct.

14 MEMBER CREDILLE: If you took those beds
15 out of the formula today, took them out and then --

16 CHAIRMAN WAXMAN: We might be
17 underbedded.

18 MEMBER CREDILLE: -- then we would say
19 we were underbedded, and we would be underbedded by
20 thousands and thousands more. It's illogical.

21 MEMBER WILL: Unless you adjust the
22 beds.

23 MEMBER AMIANO: That's one of the
24 options we originally looked at, is if someone hadn't

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 used them for X number of years, then the State
2 automatically pulled them out of service or out of
3 licensure status.

4 I think the challenge with that is some
5 people with their lenders --

6 MEMBER PHILLIPPE: Right.

7 MEMBER AMIANO: -- that license has some
8 sort of purchase -- potential value to it.

9 CHAIRMAN WAXMAN: That's exactly where
10 it comes back to, Judy, is it's securing debt.

11 MEMBER AMIANO: If there were a
12 mechanism for getting at that real number, that might
13 get us closer to which avenue should we go.

14 Because we're a little bit operating in the
15 blind here without having accurate information.

16 MEMBER EVANS: Are we ever going to be
17 able to have a real number? Because it's so
18 dependent, also, on what the payer source is.

19 MEMBER AMIANO: How is it dependent on
20 the payer source?

21 MEMBER EVANS: Well, because you may
22 have a need for a Medicaid bed that's great in an area
23 and no beds.

24 Even though it looks like we're overbedded,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 those beds are not available to that population.

2 VICE CHAIRMAN BELL: From being from the
3 State side -- or formerly from the State side -- and
4 maybe Kelly can weigh in or maybe she doesn't want to
5 weigh in -- we have an opportunity to do something
6 here on our terms.

7 If we wait much longer or we don't do
8 anything, we're going to be under government terms,
9 and they're going to decide what the moratorium is,
10 what beds are going to be taken away, how things
11 are going to be set up, and I'm not sure that we
12 want that.

13 You know, we need to do something here. And
14 I think, if we're innovative and we come up with some
15 ideas that will move this program ahead, then maybe
16 the State will back off and let us try to do something
17 from our perspective.

18 But if we wait or we continue to argue and
19 don't do anything, based upon everything that's going
20 on with the Medicaid program and everything else --
21 the continuum that we talked about a little earlier --
22 I think the State is going to be forced to do
23 something and we probably aren't going to like it.

24 With most State programs that come out,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 they are based upon a government decision or not
2 taking all of the considerations into account before
3 they make a decision. They make a decision that's
4 best for them at that point in time.

5 And with an election coming up and
6 everything else that's going on, you know, there's
7 going to be people looking for some answers and some
8 changes.

9 And I think we need to be out in front
10 saying, "This is what we, as industry, thinks needs to
11 happen. Let us try this and see if it works before
12 you force something down our throats."

13 MEMBER PHILLIPPE: Good. Good.

14 VICE CHAIRMAN BELL: My two cents.

15 CHAIRMAN WAXMAN: No -- great.

16 I appreciate it.

17 Greg.

18 MEMBER WILL: I just had a little
19 point of clarification. You added some but I just
20 wanted to -- I was wondering if you were referencing
21 like the closure and conversion fund concept that's
22 been floated in the 1115 or whatever --

23 MEMBER AMIANO: We can't hear you
24 over here.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER WILL: Sorry.

2 I was just wondering if -- you know, kind of
3 what exactly Bill was referencing.

4 You talked something about a political
5 situation and budget, but whether it was also a
6 reference to the closure and conversion fund concept
7 that's been floated like through the 1115 and other
8 reform processes.

9 VICE CHAIRMAN BELL: And, you know, that
10 has been out there, and the Wasatch Group -- which I'm
11 also a member on -- has been looking at that issue for
12 a long time. It's taking beds and converting them.
13 And, again, that's just a proposal out there, an
14 option.

15 I think somebody needs to take a step
16 forward and say, "This is what we're going to do,"
17 rather than just talk about something.

18 MEMBER PHILLIPPE: Yes.

19 VICE CHAIRMAN BELL: Or, otherwise,
20 we're going to get something forced our way that we
21 probably aren't going to like and will be fighting.

22 MEMBER SCAVOTTO: Taking beds and
23 converting them to what?

24 VICE CHAIRMAN BELL: That -- let's see.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 There were several different options, but they were
2 converting them into assisted living --

3 MEMBER SCAVOTTO: Okay.

4 VICE CHAIRMAN BELL: -- respite, a lot
5 of different concepts surrounding that.

6 MEMBER SCAVOTTO: Okay. So let me
7 ask George a question, if I can, and Mike Constantino
8 may still be on the line.

9 But I . . . remember that you calculate, at
10 the staff level, the occupancy using different
11 measures. You use licensed beds; you use staff beds;
12 you use several other measures. I think we get that
13 from the annual facilities report.

14 MR. ROATE: Yes.

15 MEMBER SCAVOTTO: So I think it's
16 possible to get a different calculation quickly, but
17 I don't think . . . going from memory on what Mike's
18 calculation were for the latest year, it does change
19 the number, but I don't think it changes it by that
20 much --

21 MEMBER PHILLIPPE: Uh-huh. That's
22 right.

23 MEMBER SCAVOTTO: -- and that would be
24 the problem.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So anyway -- but you have that data;
2 correct?

3 MR. AGBODO: Yes.

4 MR. ROATE: Yeah, we do. We have that
5 data on our program.

6 MEMBER PHILLIPPE: And Mike --

7 CHAIRMAN WAXMAN: Wait.

8 MEMBER CUNNINGHAM: This is Kelly
9 Cumnningham from HFS, the Medi caid agency.

10 To kind of take what Bill was saying and
11 maybe expound on it a little bit -- and I am
12 comfortable doing this.

13 I mean, in terms of how the State is -- and
14 Federal -- CMS is generally viewing nursing homes and
15 long-term care programs, I mean, there are very few
16 meetings or discussions that I participate in -- and
17 Bill does, as well -- where there isn't a discussion
18 that there are too many nursing home beds in Illinois
19 and we need to be talking about doing something else
20 with them.

21 You know, it seems to me -- just as I'm
22 sitting here, I mean -- most of the discussion so far
23 has been on the skilled side, the Medicare side, new
24 facilities, creation of new facilities and growth in

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 that area.

2 You know, for the most part, the largest
3 payer source in Illinois for long-term care
4 Medicaid -- long-term care nursing facility beds is
5 Medicaid.

6 MEMBER PHILLIPPE: Right.

7 MEMBER CUNNINGHAM: I mean, by a long
8 ways.

9 I think people just sort of need to -- we
10 just need to be able to remember that kind of going
11 forward, that, from a public policy perspective,
12 that's where the intention in Illinois is.

13 MEMBER EVANS: Right.

14 MEMBER CUNNINGHAM: I can also share,
15 too -- and this may be getting a little bit above the
16 discussion of the conversion which has been, you know,
17 around for a while -- is that now we're working with
18 Federal CMS, who wants us to rebalance our long-term
19 care systems. And basically what that means is less
20 facility care, more home- and community-based care.

21 And they're going so far -- they've issued
22 new regulations that went into effect the middle of
23 March, these new community rules that basically call
24 into question, really, any home- and community-based

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 service in a state that is adjacent or next to or
2 affiliated with an institution.

3 And so as we move to -- to sort of roll out
4 those regulations, if we're talking about converting
5 portions of nursing homes, say, to adult day care
6 services or a home-delivered meal program or something
7 like that, I mean, we have a very high hurdle with CMS
8 that we have to -- that we have to get over before we
9 would be allowed to have that service or we'd be
10 allowed to have it and there wouldn't be a dime of
11 Medicaid reimbursement come back to this state
12 on that.

13 So I think it's just kind of important to
14 recognize that that's, from a public policy
15 perspective, kind of the undercurrent that's going on
16 right now. And it's not -- it's not quiet. You know,
17 it's not kind of under the radar. It's a major
18 direction right now.

19 VICE CHAIRMAN BELL: I think the whole
20 thing speaks to innovation, trying to come up with new
21 ways of doing things that, hopefully, then the Federal
22 government will buy into that we can then use Medicaid
23 dollars for, to make the system better.

24 CHAIRMAN WAXMAN: John.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MR. FLORINA: I just want to ask a
2 question.

3 Has there been any discussion about
4 integrating the whole assisted-living side into the
5 health-planning side with long-term care to have some
6 better control over the whole continuum?

7 MEMBER CUNNINGHAM: I certainly
8 understand that question.

9 My affiliation, you know, is more with the
10 supportive-living program now, the Medicaid side of
11 the assisted-living continuum in Illinois, and I know
12 we don't have and have not had for some time a process
13 to accept new applications on any wide scale.

14 We've accepted new applications in some
15 targeted areas of the state, and we've allowed for a
16 little bit of growth with existing applications, but
17 we certainly haven't had any sort of open type of
18 competitive process for a long time.

19 As for the private side of assisted living,
20 I can't really speak to that. I don't know that so --

21 MEMBER EVANS: There's no CON process
22 for that.

23 VICE CHAIRMAN BELL: It's all market
24 driven.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER CUNNINGHAM: There never has
2 been so --

3 CHAIRMAN WAXMAN: Right.

4 MR. FLORINA: I realize that. My
5 question was going in that direction.

6 Is there something planned that should be
7 addressing the whole continuum rather than dealing
8 with piecemeal?

9 CHAIRMAN WAXMAN: I think many of
10 us in this room have wanted this group or the Mother
11 Board to have control over assisted living because
12 it's an element of where the consumers are going and
13 we don't have any -- you know, we don't have any input
14 or control over it.

15 So we're looking at numbers that are fairly
16 incomplete because there's that segment out there
17 that's beyond our discretion or our information.

18 Right? Isn't that what you're
19 indicating, John?

20 MR. FLORINA: I'm just thinking, in the
21 innovative way that Mr. Bell is suggesting, that maybe
22 assisted living should be part of this equation.
23 There's a new concept.

24 VICE CHAIRMAN BELL: I think it's going

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 to have to be at some point in time because, when you
2 talk to the people that do the surveys in assisted
3 living, sure, that person that went into assisted
4 living six months ago was at assisted-living services,
5 but today they're very, very close -- if not -- to
6 skilled.

7 And once they get in that facility and they
8 get comfortable in that facility, it is very, very
9 difficult to move them out.

10 MEMBER PHILLIPPE: That's true.

11 VICE CHAIRMAN BELL: And, you know, if
12 you're only doing a survey once a year or once every
13 two years, you know, you'll -- that person could be
14 skilled for those two years, but by the time you get
15 back there and do the survey and say "Really they
16 shouldn't be here because they have skilled services,"
17 then you have that whole battle with the family and
18 everything else to get them out --

19 MEMBER PHILLIPPE: That's true.

20 VICE CHAIRMAN BELL: -- and it's very,
21 very hard and difficult.

22 CHAIRMAN WAXMAN: Pat, did you
23 have -- is that a certificate of need issue?

24 VICE CHAIRMAN BELL: I don't think that

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 that necessarily is a certificate of need issue.

2 MEMBER SCAVOTTO: Okay.

3 VICE CHAIRMAN BELL: It's just making
4 that part of the continuum, that, you know --

5 CHAIRMAN WAXMAN: Right.

6 VICE CHAIRMAN BELL: -- that you're
7 looking at everything because it -- assisted living
8 is -- as hospitals were, once had patients there for
9 10, 14 days or whatever --

10 MEMBER SCAVOTTO: I get it.

11 VICE CHAIRMAN BELL: -- down to now just
12 surgery centers; those people have moved to long-term
13 care. Well, now some of the long-term care staff
14 have -- or people have moved back down to assisted
15 living. So you're compressing everything and they're
16 very, very close. You walk into an assisted-living
17 facility, and it's not that much different than a
18 skilled facility.

19 MEMBER SCAVOTTO: I understand what
20 you're getting at. I do.

21 IDPH is not enforcing that part right now.
22 I get that part. I just don't want to see that morph
23 into CON. I misunderstood what you were saying.

24 VICE CHAIRMAN BELL: Uh-huh.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER SCAVOTTO: I think we ought to
2 try to get skilled right because there's enough of a
3 challenge there.

4 VICE CHAIRMAN BELL: Right.

5 CHAIRMAN WAXMAN: I think that the point
6 he makes is -- I don't know. I think we all walk into
7 assisted living and we see the same thing. We see
8 people that need skilled services and they're not
9 getting it, and that's at risk to the consumer.

10 I think it's a point that someone else had
11 talked about earlier, that, you know, family looks at
12 a nursing home that's been there for a hundred years
13 and looks at a brand-new assisted living and "Mom is
14 going here" --

15 MEMBER SCAVOTTO: It's not right, right.

16 CHAIRMAN WAXMAN: -- you know, so empty
17 beds exist in a long-term care building because they
18 can't remodel for whatever reasons and they're put in
19 the wrong place.

20 Judy.

21 MEMBER AMIANO: We have an absolutely
22 broken system that we're trying -- spent years trying
23 to fix, and it feels like we're not too far down the
24 pike to solving that.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So before we expand our scope, I think we
2 need to focus on fixing what's in front of us.

3 CHAIRMAN WAXMAN: Any more?

4 MEMBER PHILLIPPE: Yeah. I'm going
5 to -- amen to Judy.

6 (Laughter.)

7 MEMBER AMIANO: I said that as gently as
8 I possibly could.

9 MEMBER PHILLIPPE: We can't solve the
10 State. We can sit here for days -- years, actually --
11 because we all know these issues.

12 MEMBER EVANS: Yep.

13 (Laughter.)

14 MEMBER PHILLIPPE: We have been at it,
15 actually, some of us, and we have strong feelings
16 about them. But, really, I take to heart let's do
17 something about what's in front of us. Let's make
18 a decision on these things that Cece listed so that
19 we can go to the Board and say "We're going to
20 propose this" --

21 VICE CHAIRMAN BELL: Uh-huh.

22 MEMBER PHILLIPPE: -- "before somebody
23 else does."

24 CHAIRMAN WAXMAN: Well, so playing

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 devil's advocate, is the concept of bed count the
2 first subject, rather than the moratorium, getting an
3 accurate count? Or is moratorium the first?

4 MEMBER PHILLIPPE: Here's what I'm going
5 to suggest: Just the opposite.

6 CHAIRMAN WAXMAN: Okay.

7 MEMBER PHILLIPPE: Let's let the market
8 worry about it. Because we can talk about an accurate
9 bed count, but that's just a rabbit hole, really.
10 I mean, we've been around that many times, and it's
11 very complicated.

12 And, you know, just to give you an
13 example -- like we say, mostly -- if it wasn't for the
14 Medicaid issue, people are using the beds because
15 there's a demand for them. If you took out the
16 Medicare issue and not wanting Medicaid, many
17 organizations would actually fill their beds if there
18 was a need for them. So it's too complicated,
19 I think, to solve.

20 I prefer, actually, we take a proposal to
21 try to say "We're going to propose this" -- if it's a
22 moratorium or not, if it's expansion or not -- and --
23 or it's a pilot for a year.

24 And we kind of make a decision, we try

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 something that's wise -- not out of bounds but
2 something wise and careful -- and see if we can try
3 before somebody imposes a new plan on us.

4 MEMBER EVANS: What if we were to just
5 propose a moratorium for a year? How many people
6 would be objecting at this table?

7 MEMBER SCAVOTTO: Right now I would.

8 MEMBER AMIANO: I think that's a
9 very difficult question just to ask for an answer
10 yes or no.

11 CHAIRMAN WAXMAN: Without defining what
12 "moratorium" is.

13 MEMBER AMIANO: Right.

14 MEMBER SCAVOTTO: A lot of ins and outs.
15 I agree with her. There's too much to it.
16 That came up in the last meeting, and there
17 was some of us -- I mean, I . . . I don't know why
18 I would be for a moratorium based on the discussion
19 that we had at the last meeting.

20 I just -- so I'm willing to be convinced,
21 but I don't see the -- I don't see the evidence
22 for it.

23 MS. GUILD: May I?

24 Not speaking for or against the moratorium,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 but if you're in one of those rural counties that has
2 an actual bed need and someone wanted to come in and
3 erect and build a long-term care facility and you
4 could do that because there is a bed need in that
5 county, you're disadvantaging those rural counties
6 because, if you create a moratorium, the only way for
7 them to do that is to buy the beds and then build, so
8 they have an additional financial in.

9 MEMBER SCAVOTTO: That's true.
10 That's true.

11 MS. GUILD: So -- I mean, you should be
12 encouraging people to go into the areas where there
13 may or may not be enough.

14 MR. URSO: So what you might be
15 suggesting is how you define "moratorium."

16 MS. GUILD: Possibly.

17 MR. URSO: Okay.

18 MS. GUILD: I mean, assuming the
19 group -- it seems divided on that bigger question
20 but -- you're right.

21 MR. AGBODO: I have a comment.

22 CHAIRMAN WAXMAN: Yes.

23 MR. AGBODO: Yeah. I was going to speak
24 about the accuracy of the number of beds -- or I --

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 you know, unused, licensed beds.

2 I think that number does not exist
3 because --

4 THE COURT REPORTER: I'm sorry. You
5 think that number has . . .

6 MR. AGBODO: "Does not exist."

7 THE COURT REPORTER: Oh. Thank you.

8 CHAIRMAN WAXMAN: "Does not exist."

9 MR. AGBODO: Yeah, "does not exist."

10 And I'm speaking from a statistical
11 perspective. Any --

12 MR. URSO: Yeah, Nelson, you need to
13 repeat what you just said because in this corner we
14 couldn't --

15 MR. AGBODO: Oh, you cannot -- okay.

16 So I'm saying, when we talk about a correct
17 number of unused beds, I think we can only get an
18 estimate of that number. That number, we cannot
19 have it. And I'm talking in a -- about how you
20 approach that statistically.

21 Just like a population, the census does not
22 give us the actual -- the real number of population,
23 just an estimate of the population because then it's a
24 dynamic issue. And if you get a snapshot of one time,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 it's just for that time. If you go to another time,
2 it's another number you're getting.

3 So I think, to help on this issue, we will
4 have to define first the concept of "unused beds"
5 so -- what this Committee agrees on as a definition of
6 that concept, "unused bed."

7 So once we have that concept, the
8 definition, then we can see all the data sources that
9 we have, which one provides the best and unbiased
10 estimates of the number we are trying to get.

11 And once you have that basis, I think that
12 can move the discussion forward.

13 We actually provided three estimates using
14 the peak census, end-of-the-year -- December 31st --
15 counts, and, also, three-year average, and the
16 difference between all those estimates was not
17 that big.

18 I mean, statistically we would say it's a --
19 it's not significantly different because we have a
20 1 percent difference -- I can't remember all the
21 differences, but they are very low.

22 So where -- I think, once we have the
23 definition, we can all agree on what database to use.

24 And then, once we come up with the number,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 everybody would know that this is the best estimate we
2 can have of that concept and move forward with that.

3 And I'm really willing to help on that.

4 CHAIRMAN WAXMAN: Maybe for our next
5 meeting we can have those numbers?

6 MS. AVERY: Well, I'm trying to process
7 it with the unused. And, to me, an unused bed is a
8 bed that -- I think it was Judy that described
9 earlier -- that you can't set that bed up.

10 You can't get that bed ready for a patient
11 because the room has been converted to an office.
12 Where it used to have three or four beds in there,
13 it's now an office for multiple staff, and there's
14 no way to get that bed ready for someone that would
15 need it.

16 Or you just convert to a single room and
17 there's still no way -- with apparatuses or
18 anything -- to get that bed ready for a patient.

19 And I think -- is it -- Paul, is it
20 24 hours -- 48 hours or something? -- that you can set
21 that bed up to get a body into it?

22 Can you meet that standard?

23 MEMBER CORPSTEIN: Well, there -- the
24 way the rule is, if you were going to pull the bed out

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 of that room -- say your census is down and the DON
2 needs a place -- you can, by licensure rules, pull
3 that bed out, make no changes to the room, put a desk
4 in there. And that it -- I don't know that there's
5 any time requirements, but then, if your census goes
6 up and you want to fill that room, you can pull the
7 desk out, put the bed in -- no changes physically have
8 been made to that room, the call lights are still
9 there -- and that room is still licensed.

10 Now, under certain rules that bed is
11 decertified. As soon as you pull it out, it's
12 decertified. We don't play it that way in Illinois,
13 but that's how it actually is supposed to be.

14 MS. AVERY: So that would be our
15 unused beds?

16 MEMBER CORPSTEIN: Right. And if
17 I could figure out a way to identify, let's say, the
18 average number of empty beds in every facility over,
19 let's say, two years or three years -- I don't know
20 how good our data is -- what would we do with that?
21 We have no mechanism to take that away from them.

22 So if I could, you know, say -- every
23 facility, you know, over the last two years -- "This
24 facility has had 20 unused beds" -- you know, based on

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 data points, one snapshot-every-year type of thing --
2 what would we do with that data?

3 If I could identify them, we still can't do
4 anything about it anyway. Right?

5 MS. AVERY: Right.

6 MR. FOLEY: Wing them.

7 MEMBER CORPSTEIN: I mean, that would be
8 a legislative-type thing and I don't have any money
9 for that, so -- I don't know how you would get that
10 changed to do it.

11 But I think there's possibly a
12 way -- I don't know; I'll have to look at our
13 data -- that I could actually identify the average
14 number of empty beds at any facility over a couple of
15 years, maybe statewide. And I would be able to,
16 hopefully, break them down as Medicare and Medicaid,
17 although that's tricky because there's a lot of beds
18 that are certified both ways.

19 MEMBER PHILLIPPE: Uh-huh.

20 MEMBER CORPSTEIN: Right? So I don't
21 know how you're going to extract that out.

22 The only thing I care about, necessarily, is
23 Medicaid. I think we're only here for the poor
24 people, generally, and that's most of the beds.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MS. AVERY: Yes.

2 MEMBER CORPSTEIN: So that's -- if it's
3 just solving that problem, then I don't really care.

4 MS. AVERY: And I think what we tried to
5 do early on when we were faced with the situation of
6 overbedding was -- simply what we did was the
7 hospitals at one point -- well, it was a voluntary
8 program, and they elected to do it and it didn't
9 require that.

10 MEMBER CORPSTEIN: Right. And some of
11 the points that they made about, you know, the bed
12 need in any given area is probably skewed because
13 we're basing that off licensure, not on utilization.
14 And facilities are loath to give them up because they
15 may be tied to their mortgages --

16 CHAIRMAN WAXMAN: Right.

17 MEMBER CORPSTEIN: -- that kind of
18 thing.

19 So they have reason to keep those beds in
20 there so that -- it, you know, represents some value
21 for their facility. It represents some equity for
22 their bank to give them loans, et cetera.

23 So maybe I have a way of identifying. But
24 once we identify it, then it's not going to go

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 anywhere there because -- I mean, maybe we can, you
2 know, ask them to voluntarily give up beds.

3 I don't know that nursing homes are going to
4 be as happy to do that as hospitals. We're talking
5 about --

6 MS. AVERY: No.

7 MEMBER CORPSTEIN: -- different scales
8 in economy here --

9 MS. AVERY: Right.

10 MEMBER CORPSTEIN: -- huge different
11 scales.

12 But I think there's a way that we can get at
13 least some more accurate numbers that would reflect
14 the actual usage in Illinois versus the licensed in
15 any given area.

16 And I think if we -- if we had some way of
17 getting -- reducing the beds that are unused in all
18 facilities, then buy/sell would be not so useful. The
19 CON process would be easier because everybody would
20 see that there's need all over the state now because
21 the beds we have are actually what's really there, not
22 what I licensed.

23 But like I said, if I identified that,
24 then what are we going to do with that? Ask them

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 to voluntarily give up? Are facilities likely to
2 do that?

3 CHAIRMAN WAXMAN: I think that -- you
4 know, I think that information here would be useful
5 because we've talked about it for two years. And I
6 think that, if we could define it or quantify it, it
7 would help us in our discussions as we look at other
8 issues.

9 So, yes, I understand you can't do anything
10 about it, but I think a lot of us are just frustrated,
11 in that we know that there are so many beds not used
12 but we can't quantify it right now.

13 MEMBER CORPSTEIN: Right.

14 CHAIRMAN WAXMAN: So if you can --

15 MEMBER CORPSTEIN: And I can't think of
16 any other way than through the survey process.

17 I mean, we can get in a car and go drive to every
18 facility, and then we're just going to get the number
19 that day, the same way a survey would, so we're never
20 going to get any more accurate information. They're
21 not reporting by day or whatever.

22 And I'm not sure I can turn it up -- and
23 I don't know how accurate our numbers will be going
24 back historically. It will be easier going forward

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 from some point, but, then again, we might not have
2 good numbers for a couple of years or something.

3 So I'm going to look into it. Maybe it can
4 be done. I'm not sure of the accuracy. But, then
5 again, I don't know what we're going to do with it
6 once we have it.

7 MS. AVERY: Take a break?

8 CHAIRMAN WAXMAN: Yes. Let's -- again,
9 you know, from my perspective, it would just be
10 information that would help us really understand the
11 things that we've all been talking about and we can't
12 quantify.

13 So if you can do it, you know, in a short
14 period of time without undertaking a major project,
15 I think it would help us understand the problem that
16 we know is out there but have never been able to put a
17 number on.

18 MEMBER CORPSTEIN: I think it's
19 possible. I'm not sure of the accuracy of the data
20 because we're still trying to ramp up and get out of
21 the '70s in long-term care, so some of -- basically,
22 it works this way: They are more likely to lie or
23 stretch the truth to licensure than they are to
24 the Feds. The Feds can -- you know, have the money.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 And if they inaccurately report, then that's fraud in
2 some way.

3 So like I said, they're more apt to give
4 exact numbers to the Feds than they are to me or
5 any -- even if I ask the question or -- in any sort
6 of form.

7 So I might be able to turn up that number.
8 I'm going to take a look at it when I get back to the
9 shop and see what can be done.

10 CHAIRMAN WAXMAN: Okay.

11 MEMBER CORPSTEIN: Of course, the
12 Medicare/Medicaid is going to be skewed because
13 there's a huge number of facilities that are certified
14 both ways so that, if you look at it -- Medicare and
15 Medicaid, you add them up, it's going to be way more
16 beds than we actually have.

17 How you're going to split that out I -- I'm
18 not sure it's going to be -- if you're going to be
19 able to even do that, especially with the mass exodus
20 from Medicaid currently going on.

21 CHAIRMAN WAXMAN: Facilities leaving
22 Medicaid?

23 MEMBER CORPSTEIN: Decertifying Medicaid
24 beds, upgrading their intermediate beds to skilled so

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 that they're available for Medicare.

2 CHAIRMAN WAXMAN: Really?

3 MEMBER CORPSTEIN: Oh, yeah. Ever since
4 326 came down, my phone's been ringing off the hook
5 about that kind of stuff. You have the fleeing of the
6 ICF/DDs from our program because not-for-profits can't
7 even operate at this rate, so they're coming to
8 different business models --

9 CHAIRMAN WAXMAN: Wow.

10 MEMBER CORPSTEIN: -- still yet to be
11 specific where they're all going.

12 I bet you I closed 20, 25, 30 in the last
13 year or two. I probably have another 30 pending.

14 So I don't know where all the -- you know,
15 not everybody in an ICF/DD is available for CILA
16 placement; otherwise they would probably already be in
17 a CILA.

18 So the State wants to get out of the
19 business. It's not conducive for the private sector
20 to pick that up, so they're going somewhere else.
21 I would imagine a lot of these are going to come back
22 to State institutions because there's less facilities.

23 With enough money everything is solvable,
24 generally. If the Medicaid rate was better, then we

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 could do better. I don't know that that's going to be
2 the case, though.

3 But I'll take a look at it, see if I can
4 generate some numbers.

5 MR. AGBODO: I can work with you
6 on that.

7 MEMBER EVANS: Sorry; I have to go.
8 I have to leave.

9 CHAIRMAN WAXMAN: Thank you for coming.
10 It was good seeing you again. We'll let you know when
11 the next meeting is and where it is.

12 MEMBER EVANS: All right.

13 CHAIRMAN WAXMAN: It might be here.

14 MEMBER EVANS: This is a very nice place
15 for a meeting.

16 CHAIRMAN WAXMAN: We're breaking.

17 (Recess taken, 12:21 p.m. to
18 12:51 p.m.)
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**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

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AFTERNOON SESSION

TUESDAY, AUGUST 19, 2014

12:51 P.M.

(HFSR Board Member Galassi,
Member Evans, and Mr. Dart left
the proceedings.)

CHAIRMAN WAXMAN: Okay. Let's sit down.

Okay. I know we lost a couple of people.

We still have a quorum; right?

MS. AVERY: (Ms. Avery nodded her head
up and down.)

(Discussion off the record.)

CHAIRMAN WAXMAN: So before we broke for
lunch, the discussion was kind of like, once again, in
a couple of different areas.

So I think the issue is that we have to
define -- or we have to determine which of the major
categories do we want to talk about first. And
moratorium was suggested and then we kind of got into
the license and bed count issue.

So let me go back and ask, of the major
issues that came up during the phone conversation that
Cece enumerated, which of those major issues do we
want to attack first and how do we want to attack it?

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 Tim, you seem like you --
2 MEMBER PHILLIPPE: I'll propose
3 something.
4 CHAIRMAN WAXMAN: Please propose.
5 MEMBER PHILLIPPE: I remember at the
6 last meeting, because I'm a person that likes to get
7 stuff done, that I proposed -- I actually had a motion
8 out to get the sense of the Committee -- that the
9 majority of the Committee -- wide margin,
10 I believe -- agreed with the idea, in concept, of bed
11 transfer, bed buying and selling --
12 CHAIRMAN WAXMAN: Right.
13 MEMBER PHILLIPPE: -- and it was all
14 about the conditions. We might differ on different
15 conditions, but we agree on the concept.
16 CHAIRMAN WAXMAN: Correct.
17 MEMBER PHILLIPPE: Okay. So we have to
18 start our way through the process.
19 So what I would propose is we start with the
20 idea that we are going to work toward -- because we
21 said that in the last meeting -- a bed transfer
22 program, bed buying and selling, and then the next
23 step is, today, it would include a moratorium.
24 I don't think it makes any sense without a moratorium,

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 really.

2 CHAIRMAN WAXMAN: That doesn't
3 make any --

4 MEMBER PHILLIPPE: The other states that
5 have it have a moratorium.

6 Because we all know that we have plenty of
7 beds in the state. It's the allocation that's the
8 problem; right?

9 MEMBER SCAVOTTO: Well --

10 MEMBER PHILLIPPE: It's mostly --

11 MEMBER SCAVOTTO: Go ahead.

12 MEMBER PHILLIPPE: In total, we have
13 enough beds in the state. We have enough licensed
14 beds. I think most people would agree.

15 And I think we already -- I think Mike
16 said -- what is it, the sixth or seventh most
17 institutional in the country? Meaning beds per
18 thousand.

19 We already -- compared to the country, we
20 have a lot of beds per thousand; right?

21 MEMBER SCAVOTTO: Yep.

22 MEMBER PHILLIPPE: So the moratorium
23 I don't think makes sense.

24 We had some discussion -- like Judy started

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 earlier -- that the moratorium -- the bed transfer
2 doesn't make sense without the moratorium. The
3 moratorium then would force the people to kind of move
4 the beds around and solve the problem you're talking
5 about with beds in service or not in service because
6 it would motivate people to do something about those
7 beds that are not in service.

8 MEMBER CREDILLE: I agree with you.
9 That was very well put.

10 CHAIRMAN WAXMAN: Is there anybody that
11 disagrees with what Tim is proposing or saying?

12 MEMBER SCAVOTTO: I might. I'm not
13 sure. I want to be educated on the moratorium.

14 Because I'm looking at it from a -- from the
15 angle -- our work group just got finished working on
16 the 90 percent occupancy standard for renovation.

17 And when we looked at that, we said one of
18 the criteria was that you couldn't have any renovation
19 projects until everyone -- all other competitors in
20 the market -- your market -- were at 90 percent
21 occupancy. Well, that's franchise protection, and we
22 just -- we got rid of that aspect.

23 And the dilemma that I'm having with the
24 moratorium is that that seems to be franchise

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 protection, too. In a different -- in a different
2 sense but it still is franchise protection. So I'm
3 hung up on that, but I can be educated, I think.

4 MEMBER PHILLIPPE: Okay.

5 During our work group we had a discussion
6 about -- I think the question came up how many have
7 been approved, and Courtney sent us an update on that.

8 MS. AVERY: I was just about to look
9 for it.

10 MEMBER PHILLIPPE: Somebody did.

11 MS. AVERY: Mike did.

12 MEMBER PHILLIPPE: Okay. I appreciate
13 that, Mike.

14 And about half of the ones approved, there
15 was no bed need.

16 CHAIRMAN WAXMAN: Correct. Which
17 I think is -- which is an important piece.

18 MEMBER PHILLIPPE: So what it means to
19 me is it's not a very predictable process.

20 CHAIRMAN WAXMAN: Right. And that's
21 the -- the Mother Board and staff are looking at
22 criteria that isn't solely devoted to bed need -- bed
23 count.

24 MEMBER PHILLIPPE: What I would say

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 about the franchise protection is -- what I've noticed
2 in Ohio, at least, when I was operating there -- is it
3 actually is just the opposite.

4 What we have now is more franchise
5 protection because, if there's no bed need, it's hard
6 for anybody to build in the area. Unless they have
7 some unusual argument, I guess.

8 When you open it up, you can have the
9 moratorium and open up the transfers, and it opens the
10 market up a lot because then people think there's a
11 need somewhere. Even if there's not an official need,
12 they're willing to risk money to purchase beds and
13 build something.

14 MEMBER SCAVOTTO: Right. Okay.

15 CHAIRMAN WAXMAN: Judy, as another
16 provider, where are you?

17 MEMBER AMIANO: Well, you know, we also
18 operate in the state of Ohio, and, you know, our
19 communities run almost a hundred percent occupancy.
20 And it's very difficult, you know, so -- and we have
21 for years run at 98, 99 percent occupancy. It's
22 difficult because the community has more needs and we
23 can't provide them. We'd love to but, you know, it's
24 difficult.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So there's challenges with a locked-down --
2 Ohio has a pretty locked-down moratorium.

3 MEMBER PHILLIPPE: That's true.

4 MEMBER AMIANO: So I would have to have
5 an understanding of -- while I'm not, on the surface,
6 opposed to a moratorium -- we work in those states
7 that have them -- I think there's some opportunities
8 to find some middle ground so -- not all the way at
9 this end of the extreme and not all the way at this
10 end of the extreme.

11 And so it really falls into "How are you
12 defining it? "

13 MEMBER PHILLIPPE: Good.

14 MEMBER AMIANO: So, you know, what
15 I might propose -- because I think -- you know, we
16 were just having a little bit of sidebar conversation
17 here over lunch, and folks are getting fatigued with
18 this process that's gone on for a number of years
19 and -- how can we kick-start it? What can we do, you
20 know, perhaps to get to some resolution or further
21 movement?

22 You know, I congratulate Michael and Cece on
23 the work that the subcommittee has done because
24 I think there's been good work and things, but I think

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 there's a general notion that all of us would like to
2 see this moved a little quicker.

3 So I would like for -- I don't know if it
4 needs to be in a motion or proposal or what form it
5 needs to be in, so maybe Frank can help me with that.

6 But I'd like to propose that the four
7 providers in the room -- that's Bill, Cece, myself and
8 Tim -- form a -- get together and come back to this
9 group with a recommendation that can be discussed and
10 voted upon and try to move something forward. Instead
11 of discussion, discussion, discussion, discussion at
12 every meeting.

13 So let us -- let us kind of work through the
14 midst of it because we kind of know these things as
15 providers, you know, that -- all the gray areas and
16 the white areas and the black areas and everything in
17 between.

18 And, you know, we all -- you know, I know at
19 least Tim and I operate in multistate so, you know, we
20 have experience in that. So let us kind of work
21 through that, come back to this group with some -- you
22 know, some more recommendations on how we might be
23 able to keep moving this process forward.

24 So I just throw that out for consideration.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 You can ask Bill if he's willing to do that.

2 MEMBER CASPER: I'm fine with that. The
3 only question is, I mean, what happened -- that was
4 sort of the intent of the last discussion, and then
5 you ended up, because of the open meeting rule, with
6 30 people on a conference call.

7 MEMBER AMIANO: Frank has advised me
8 that four people does not constitute having to have an
9 open meeting. So -- not that we're trying to be
10 exclusive, but I think just let -- just let the
11 providers, you know, kind of work through this and
12 come to you all with some recommendations.

13 MEMBER CASPER: I think that's sort of
14 what we tried to have happen the last -- from the last
15 meeting.

16 CHAIRMAN WAXMAN: I think what we have
17 to do -- first of all, Frank, I may be wrong, but
18 I think, as Chair, I can appoint a subcommittee and
19 I can appoint those four to be on a subcommittee.

20 So it doesn't need a resolution and a
21 motion; correct?

22 MR. URSO: Yes.

23 CHAIRMAN WAXMAN: Okay. So that's done.
24 The second part is I think we can ask that

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 other members not participate in your conference call
2 as a favor to the group so that you can at least put
3 your proposal together and we all can look at it.

4 Would anybody have an objection to that
5 process? Just so that we can move forward.

6 Because I know we all have opinions and all
7 and we all want to participate, but it does get
8 cumbersome.

9 We witnessed that on a call that Cece
10 chaired, and there were 83 people. I think some
11 weren't even nursing home people. They saw the number
12 and called in.

13 MEMBER CREDILLE: Well, I wrote down --
14 it's 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
15 15, 16 -- 17 people, by my recollection. The minutes
16 would speak for themselves, but that's how many people
17 were on that call.

18 CHAIRMAN WAXMAN: Yeah.

19 MEMBER PHILLIPPE: And just to actually
20 use our history, we had another work group that I was
21 chair of a couple years ago --

22 CHAIRMAN WAXMAN: The same thing
23 happened.

24 MEMBER PHILLIPPE: -- and when we got to

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 this topic, then we couldn't get enough people to show
2 up for the meetings to have a quorum, but I had 15 and
3 20 on every conference call. I couldn't get anything
4 done.

5 MS. AVERY: That was a conference call.

6 MEMBER PHILLIPPE: Remember?

7 CHAIRMAN WAXMAN: So I would ask that we
8 let those four people do their work and bring it back
9 to the Committee.

10 Yes, sir.

11 MEMBER WILL: So -- you know, I think
12 the idea of making a working subcommittee is fine and
13 stuff. I have, maybe, two questions about how
14 it works.

15 The first is I was wondering if you could
16 speak a little bit more to your idea as to why the
17 composition of the subcommittee should be the
18 providers.

19 MEMBER AMIANO: This is my personal
20 opinion: That, first of all, there's valuable
21 opinions all the way around the room. I think we work
22 with -- and we've all done applications for CONs; we
23 know and understand referral -- I mean, we understand
24 every single aspect of it because it's the industry in

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 which we all operate.

2 And so I think -- and I know -- for myself
3 and Tim, for example -- we've been at some level of
4 this Committee for a number of years and are feeling
5 really frustrated that we can't move forward.

6 So, you know, I just look at it and say, you
7 know, "These are the people who kind of know and
8 understand the issues" -- not that other people don't
9 but "How can we be facilitative in terms of offering
10 some recommendations that providers can live with?"
11 We understand the impacts that it may have on
12 residents because we care for them, and that's what we
13 hold most dear in our business, and so we'll
14 understand the impact on the clients that we serve.
15 We'll understand the impact on our referral sources
16 and on our business line, and it seems like every
17 aspect of that is something that runs into somebody
18 who's got a problem with something.

19 So it would really just be a matter of
20 recommendations to this group, then, for further
21 discussion, just as a method of "Can we come
22 with -- this piece looks pretty good. Let's discuss
23 this piece and let's get a vote on it."

24 And then we'll get another group -- maybe

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 it's the same group; maybe it's a different group --
2 to work on the next layer of it.

3 And so -- how can we kind of get off the
4 dime? I guess. Just trying to put something out as a
5 recommendation.

6 MEMBER WILL: Yeah. I -- I have one --

7 CHAIRMAN WAXMAN: And --

8 MEMBER WILL: -- I have one follow-up
9 question.

10 CHAIRMAN WAXMAN: -- Let me --

11 MEMBER WILL: Yeah, that's cool.

12 CHAIRMAN WAXMAN: Let me add on to what
13 Judy said, is that what you may not be aware of is
14 that those four people represent for-profit,
15 not-for-profit, and religious-based not-for-profit.

16 MEMBER WILL: I am aware of that, yes.

17 CHAIRMAN WAXMAN: Okay. You've got it.

18 MEMBER WILL: Yeah. So -- and, again,
19 I'll preface this one follow-up with, you know,
20 that -- with the idea of bringing something like that
21 back I think is -- I think is great. I think if the
22 like subcommittee working group succeeds in doing
23 that, it's doing us a service.

24 And my question on this one is -- is fairly

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 open. It's just a -- it's just how -- you know --
2 someone not on the working group but on the -- you
3 know, on the Advisory Committee and thinking through
4 kind of our like charge as an Advisory Committee.

5 When a proposal comes back, we should,
6 I guess . . . I'm trying to think of how to put this.

7 Kind of like how we should take it -- you
8 know, whether it's, you know, sort of like a proposal
9 from industry groups that you all represent or whether
10 it's a proposal from people with the charge of the
11 Committee to, you know, look after a sort of planning
12 function and, you know, the whole population of the
13 state, including especially vulnerable populations.

14 My hesitancy in how to ask that is --
15 I don't think those two are mutually exclusive, but
16 I just want some kind of, you know, what -- what you
17 all would bring back or how you would want us to kind
18 of consider it.

19 MEMBER PHILLIPPE: I can tell you, just
20 speaking for myself -- and maybe Mike is like this --
21 even though I originally got on this through
22 LeadingAge, the association -- I think that's
23 how -- really, I have almost no contact with them
24 about an official position on this. You know, matter

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 of fact, I've asked a few times.

2 And I -- at this point -- and maybe some are
3 the same -- it's so far beyond my -- because I don't
4 go back and brief people and get an association
5 position on the whole thing. I can show up every time
6 and inform people where I am.

7 At this point, for me, personally, it's more
8 about me on this Committee, not me representing the
9 best interests of some group of providers.

10 MEMBER CREDILLE: I represent the
11 Illinois Health Care Association, and I -- with Bill,
12 as well -- but I represent the Illinois Health Care
13 Association.

14 So unlike Tim, I do report back.

15 MEMBER PHILLIPPE: Uh-huh.

16 MEMBER CREDILLE: And when we have --
17 you know, documents are published and they're public.
18 Folks can see them. And I was appointed on behalf of
19 the Illinois Health Care Association, not on behalf of
20 my day job.

21 So I do -- I do represent the association.

22 CHAIRMAN WAXMAN: And I think -- Bill,
23 I think you're probably in the same spot Tim is on
24 that. LeadingAge does not --

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER CASPER: No, I'm not a
2 representative of LeadingAge. And I guess I'd make a
3 couple of comments.

4 I mean, Paul and I were talking at the meal
5 break that, if any one of us could solve the Medicaid
6 rate problem -- Kelly, sorry for the comment but -- if
7 any of us could solve the Medicaid rate problem in
8 this state, we wouldn't have an access issue.

9 MEMBER PHILLIPPE: Right. Today's --

10 MEMBER CASPER: And so we all understand
11 that access for Medicaid recipients is an important
12 policy objective of this group.

13 And I am a former assistant director of
14 long-term care for the Massachusetts Medicaid program,
15 so I clearly understand the implications of Medicaid
16 access.

17 So I think that all of us -- certainly
18 myself, I know Tim -- and all of us, I think, come at
19 this -- we have our day jobs, we have our own
20 self-interests, but our -- to some degree we can't
21 leave -- we can't completely leave them at the door,
22 but we have to really try to leave them at the door
23 because we have a responsibility here as members of
24 the Subcommittee.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 So I think that what we will attempt to do
2 is balance what we know to be the realities of running
3 a business in this state, in this industry in this
4 state, with the objectives of this Subcommittee and
5 come back with some recommendations, a framework that
6 we can actually have some concrete discussions about
7 rather than the circular --

8 MEMBER PHILLIPPE: Right.

9 MEMBER CASPER: -- as Mike said -- the
10 circular firing squad that we have been engaged in.

11 CHAIRMAN WAXMAN: And nothing -- you
12 know, the four of them -- you know, whatever they
13 recommend still has to be approved by the whole group.
14 So input from everybody you know, would be allowed
15 and -- not only allowed but -- what's -- encouraged
16 before anything moves forward.

17 So I think what we're trying to -- you know,
18 I think what the concept is trying to do is just get
19 us off the dime and move a little bit forward.

20 Frank, and I'll come back to Chuck.

21 MR. URSO: Let me clarify here.

22 You have specific bylaws that talk about
23 ad hoc committees and task forces. I think that's
24 what we're talking about here.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 What you need to do is what I think Judy
2 initiated her conversation with, is that -- put a
3 motion on the table -- okay? -- that they want to form
4 this ad hoc committee or this task force with specific
5 members. And then put it -- put a second on that, and
6 then you have a discussion and you have a vote on it.

7 If some members -- you know, the majority is
8 going to win. But according to your bylaws, you need
9 at least eight votes for this group to form.

10 CHAIRMAN WAXMAN: Okay.

11 MR. URSO: So that's just to clarify.

12 CHAIRMAN WAXMAN: Thank you.

13 Chuck. I'll come back.

14 MR. FOLEY: I was going to say that
15 I agree with Judy that I think we need to bring this
16 to a halt to make some decisions. And I'd just like
17 to suggest, however, that before the next meeting that
18 you would distribute an outline of what it will, in
19 fact, discuss, the issues they're going to bring
20 forward, this subcommittee, if that's not a problem.

21 CHAIRMAN WAXMAN: Would someone be kind
22 enough to make a motion?

23 MEMBER AMIANO: I will make the motion
24 that the four members that we talked about form a

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 subcommittee in an attempt to -- I don't know how to
2 phrase it -- to focus on and bring back some
3 recommendations for Board discussion on how to move
4 this process forward.

5 CHAIRMAN WAXMAN: Second to that motion?

6 MEMBER SCAVOTTO: Right here.

7 MEMBER WILL: Second.

8 CHAIRMAN WAXMAN: Michael -- we've got
9 two seconds.

10 All in favor?

11 MR. URSO: Wait a minute.

12 MR. FOLEY: Are we going to have
13 discussion first?

14 MR. URSO: Now you can have discussion
15 about it, if anybody wants to.

16 CHAIRMAN WAXMAN: I thought we discussed
17 it already.

18 MR. URSO: You might want to consider --
19 is there going to be a time frame here?

20 You know, are they going to have six months
21 or three months?

22 You know, I mean -- that's just a thought.

23 MEMBER CASPER: Throw it to a lottery.

24 CHAIRMAN WAXMAN: Well, the other -- the

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 other part of that is a request that the four members
2 be allowed to operate as a four-member committee.

3 So -- okay.

4 MR. URSO: If you hit five, you're going
5 to trigger the Open Meetings Act.

6 CHAIRMAN WAXMAN: Right. And we don't
7 want to do that.

8 No, you can't go.

9 MR. FLORINA: Are visitors considered
10 part of the group for the Open Meetings Act?

11 MR. URSO: You know, the Open Meetings
12 Act only talks about, you know, business of
13 the quorum. Okay?

14 And if you have visitors there, you're not a
15 voting member, but I think that should be dictated by
16 the ad hoc committee on how they want to structure it.

17 Because, as has already been said, whatever
18 they come up with has to come back to this full
19 membership.

20 And as eloquently said by Cece with her work
21 group -- and I had the same number of people, maybe
22 close to 20 people and -- it's supposed to be a work
23 group, and you've got 20 people talking.

24 CHAIRMAN WAXMAN: Right.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MR. URSO: You can't get down to
2 anything.

3 CHAIRMAN WAXMAN: Exactly.

4 MR. URSO: So I think it's up to this
5 Committee, but you need to have these four people get
6 into the minutiae and come back with their plan.

7 MEMBER CREDILLE: Or I might say even
8 not into the minutiae. We can't get off of the dime
9 on it. We can't even get into the minutiae.

10 MR. URSO: Let's not get into semantics.

11 MEMBER CREDILLE: Well, the goal, of
12 course, would be to take one of those big things that
13 has already been identified and say, "Okay. If we
14 choose this way, what are all the ramifications? What
15 does it" --

16 CHAIRMAN WAXMAN: Right. Which is what
17 happened when all 20 people got on the phone.

18 MEMBER AMIANO: "If we put a package
19 together and we think about these ramifications,
20 what's going to be the best thing?"

21 And it's likely there won't be consensus
22 among our group, but we'll try to get to a point of
23 "We've considered all the options; we think this is
24 what looks good," and that's what we'd like to bring

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 back to the group.

2 Because I think we all have this desire to
3 move this forward, so it's from a heartfelt place that
4 I'd like to be part of the solution. And, you know,
5 I feel like, if I don't do something -- I mean, we'll
6 be in the same discussion another two years so --

7 CHAIRMAN WAXMAN: I think we all agree
8 to that.

9 MEMBER CREDILLE: Well, and other states
10 in the union are doing buy/sell. They haven't --

11 MEMBER AMIANO: And you operate in those
12 states, as well.

13 MEMBER CREDILLE: They haven't fallen
14 off the map and they're functioning. And so we would
15 just -- we've agreed as a group we want to do
16 buy/sell, so now we have to figure out how to move
17 forward.

18 MEMBER AMIANO: There are states that do
19 buy/sell. There are states that have no CON and
20 states that have CON, and all of them are successful.

21 So I think our real charge is, "For the
22 citizens of the state of Illinois, what's the best
23 thing to do?"

24 CHAIRMAN WAXMAN: Right.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MEMBER AMIANO: And so we almost need to
2 start with a blank slate and say, "If we could create
3 it today, what might it look like?"

4 CHAIRMAN WAXMAN: And I think that
5 sometimes -- I know I do and maybe I shouldn't admit
6 it for the record, but I think sometimes I forget that
7 there is public policy involved in what we're doing.
8 And we have to remember that so . . .

9 And I think at our last meeting Dale kind of
10 brought it to a head that, you know, there is public
11 policy involved in what we're doing. So -- it's been
12 said today several times so . . .

13 MEMBER AMIANO: But Claire is masterful
14 in crafting -- if this is the solution -- how it might
15 fit within the current . . . master.

16 CHAIRMAN WAXMAN: So assuming that we
17 continue on a two-month basis, that means we're going
18 to be sometime in October.

19 Can -- are you comfortable saying that you
20 could have something back for the October meeting?

21 MEMBER AMIANO: I can't know until we
22 can get together with calendars. We certainly have
23 that as a goal. But I think, based on experience,
24 we'd like to have something pretty well thought out

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 and vetted and, you know, give us time to contemplate
2 and keep working at it.

3 Because the worst thing we can do is to come
4 up with something halfway and say -- you know, so we'd
5 really like some time but be happy in the interim --
6 as chairman, Michael -- to have a conversation with
7 you and say "This is how far along we are."

8 Maybe we delay that October meeting another
9 couple, three, four weeks or something until so that
10 we can get back. Or a status call we could do.

11 CHAIRMAN WAXMAN: Yeah. I mean, what
12 Bill is suggesting is that we don't schedule our next
13 meeting until you have a kind of a firm handle on
14 where you are at because, obviously --

15 MEMBER CASPER: We probably need a
16 deadline, though.

17 MEMBER CREDILLE: I would suggest --
18 that would be great. I would suggest we put a date on
19 it.

20 MEMBER AMIANO: Let's stay with the
21 October date, Michael.

22 (Discussion off the record.)

23 CHAIRMAN WAXMAN: What do we
24 have -- what do we have to do about that?

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MS. AVERY: In case -- this
2 isn't -- I was just saying this isn't our only agenda
3 item. So if there are things that we need before
4 that -- like the issue that was brought up today with
5 the application -- do you want to wait that long?

6 It's fine with us but I just wanted to
7 remind you that it's --

8 CHAIRMAN WAXMAN: No, they've worked too
9 hard. Let's move forward. So we'll schedule an
10 October meeting.

11 MEMBER AMIANO: And we'll say we can do
12 a status.

13 MEMBER CASPER: We've got two regularly
14 scheduled meetings in one --

15 VICE CHAIRMAN BELL: They'll give us a
16 status.

17 MS. AVERY: A status in October?

18 CHAIRMAN WAXMAN: No -- good thinking.
19 Cece, you're going to be on the phone all
20 the time.

21 MEMBER CREDILLE: Apparently. That's
22 okay. It's worth it, quite frankly.

23 CHAIRMAN WAXMAN: Oh, good answer.

24 MEMBER CREDILLE: No -- on behalf of the

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 industry and the services we provide and for the
2 citizens of the state of Illinois, it's absolutely
3 worth it.

4 We have the opportunity to make a change
5 before, as Bill so eloquently said, something will be
6 forced upon us that is --

7 CHAIRMAN WAXMAN: I think that was a
8 critical piece that needed to be said, and I -- again,
9 it's something that you think about but, until someone
10 actually says it, it doesn't sink in.

11 So like an adult learner, you've got to hear
12 it three times before you understand it. So . . . so
13 thank you, Bill, and Kelly said it, also, so -- yeah.
14 We need to be in front of it rather than behind it,
15 cleaning it up.

16 MEMBER AMIANO: So I think we need a
17 vote still.

18 MS. AVERY: We need a vote.

19 CHAIRMAN WAXMAN: We need a vote.
20 I tried to do that once before.

21 All in favor?

22 MR. URSO: I think you should do a roll
23 call, Mike.

24 CHAIRMAN WAXMAN: Okay. I think we

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 should do a roll call.

2 MEMBER WILL: Sorry. Just to clarify
3 the proposal, it's to form the subcommittee with the
4 membership that people kind of honor, that it's the
5 four members, and that it has, what, a target date but
6 not a deadline?

7 I mean, I'm just trying to figure out what
8 the proposal is.

9 CHAIRMAN WAXMAN: Well, they --

10 MEMBER WILL: I think it's the first
11 to --

12 CHAIRMAN WAXMAN: They've imposed a
13 target date of our next meeting --

14 MEMBER WILL: Got it.

15 CHAIRMAN WAXMAN: -- and if they are not
16 a hundred percent satisfied, there will be a status
17 report.

18 MEMBER WILL: Got it.

19 CHAIRMAN WAXMAN: As Courtney was kind
20 enough to point out, there are other things before
21 this group that we need to work on, so we do need to
22 establish an October date.

23 So who's going to call roll?

24 MS. AVERY: I don't have a sheet.

**REPORT OF PROCEEDINGS -- 08/19/2014
LTC BED BUY/SELL PROGRAM**

1 MR. URSO: I'll just call. We'll just
2 start with Greg. Greg's the first member; right?
3 CHAIRMAN WAXMAN: Who?
4 MR. URSO: Greg.
5 MEMBER WILL: Right.
6 CHAIRMAN WAXMAN: Yeah, you are the
7 first member.
8 MEMBER WILL: Yes.
9 CHAIRMAN WAXMAN: It all depends
10 upon you.
11 MR. URSO: Greg.
12 MEMBER WILL: Aye.
13 MR. URSO: Your vote is yes?
14 Paul.
15 MEMBER CORPSTEIN: Yes.
16 MR. URSO: Bill.
17 MEMBER CASPER: Yes.
18 MR. URSO: Cece.
19 MEMBER CREDILLE: Yes.
20 MR. URSO: Judy.
21 MEMBER AMIANO: Yes.
22 MR. URSO: Kelly.
23 MEMBER CUNNINGHAM: Yes.
24 MEMBER SCAVOTTO: Yes.

**REPORT OF PROCEEDINGS -- 08/19/2014
OTHER BUSINESS**

1 MR. URSO: Mike is yes?
2 MEMBER SCAVOTTO: Yes.
3 MR. URSO: Tim.
4 MEMBER PHILLIPPE: Yes.
5 MR. URSO: Mike.
6 CHAIRMAN WAXMAN: Yes.
7 MR. URSO: Bill.
8 VICE CHAIRMAN BELL: Yes.
9 MR. URSO: So it's unanimous.
10 CHAIRMAN WAXMAN: Congratulations.
11 MEMBER AMIANO: I'm sure this falls into
12 the category of "Be careful what you wish for."
13 (Laughter.)
14 CHAIRMAN WAXMAN: No, I think it's a
15 great idea. And whoever came up with it, again, our
16 gratitude.
17 MEMBER CREDILLE: Can we pick a date?
18 CHAIRMAN WAXMAN: Do you want
19 to . . . where do we stand on the applications? Does
20 that come before this group?
21 MS. AVERY: What do you mean? To --
22 CHAIRMAN WAXMAN: No, to select new
23 members to this -- do you have applications --
24 MS. AVERY: No. All the names and the

**REPORT OF PROCEEDINGS -- 08/19/2014
OTHER BUSINESS**

1 background information that was submitted, either
2 personally or on behalf of, has been sent to the
3 Chair.

4 CHAIRMAN WAXMAN: So it's in Kathy's
5 hands?

6 MS. AVERY: Yes. She appoints members
7 to the Subcommittee.

8 CHAIRMAN WAXMAN: Please let Kathy know
9 that I -- I believe I know all the people personally,
10 and if she wants to call and talk about it, I'm
11 willing to.

12 We did in -- well, there's a new one
13 floating around.

14 MS. AVERY: Oh, wants to talk -- okay.
15 Yes, I will. I will.

16 (Discussion off the record.)

17 MS. AVERY: Sorry about that.

18 If you want the -- the information that Mike
19 submitted -- do you still need that?

20 You asked about the applications that were
21 submitted from 2009.

22 CHAIRMAN WAXMAN: I think Tim did or
23 Mike did.

24 MS. AVERY: Did you still want those

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 numbers, the information from Mike Constantino?

2 CHAIRMAN WAXMAN: How many came before
3 the CON Board and how many we've approved and that
4 kind of stuff.

5 MS. AVERY: Okay. Of 43 projects,
6 3 were withdrawn, 1 was denied, 39 were approved. And
7 of the 39 that were approved, 18 were approved with
8 excess beds in the planning area; 21, there was a
9 need.

10 So 39 -- I'm sorry --

11 MEMBER SCAVOTTO: 29 --

12 MS. AVERY: 39. 18, there was not a
13 need; 21, there was a need.

14 MEMBER AMIANO: And that was in what
15 time frame, Courtney?

16 MS. AVERY: 2009 to 2014, to date.

17 MEMBER SCAVOTTO: Okay.

18 CHAIRMAN WAXMAN: Okay.

19 Any other business to come before the Board?

20 MS. AVERY: Meeting date.

21 CHAIRMAN WAXMAN: Next meeting date.

22 I knew what you meant.

23 So if we're looking in October --

24 MEMBER CREDILLE: Can we make it the

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 last week of October, October 28th or 9th? Or 30th?

2 CHAIRMAN WAXMAN: You can. I will not
3 be around, but that shouldn't be the criteria.

4 MS. AVERY: That entire week?

5 CHAIRMAN WAXMAN: Yeah. We're going on
6 a cruise from the 22nd through November 3rd.

7 MS. AVERY: Oh.

8 CHAIRMAN WAXMAN: So, again, we have a
9 very capable --

10 MEMBER CREDILLE: I'm sorry, Mike. When
11 are you back?

12 CHAIRMAN WAXMAN: November 3rd.

13 Do you want to go into the first week of
14 November? That's a possibility.

15 MEMBER PHILLIPPE: All right.

16 VICE CHAIRMAN BELL: Gives this group a
17 little bit more time to work.

18 Does that mess up your October -- for the --

19 MS. AVERY: No. Our meeting is in
20 November.

21 VICE CHAIRMAN BELL: Okay.

22 CHAIRMAN WAXMAN: So if you want to do
23 it the 4th --

24 MEMBER CASPER: I can't do it the 4th

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 but any other day that week.

2 CHAIRMAN WAXMAN: The 5th or 6th?

3 MEMBER AMIANO: For Springfield folks
4 that's election day to vote. I don't know if that
5 messes anybody up.

6 MS. AVERY: That's the what?

7 MEMBER AMIANO: Election day.

8 MEMBER CREDILLE: 5th or 6th, Wednesday
9 or Thursday?

10 CHAIRMAN WAXMAN: You're going to try to
11 do it in one of our conference rooms?

12 MS. AVERY: The 6th is fine.

13 MEMBER CASPER: 6th is okay with me.

14 MEMBER SCAVOTTO: 6th. What are you
15 saying, the 6th?

16 CHAIRMAN WAXMAN: Thursday, the 6th.

17 And you're going to try and do it in

18 the 69 --

19 MS. AVERY: -- West Washington.

20 Ten o'clock?

21 CHAIRMAN WAXMAN: Uh-huh.

22 MEMBER SCAVOTTO: That will be here?

23 MEMBER PHILLIPPE: Downtown.

24 CHAIRMAN WAXMAN: Downtown Chicago. And

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 Courtney's making lunch.

2 MS. AVERY: I'll be working at Cosi's
3 that morning.

4 CHAIRMAN WAXMAN: Okay.

5 Anything else anybody wants to bring before
6 the Committee?

7 (No response.)

8 CHAIRMAN WAXMAN: Again, I'd like
9 to thank Michael and Cece for the work they've done on
10 Part 1 of the application and all the work they're
11 going to do on Part 2.

12 I want to thank Cece again for engineering
13 her organization to pick up the tab on the lady
14 from Ohio.

15 And I again want to thank the four of you
16 for coming up with the recommendation for a
17 sub-sub-subcommittee.

18 And good luck.

19 MEMBER CASPER: My mistake. I have an
20 all-day meeting on the 6th, so that is a conflict.

21 CHAIRMAN WAXMAN: Okay, then. That's
22 why I do my calendar in pencil.

23 VICE CHAIRMAN BELL: Is there a problem
24 with the 5th?

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 CHAIRMAN WAXMAN: I don't know. Does
2 the 5th work?

3 MEMBER CASPER: Let me check the 5th.
4 The 5th would work for me, yeah.

5 CHAIRMAN WAXMAN: Michael?
6 Tim?
7 Anybody else?

8 Does the 5th work?

9 MEMBER SCAVOTTO: I've got to move
10 something, but I should be able to.

11 MEMBER PHILLIPPE: Yeah, it's okay.

12 MEMBER CASPER: Sorry about that.

13 MEMBER AMIANO: What are we doing?

14 CHAIRMAN WAXMAN: So we're going to do
15 Wednesday, the 5th.

16 MEMBER CREDILLE: We're on the 5th now?

17 MR. URSO: Did it just change?

18 MEMBER CREDILLE: Yes, it did, Frank.

19 CHAIRMAN WAXMAN: Okay. So we all agree
20 that the 5th will work.

21 And, again, I think this was a very
22 productive meeting, and I thank you all for coming
23 and, staff, for doing everything that they do.

24 And those that were on the -- anyone still

**REPORT OF PROCEEDINGS -- 08/19/2014
NEXT MEETING DATE**

1 on the phone?

2 MS. AVERY: Mike and Carolyn.

3 MEMBER HANDLER: It's Carolyn. I am.

4 CHAIRMAN WAXMAN: Well, thank you for
5 joining us on the phone. We appreciate it.

6 MEMBER HANDLER: You're welcome.

7 CHAIRMAN WAXMAN: Did you happen to hear
8 that our next meeting is going to be October 5th?

9 MS. AVERY: November.

10 MEMBER HANDLER: Yes, I heard that.

11 CHAIRMAN WAXMAN: November 5th.

12 MEMBER HANDLER: Are we going to have it
13 with videoconferencing, or has that not yet been
14 decided?

15 MS. AVERY: We're trying. We'll --

16 CHAIRMAN WAXMAN: Courtney and staff
17 will try and figure that out, if they can put that
18 piece together.

19 MS. AVERY: We'll get the meeting -- an
20 "FYI, save the date" out tomorrow. We'll do it
21 tomorrow.

22 MEMBER HANDLER: Okay.

23 Thanks for organizing the conference call,
24 though. I appreciate it.

**REPORT OF PROCEEDINGS -- 08/19/2014
ADJOURNMENT**

1 MS. AVERY: You're welcome. Hope
2 everything's going okay.
3 MEMBER HANDLER: Yeah, it is.
4 By October 5th, hopefully, life will be a
5 little bit easier.
6 CHAIRMAN WAXMAN: November 5th.
7 MS. AVERY: November.
8 MEMBER HANDLER: Oh, November.
9 CHAIRMAN WAXMAN: I said it wrong. My
10 mistake.
11 I need a motion to adjourn.
12 MEMBER SCAVOTTO: Yes.
13 CHAIRMAN WAXMAN: Michael .
14 Second?
15 MEMBER WILL: Second.
16 CHAIRMAN WAXMAN: Got a second.
17 All in favor?
18 (Ayes heard.)
19 CHAIRMAN WAXMAN: Any opposed?
20 (No response.)
21 CHAIRMAN WAXMAN: The bus leaves for
22 Springfield in five minutes.
23 PROCEEDINGS CONCLUDED AT 1:27 P.M.
24

A				
a.m 1:13	146:12	120:15 123:23	Ann 3:9 6:21 86:24	approve 8:5,18 28:23
ability 45:8 50:17	added 27:16 107:19	135:15 136:14	annual 60:10 109:13	29:9,13
51:3 82:22 96:6	adding 44:10 69:13	137:8 151:15 155:7	annually 42:1	approved 11:22,23
98:4,14	95:11	168:19	answer 37:5 52:24	12:24 13:10 15:13
able 32:7 41:23 84:24	addition 45:9	agreed 91:24 94:11	53:7 76:8 120:9	15:22 83:24 84:4
96:19 105:17	additional 30:22,24	94:18 95:18 96:17	158:23	85:13 87:1,2,3
111:10 126:15	35:21 65:15 86:10	135:10 155:15	answering 87:20	138:7,14 150:13
130:16 131:7,19	102:17 121:8	agrees 89:8 123:5	answers 107:7	164:3,6,7,7
141:23 168:10	address 42:18 43:24	ahead 26:17 30:17	anybody 11:3 45:8	approximate 41:24
above-entitled 171:9	95:19	32:22 40:5,8 55:8	76:17 77:13 78:10	51:20
absence 12:8 13:3	addressing 9:10,12	89:10 91:11 106:15	79:19 92:4 137:10	approximately 42:2
absolutely 96:6 97:16	114:7	136:11	139:6 143:4 152:15	apt 131:3
117:21 159:2	adequate 18:15	aim 7:22	166:5 167:5 168:7	area 24:2 35:6,7
Academy 171:20	adjacent 112:1	alert 93:12	anytime 28:11	43:18 44:13,14,16
accept 55:21 113:13	adjourn 170:11	all-cash 75:2	anyway 81:11 110:1	54:22,23 58:1 68:23
acceptable 13:15	Adjournment 4:11	all-day 167:20	126:4	95:13,14 98:4
accepted 68:19	adjust 12:20 104:21	all-encompassing	apparatuses 124:17	105:22 111:1
113:14	adjustment 17:15	81:3	Apparently 158:21	127:12 128:15
accepting 69:2,2	Administrator 3:3	allocation 136:7	appear 55:23	139:6 164:8
access 19:18 44:6	admit 156:5	allow 19:20 68:19	appendices 27:13	areas 32:16 35:13
69:15 149:8,11,16	adult 112:5 159:11	allowed 22:24 74:17	Appendix 27:17	113:15 121:12
accessibility 24:13	advantage 22:15	101:7 112:9,10	Applause 30:11	134:15 141:15,16
accessible 20:17	advised 142:7	113:15 150:14,15	applicant 34:1 46:19	141:16
accidents 21:3	Advisory 1:4 4:6	153:2	55:23 71:11 76:23	argue 79:24 106:18
accommodate 18:20	147:3,4	allows 47:19	77:5	arguing 37:19
accomplish 32:17	advocate 7:10 119:1	alternative 63:16	applicant's 58:5 77:7	argument 67:19
48:20 86:14	affect 79:24	alternatives 46:6	applicants 38:13	73:21 86:23 139:7
account 53:9,10	affiliated 112:2	amen 118:5	54:14	arrived 87:20
107:2	affiliation 113:9	amend 12:13 17:11	application 26:24	artificial 101:18
accuracy 121:24	affixed 171:14	amended 28:13	27:9,21,24 28:5,8	asked 34:24 38:13
130:4,19	aforsaid 171:12	amending 18:2	28:12,16,23,24 29:9	90:7 95:15 148:1
accurate 40:10 87:11	AFTERNOON 134:1	Amiano 2:4 7:2,2 8:23	30:1 32:18 33:19,21	163:20
99:13 105:15 119:3	Agbodo 3:4 6:11,11	9:1 47:2 48:24	35:11 37:13 44:15	asking 9:19 25:6
119:8 128:13	78:11,14 110:3	58:10 74:21 86:16	49:4 50:19 52:17,20	72:23 84:11 88:23
129:20,23	121:21,23 122:6,9	87:22 88:22 89:4	55:21 64:22 70:16	90:2 93:4 99:14
achieve 47:8	122:15 133:5	95:23 96:14 97:1,8	71:12 77:6 78:2,9	aspect 137:22 144:24
acknowledging 80:21	agencies 16:24 17:7	99:14 102:24 103:4	80:3,5 158:5 167:10	145:17
ACO 45:6,14	17:8,18 22:21 73:9	104:1,23 105:7,11	applications 4:7 12:3	aspects 31:8 33:20
ACOs 40:12,13,23	agency 16:22 17:22	105:19 107:23	12:5 26:11 42:12	57:13
42:12,15,21 43:2	19:15 22:11,17	117:21 118:7 120:8	54:12 61:18 113:13	assembly 51:18
48:3 59:16,22	52:11 61:16 87:13	120:13 139:17	113:14,16 144:22	assessment 38:5
act 28:14,16 29:5	110:9	140:4,14 142:7	162:19,23 163:20	assistance 35:7
46:14 75:6 92:20	agenda 4:3 8:5 11:23	144:19 151:23	appoint 142:18,19	assistant 149:13
153:5,10,12	158:2	154:18 155:11,18	appointed 14:5	assisted 109:2
action 16:15	ago 10:9 81:20 115:4	156:1,13,21 157:20	148:18	113:19 114:11,22
active 12:18	143:21	158:11 159:16	appointments 15:9	115:2,3 116:7,14
actual 30:19 34:3	agree 25:3,4 28:7	161:21 162:11	appoints 163:6	117:7,13
75:6 77:24 121:2	36:22 40:11 43:4	164:14 166:3,7	appreciate 7:22 11:20	assisted-living 113:4
122:22 128:14	44:22 45:24 46:8,9	168:13	35:2 107:16 138:12	113:11 115:4
acuity 46:2	46:12,15,23 49:7	amount 58:2 103:8	169:5,24	116:16
ad 58:12 150:23	61:7 63:3,11 67:22	amounts 57:22	appreciative 31:16	associated 95:7
151:4 153:16	70:19 71:5,16 72:7	amplify 52:3	approach 46:20	Associates 6:19
Adams 25:17	74:21 76:16 77:17	analysis 56:3,8,10,20	122:20	association 147:22
add 69:8 71:13 78:11	80:24 90:24 91:13	61:3,15 64:4 81:1	appropriate 89:15	148:4,11,13,19,21
90:17 97:4 131:15	91:21 92:14 102:10	and/or 41:11	approval 4:3,4 8:4	60:20
	102:10 104:1	angle 137:15	80:23	

assuming 121:18 156:16	Ayes 8:14 9:5 29:19 170:18	98:1,9,11,16 99:6,6 102:17,21 103:6,7,9 103:19,20,20 104:3 104:4,6,7,14,22 105:23 106:1,10 108:12,22 109:11 109:11 110:18 111:4 117:17 119:14,17 121:7,24 122:1,17 123:4 124:12 125:15,18 125:24 126:14,17 126:24 127:19 128:2,17,21 129:11 131:16,24,24 136:7 136:13,14,17,20 137:4,5,7 139:12 164:8	11:18 14:23 16:2 35:23,24 44:23 45:23 65:13 66:11 66:15 70:21 74:21 82:20 88:20 93:8 97:15 108:3 110:10 110:17 141:7 142:1 148:11,22 157:12 159:5,13 161:16 162:7	break 20:15 81:9,15 126:16 130:7 149:5 breaking 133:16 brief 148:4 bring 16:19 144:8 147:17 151:15,19 152:2 154:24 167:5 bringing 24:3 92:23 146:20 brings 34:13 broader 81:2 broke 134:13 broken 117:22 brought 156:10 158:4 budget 108:5 build 36:16 50:21 55:6,8 79:7 97:3 121:3,7 139:6,13 building 11:22 19:16 67:5,12 78:24 79:7 79:8 95:9,10 97:5 98:2 100:3 117:17 buildings 59:17,24 60:2,13 102:2 builds 67:5 78:23 built 55:10 bullet 86:21 bundle 48:4 Burman 3:5 6:1,7 7:12,12 9:16 10:2 11:1 13:24 14:15 16:18 17:5,9,16 26:15,18 28:10,21 30:4,18 32:20,23 35:19 36:5 57:9,18 58:4,8 60:18,22 65:7 81:23 87:10,19
assurances 97:18 assuring 69:15 attack 134:24,24 attempt 150:1 152:1 attend 21:12 attendance 22:12 24:19 attention 92:24 Attorney 90:3 August 1:13 134:2 authorization 89:10 authorize 84:13 automatically 105:2 availability 23:5 available 36:14 106:1 132:1,15 avenue 105:13 average 123:15 125:18 126:13 Avery 3:3 5:20,21 6:2 6:5,8 9:14 10:1 13:20,23 14:11,17 17:11 18:1,6,12,14 19:12,24 20:10,14 21:4,8 22:3 23:6,10 23:14,18,23 24:6,17 24:20,23 25:5,11,14 25:16,20,23 26:4 29:3,10 41:13 52:5 56:5,13,18,23 57:7 57:11,17 60:23 62:5 63:9 64:14 65:4,9 65:12 68:5,8,14 78:13 81:12,19 83:16,18 84:16 85:10,20 86:13,19 86:22 88:3 89:2,7 90:10,17,22 91:1,6 92:11 93:10,16,21 94:7 103:16 124:6 125:14 126:5 127:1 127:4 128:6,9 130:7 134:10,10 138:8,11 144:5 158:1,17 159:18 160:24 162:21,24 163:6,14 163:17,24 164:5,12 164:16,20 165:4,7 165:19 166:6,12,19 167:2 169:2,9,15,19 170:1,7 aware 46:1 82:24 94:4 146:13,16 Aye 161:12	B back 24:6 31:17 33:16 44:13 47:8 50:15 61:17 64:23 73:4 80:17 81:4 85:4 105:10 106:16 112:11 115:15 116:14 129:24 131:8 132:21 134:21 141:8,21 144:8 146:21 147:5 147:17 148:4,14 150:5,20 151:13 152:2 153:18 154:6 155:1 156:20 157:10 165:11 background 163:1 backwards 88:2 bad 17:16 balance 74:5 150:2 bank 127:22 barriers 62:7 based 62:16 63:1 94:12 96:21 104:4,5 106:19 107:1 120:18 125:24 156:23 bases 56:10 99:1 basically 11:2 15:16 42:9,19 56:8 111:19 111:23 130:21 basing 127:13 basis 30:23 34:11 46:22 67:4 84:24 123:11 156:17 battle 115:17 bed 4:8 34:14,16 43:9 43:19,23 44:9 46:18 96:10,11,21 101:17 102:20,21 104:3 105:22 119:1,9 121:2,4 123:6 124:7 124:8,9,10,14,18,21 124:24 125:3,7,10 127:11 134:20 135:10,11,21,22 137:1 138:15,22,22 139:5 beds 43:12,15 44:10 45:8,9 54:24,24 68:8,15 95:10,11,13 95:13,16 96:16,18 96:19,22 97:3,24	beginning 15:6 16:3 47:5 begun 30:14 behalf 29:22 148:18 148:19 158:24 163:2 believe 10:9 58:15 80:9 135:10 163:9 believes 104:6 Bell 2:3 7:15,15 17:6 17:13,21 18:13 19:10,19,22 25:24 106:2 107:14 108:9 108:19,24 109:4 112:19 113:23 114:21,24 115:11 115:20,24 116:3,6 116:11,24 117:4 118:21 158:15 162:8 165:16,21 167:23 belonging 18:11 beneficial 23:1 best 56:21 59:24 60:9 80:13 107:4 123:9 124:1 148:9 154:20 155:22 bet 132:12 better 24:19 45:13,13 46:6 63:16 75:20,20 75:21 112:23 113:6 132:24 133:1 beyond 114:17 148:3 big 28:14 35:3 59:11 67:23 123:17 154:12 bigger 121:19 bill 3:8 6:5,7,16 7:15	bill 11:18 14:23 16:2 35:23,24 44:23 45:23 65:13 66:11 66:15 70:21 74:21 82:20 88:20 93:8 97:15 108:3 110:10 110:17 141:7 142:1 148:11,22 157:12 159:5,13 161:16 162:7 billing 88:8 bit 25:8 64:13 86:1 101:8 105:14 110:11 111:15 113:16 140:16 144:16 150:19 165:17 170:5 black 141:16 blank 156:2 blind 105:15 Blue 41:5 board 1:3 3:6 5:1 7:1 7:12 11:7,14 12:9 15:1 19:5 25:2 28:23,24 31:3 38:4 41:10 46:7 47:24 48:17 51:18,20 52:1 52:7,10,16,18,23 53:1,4,8,12,14 55:17,18,20,24 63:24 64:18,21 67:22 69:7,12,19 70:3 76:19,24 77:4 77:5,11 78:18 79:1 79:15 84:4 86:7,15 86:17,20 87:1,3,7 87:17 89:9,9 90:4 90:11,21,24 91:10 91:10 93:11,13 98:6 114:11 118:19 134:4 138:21 152:3 164:3,19 Board's 43:8 48:18 69:14,15 71:10 body 124:21 Bolingbrook 1:11,12 22:13 bond 67:17 bothering 12:15 bottom 80:4 bought 67:17 bounds 120:1 box 47:17 boxes 30:22 boy 33:2 brand-new 117:13	break 20:15 81:9,15 126:16 130:7 149:5 breaking 133:16 brief 148:4 bring 16:19 144:8 147:17 151:15,19 152:2 154:24 167:5 bringing 24:3 92:23 146:20 brings 34:13 broader 81:2 broke 134:13 broken 117:22 brought 156:10 158:4 budget 108:5 build 36:16 50:21 55:6,8 79:7 97:3 121:3,7 139:6,13 building 11:22 19:16 67:5,12 78:24 79:7 79:8 95:9,10 97:5 98:2 100:3 117:17 buildings 59:17,24 60:2,13 102:2 builds 67:5 78:23 built 55:10 bullet 86:21 bundle 48:4 Burman 3:5 6:1,7 7:12,12 9:16 10:2 11:1 13:24 14:15 16:18 17:5,9,16 26:15,18 28:10,21 30:4,18 32:20,23 35:19 36:5 57:9,18 58:4,8 60:18,22 65:7 81:23 87:10,19 bus 170:21 business 4:9 45:16 45:20 51:4,5,11 54:10,15 58:16,20 60:3 62:16 66:1 74:24 79:14 80:1 88:24 132:8,19 145:13,16 150:3 153:12 164:19 businessman 55:5 butt 78:6 buy 37:17 74:17 82:1 97:3 101:9 112:22 121:7 buy/sell 4:8 81:21 87:16 95:20,22 96:1 96:20 97:23 98:10 98:13 100:22 101:6 102:7 128:18

155:10,16,19 buyer 94:16 96:2 buying 95:10 135:11 135:22 bylaw 17:14 bylaws 12:8,14,20,22 17:12 18:2 19:19 23:1 150:22 151:8	CART 171:19 case 84:20 93:9 133:2 158:1 cases 27:22 62:24 63:1 Casper 2:5 6:16,16 14:10,21,24 15:14 15:21 20:4,13 35:24 35:24 44:24 46:16 46:23 65:14 66:6,14 96:12 97:15,15 98:8 98:21 99:2,5 100:15 100:19 142:2,13 149:1,10 150:9 152:23 157:15 158:13 161:17 165:24 166:13 167:19 168:3,12 casual 48:22 catch 11:21 categories 134:18 category 13:13 16:12 162:12 CATHERINE 3:6 caught 94:6 caution 47:16 caveat 20:19 CCP 1:23 171:6 Cece 6:22 26:12 29:17,24 33:5 56:22 64:24 72:14 80:16 81:13,23 82:1 88:10 89:22 90:14 91:3,7 93:7 97:1 118:18 134:23 140:22 141:7 143:9 153:20 158:19 161:18 167:9,12 Cece's 49:8 83:24 84:11,22 89:13 CECILIA 2:7 census 122:21 123:14 125:1,5 centers 116:12 cents 107:14 CEOs 39:21 certain 53:2,14 57:22 68:18 125:10 certainly 11:4 50:12 50:22 51:3 69:8 113:7,17 149:17 156:22 certificate 58:18 70:10 115:23 116:1 certified 126:18 131:13 171:5,18,19	171:19 certify 171:8 cetera 127:22 chair 7:14 142:18 143:21 163:3 chaired 81:24 143:10 chairman 2:2,3 5:4,9 5:12,18 6:4,6 7:14 7:15,16,19 8:8,11 8:15,17,21 9:3,6,8 9:15 10:14,23 11:19 12:15 13:5,11,22 14:4,23 16:2 17:4,6 17:13,14,21,23 18:4 18:7,10,13 19:10,19 19:22 20:24 21:6,14 21:18,24 22:5 23:12 23:17,20 25:4,9,12 25:15,18,22,24 26:2 26:6,9,16 28:19,22 29:8,12,15,17,20,22 30:15 35:23 40:6 41:8 42:11 44:23 45:23 46:11,13 47:1 48:21 49:2 50:4,14 51:23 52:16 53:11 53:17 56:2,16,19 57:8 58:22 60:24 61:6,21 62:14,21 63:4 64:2,8 65:13 66:3,11,15 67:24 69:18 70:14,19 72:7 72:11,17,20 73:1,18 74:7 76:16 77:10,13 78:10 79:23 80:16 81:16,21 82:1 84:10 84:21 87:9 89:12 90:13 91:4,12,16,19 91:24 92:6,9 93:3 93:15,19,24 94:8 99:10 101:1,15,21 102:11 103:1,14,17 104:9,13,16 105:9 106:2 107:14,15 108:9,19,24 109:4 110:7 112:19,24 113:23 114:3,9,24 115:11,20,22,24 116:3,5,6,11,24 117:4,5,16 118:3,21 118:24 119:6 120:11 121:22 122:8 124:4 127:16 129:3,14 130:8 131:10,21 132:2,9 133:9,13,16 134:7	134:13 135:4,12,16 136:2 137:10 138:16,20 139:15 142:16,23 143:18 143:22 144:7 146:7 146:10,12,17 148:22 150:11 151:10,12,21 152:5 152:8,16,24 153:6 153:24 154:3,16 155:7,24 156:4,16 157:6,11,23 158:8 158:15,18,23 159:7 159:19,24 160:9,12 160:15,19 161:3,6,9 162:6,8,10,14,18,22 163:4,8,22 164:2,18 164:21 165:2,5,8,12 165:16,21,22 166:2 166:10,16,21,24 167:4,8,21,23 168:1 168:5,14,19 169:4,7 169:11,16 170:6,9 170:13,16,19,21 challenge 105:4 117:3 challenges 140:1 change 17:1 30:23 31:15 38:2 48:3 57:16 109:18 159:4 168:17 changed 46:1 126:10 changes 4:5 9:13 11:24 28:4,8 29:4 31:8 48:7,12 107:8 109:19 125:3,7 changing 47:11 channeled 57:23 channels 84:5 charge 87:12 147:4 147:10 155:21 charges 88:11 charging 89:3 Charles 2:17 6:18 33:19 58:12 check 168:3 checking 25:18 Chicago 32:12 166:24 choice 75:17,19 choices 67:12 75:24 choose 59:15 60:15 154:14 chord 56:22 Chris 82:13,17,20 83:7,7,12	Christian 7:9 Chuck 40:6 41:8 53:18 61:6,22 74:7 77:14 150:20 151:13 Chuck's 40:7 CILA 132:15,17 circles 99:19 100:8 circular 34:18 99:21 150:7,10 circumstances 43:21 citizens 60:4,9 155:22 159:2 CJE 6:16 Claire 3:5 7:12 9:14 9:15 12:2 13:14 14:14 26:16 31:18 57:8 65:6 72:15 81:12,16,17,19 82:12 83:5,8 84:24 87:9,17 88:7 94:14 156:13 clarification 107:19 clarify 97:9 99:14 150:21 151:11 160:2 clarifying 95:23 CLARKE 3:6 5:17 cleaning 159:15 clear 37:13 clearly 97:21 149:15 clients 49:16 145:14 clinical 75:22 close 20:14 115:5 116:16 153:22 closed 132:12 closer 105:13 closure 107:21 108:6 Club 1:11 CMS 87:5 88:16 90:22 110:14 111:18 112:7 Cochair 7:15 come 19:3,4 33:13 55:10 63:15 64:16 66:2 83:23 84:8,16 85:4 88:13 90:22 100:10 106:14,24 112:11,20 121:2 123:24 132:21 141:8,21 142:12 145:21 149:18 150:5,20 151:13 153:18,18 154:6 157:3 162:20 164:19
---	---	---	--	---

<p>comes 28:16 33:3 45:12 76:23 77:5 79:14 105:10 147:5 comfort 48:16 comfortable 21:16 91:2,7 110:12 115:8 156:19 coming 7:20 21:3,10 21:22 22:22 24:2,15 103:15,20 107:5 132:7 133:9 167:16 168:22 commend 89:16 comment 39:6 45:1 52:2,5 53:20 54:7,9 65:15 69:8,13 76:21 77:15 78:11 80:22 121:21 149:6 comments 26:7 34:23 149:3 commission 171:22 commit 38:18 39:8 commitment 41:12 42:5 commitments 66:6 committed 23:12 committee 7:7 13:10 15:13 16:3,8 29:23 83:4 84:12 86:9 92:17 94:2 123:5 135:8,9 144:9 145:4 147:3,4,11 148:8 151:4 153:2,16 154:5 167:6 committees 150:23 communication 50:2 communities 7:3 139:19 community 53:15 56:11 67:11 111:23 139:22 community-based 111:20,24 compact 27:5 companies 59:18 company 60:11 compared 136:19 competing 59:14 competition 45:5 69:17 competitive 113:18 competitors 45:20 137:19 complete 171:11 completely 98:3,14 149:21</p>	<p>completion 52:13 complicated 9:9 60:16 76:7 119:11 119:18 component 96:20 97:23 100:16 composition 144:17 comprehensive 61:3 64:19 compressing 116:15 CON 45:8,21 55:7 58:19 61:2 71:2,8 71:14,18,22,22 74:10,13,14 102:6,9 113:21 116:23 128:19 155:19,20 164:3 concentrate 94:14 concept 50:22 107:21 108:6 114:23 119:1 123:4,6,7 124:2 135:10,15 150:18 concepts 47:7 109:5 concern 69:15 CONCLUDED 170:23 conclusion 22:6 94:17 95:2 conclusions 87:21 concrete 150:6 conditions 135:14,15 conducive 132:19 conference 18:15,19 19:12,14 20:21 24:8 58:12 64:24 81:20 82:6 142:6 143:1 144:3,5 166:11 169:23 conferences 83:9 confirm 76:22 conflict 167:20 congratulate 140:22 Congratulations 162:10 connect 57:15 connection 57:22 CONs 144:22 consecutive 13:1,2,9 consensus 154:21 consequently 62:19 consider 12:11 16:12 35:17 49:3 64:22 147:18 152:18 consideration 95:20 97:7 141:24 considerations 107:2 considered 9:24 11:5</p>	<p>64:11 83:12 153:9 154:23 considering 98:23 consistent 28:9 32:2 constant 16:23 17:2 96:19 Constantino 3:7 5:2 6:3 11:8,17,17 27:4 35:6 56:24 109:7 164:1 constitute 142:8 consultant 71:14 86:4,10 88:1 consultants 76:22 84:13 consultation 83:14 consumer 78:20 79:11 117:9 consumers 114:12 contact 43:2 147:23 contain 78:19 contained 52:9 contemplate 157:1 contemporary 47:18 contest 23:23 context 52:4 97:24 continue 48:10 53:24 58:14 63:17 80:19 80:19 106:18 156:17 continuum 14:3 44:1 49:22 50:1 69:24 70:12 74:2 75:14 76:4 106:21 113:6 113:11 114:7 116:4 contract 85:22,24 86:2,5 88:6 89:11 Contractual 3:9 contribute 43:14 control 113:6 114:11 114:14 conversation 47:6 66:12 134:22 140:16 151:2 157:6 conversion 107:21 108:6 111:16 convert 124:16 converted 124:11 converting 108:12,23 109:2 112:4 convey 59:12 convince 49:4 convinced 120:20 cool 146:11 cooperation 73:8 Coordinator 3:5</p>	<p>corkscrews 34:15 corner 122:13 Corpstein 2:6 6:14,14 124:23 125:16 126:7,20 127:2,10 127:17 128:7,10 129:13,15 130:18 131:11,23 132:3,10 161:15 correct 10:24 33:20 39:17 62:3,4 66:4 68:13 76:23 86:19 97:16 99:4 100:24 101:13 104:9,13 110:2 122:16 135:16 138:16 142:21 171:10 corrected 28:2 correctly 10:15 58:20 96:8 corroborated 33:12 Cosi's 167:2 cost 20:7 79:22 costing 24:9 costs 18:22 19:9 20:6 20:9 71:11 78:19,19 79:3 80:7 87:24 counsel 3:2 6:24 count 47:4 54:14 119:1,3,9 134:20 138:23 counties 121:1,5 country 136:17,19 counts 123:15 county 1:24 121:5 171:2,7 couple 27:18 81:20 126:14 130:2 134:8 134:15 143:21 149:3 157:9 course 17:1,9 131:11 154:12 courses 62:18 court 5:6,7,8,11 8:24 9:2 69:10 77:1,9 80:17 94:9 122:4,7 Courtney 3:3 5:18,19 5:20 9:13 13:14 18:11 26:3 29:2 38:6 81:11 82:22 86:7 89:5 90:6,14 138:7 160:19 164:15 169:16 Courtney's 12:3 69:8 69:13 167:1 cover 87:24</p>	<p>covering 98:24 crafting 156:14 create 50:16 51:3 98:2,5,11 121:6 156:2 created 16:4,9 51:12 66:17,19 75:12 creating 47:18 creation 110:24 credibility 62:23 66:23 Credille 2:7 6:22,22 21:9,15 29:16 31:23 38:11,22 39:2,17 81:14 82:4,9 85:17 91:14,17,20 92:1,8 94:10 96:9,24 97:6 97:10 100:13,24 101:13,19,23 102:14,18 103:2 104:2,11,14,18 137:8 143:13 148:10,16 154:7,11 155:9,13 157:17 158:21,24 161:19 162:17 164:24 165:10 166:8 168:16,18 criteria 137:18 138:22 165:3 critical 159:8 Cross 41:5 crossed 76:15 CRR 1:23 171:6 cruise 165:6 CSR 1:23 171:5 cumbersome 143:8 Cumnningham 110:9 Cunningham 2:8 7:4 7:5 22:9,10 110:8 111:7,14 113:7 114:1 161:23 curious 14:2 current 38:12 45:15 61:23 156:15 currently 45:14 131:20 customer 45:13 cut 18:22 19:8 67:16 98:14</p>
D				
<p>D 4:1 Dale 2:16 11:15 51:23 52:16 53:17 76:20 77:10 86:8 90:5</p>				

156:9 Dale's 80:21 damned 72:2,2 Dart 3:8 5:3 6:5,7 11:9,18,18 134:5 data 3:4 33:12,24 34:3 35:12 36:2,8,9 36:10,14 38:17 41:20 51:17 52:9,9 53:2,6 61:4 110:1,5 123:8 125:20 126:1 126:2,13 130:19 database 123:23 date 4:10 11:21 13:17 45:16 66:20 157:18 157:21 160:5,13,22 162:17 164:16,20 164:21 169:20 day 20:7 31:19 32:15 33:16 50:15 57:4 58:13 76:10 112:5 129:19,21 148:20 149:19 166:1,4,7 171:14 days 62:20 116:9 118:10 deadline 157:16 160:6 deal 34:9 43:16 59:11 dealing 73:13 114:7 deals 75:2 dear 145:13 debt 67:16,17 105:10 December 123:14 decertified 125:11,12 Decertifying 131:23 decide 26:5 39:11 73:23 106:9 decided 16:8 22:7 169:14 decision 35:8 55:18 88:16 94:23 99:24 103:23 107:1,3,3 118:18 119:24 decisions 12:4 70:17 151:16 declined 37:2 dedicated 85:9,11 deep 65:19 deeper 56:20 define 68:1 86:18 99:3,5 121:15 123:4 129:6 134:17 defined 44:2 defining 120:11 140:12	definition 90:8 95:7 123:5,8,23 definitions 27:8 degree 149:20 delay 157:8 delineate 23:8 deliver 46:20 delivery 37:17 demand 50:16 51:12 51:12 52:18 119:15 demographics 46:2 demonstrate 52:17 demonstrated 98:15 denied 164:6 Department 87:5 89:10 depend 98:18 dependent 22:1 105:18,19 depends 96:9 161:9 described 124:8 desire 155:2 desired 58:5,17 desk 125:3,7 detail 30:12 detailed 85:15 87:11 details 73:13 95:1 determination 68:11 determine 73:5 134:17 determined 39:24 determining 50:10 56:11 73:11 development 64:13 98:14 developments 45:20 devices 24:9 devil's 119:1 devoted 138:22 dictate 61:12 dictated 153:15 differ 135:14 difference 123:16,20 differences 123:21 different 15:23 44:16 44:17 46:18,20 47:9 47:15 48:20 53:1,1 63:5,8 80:18,18 86:1,6 87:21 98:23 99:1 109:1,5,10,16 116:17 123:19 128:7,10 132:8 134:15 135:14 138:1,1 146:1 differently 48:9 difficult 21:11 41:21 55:19 77:18 115:9	115:21 120:9 139:20,22,24 difficulty 22:12 digress 82:5 dilemma 137:23 dime 112:10 146:4 150:19 154:8 dinners 62:17 Diplomate 171:18 direct 103:3 direction 37:18 45:9 101:4 112:18 114:5 director 149:13 Dirt 25:24 disadvantaging 121:5 disagree 58:14 74:23 78:6 disagrees 137:11 disappear 102:12 discharges 36:18 37:1 discharging 36:12,12 discretion 114:17 discuss 31:10 50:22 145:22 151:19 discussed 141:9 152:16 discussing 33:15 discussion 11:6 16:4 26:14 33:1 37:4 49:14 56:24 67:4 80:14 81:7 92:13 94:20 95:3,9,12,16 95:20 97:13,14,17 99:7 100:10,20 101:12 102:23 110:17,22 111:16 113:3 120:18 123:12 134:12,14 136:24 138:5 141:11,11,11,11 142:4 145:21 151:6 152:3,13,14 155:6 157:22 163:16 discussions 64:3 88:8,11 103:15 110:16 129:7 150:6 distribute 151:18 divided 121:19 docs 39:3 doctors 61:12 document 27:6 31:6 66:8 94:14 96:2 documented 33:9 77:7	documents 83:7 88:8 148:17 doing 26:22 48:1 51:5 53:22,24 57:9 64:16 68:10 75:3 79:3 80:10 81:11 86:6 89:14 101:8 110:12 110:19 112:21 115:12 146:22,23 155:10 156:7,11 168:13,23 dollars 85:8,11 112:23 DON 125:1 door 74:16,17 149:21 149:22 doors 64:20 dos 97:10 dotted 76:15 downtown 19:1 20:7 21:1,23 166:23,24 downtown's 21:2 drafted 18:1 dramatically 46:1 drawing 46:7 drive 1:11 21:1,1,4,6 32:11,13 35:4,13 50:18 129:17 driven 113:24 driving 21:2 94:22 dropped 32:4 64:10 due 22:12 dynamic 122:24	effort 75:9 eight 151:9 either 21:16,19 30:23 59:6 73:22 79:18 163:1 elected 127:8 election 107:5 166:4 166:7 element 114:12 elements 35:12 66:10 elephant 65:17 eliminates 98:4 eliminating 63:19 64:3 eloquently 153:20 159:5 employed 38:23 39:3 empty 117:16 125:18 126:14 encouraged 150:15 encouraging 121:12 end-of-the-year 123:14 endeavor 49:12 ended 47:9 142:5 ends 15:24 16:1 enforcing 116:21 engage 88:24 engaged 150:10 engineering 167:12 ensure 47:17 68:6 70:2 entire 29:23 85:12 165:4 entirety 49:5 entities 49:21 50:3,7 entitlement 43:24 entity 86:3 enumerated 134:23 environment 75:22 equal 56:3 equation 114:22 equipment 24:10 equity 127:21 erect 121:3 especially 24:24 131:19 147:13 establish 96:3 160:22 estimate 122:18,23 124:1 estimates 123:10,13 123:16 et 127:22 Evans 2:9 7:10,10 19:23 20:2 21:5 23:3,7 36:6,19,23
E				
E 4:1 171:2				
e-mail 14:13 25:6				
e-mails 9:18				
earlier 54:1 62:5 106:21 117:11 124:9 137:1				
early 127:5				
easier 21:1 27:8 128:19 129:24 170:5				
easily 33:7 71:2				
easy 9:8 33:13 38:2 53:7				
economics 27:15 50:16				
economy 70:22 128:8				
educated 137:13 138:3				
effect 111:22				
efficiencies 70:2				
efficient 24:1,4				

37:20 39:1,5,18 40:16,19,24 41:3 43:3 44:18 46:9,12 49:11 50:5 63:13 68:3,6,9 83:17 100:21 101:3,22 104:10 105:16,21 111:13 113:21 118:12 120:4 133:7 133:12,14 134:5 everybody 8:2 21:12 50:22 72:5 82:6 92:14 93:22 124:1 128:19 132:15 150:14 everybody's 80:10 92:23 everything's 37:21 170:2 evidence 52:20 78:16 79:13 120:21 exact 27:20,21 131:4 exactly 47:15 68:8 84:17 85:16 89:2 91:16 99:15 105:9 108:3 154:3 example 27:22 78:22 119:13 145:3 examples 27:23,24 Excel 27:16 excellent 47:3 75:15 92:2 exception 12:10 excess 43:15 68:17 164:8 exclusive 142:10 147:15 excuse 77:1,1,2 exercise 47:22 48:2 50:12 51:7 75:8 exercises 55:15 exist 117:17 122:2,6 122:8,9 existence 50:17 existing 33:21,23 36:9 41:20 45:22 97:5 113:16 exodus 131:19 expand 68:21 76:12 118:1 expanding 100:3 expansion 101:7 119:22 expect 31:4 expense 89:19 expensive 71:13,15	71:21 experience 40:11 41:16 72:19 74:9 87:12 94:1 141:20 156:23 expert 93:2 103:2 experts 92:18,19,20 expire 10:13 expired 10:19 expires 171:22 expiring 12:7,18 13:13 explain 55:24 62:6 expound 110:11 extract 126:21 extreme 140:9,10 <hr/> F <hr/> F 27:17 face 76:13 faced 55:17 127:5 facilitative 145:9 facilities 1:3 33:22 34:7 36:20 38:13 41:21 44:7 46:4 68:7 98:15 100:4 102:1,17 109:13 110:24,24 127:14 128:18 129:1 131:13,21 132:22 facility 36:16,18 44:9 45:12 49:13 50:17 51:10,22 52:12,22 55:1 58:5 68:14,16 68:20,24 75:21 78:16 79:6 80:8 96:3 97:4 98:5,12 111:4,20 115:7,8 116:17,18 121:3 125:18,23,24 126:14 127:21 129:18 fact 49:21 54:5 55:14 94:12 148:1 151:19 factor 50:10 factors 43:14 59:14 fail 78:16 fairly 28:4 114:15 146:24 fake 80:2 fall 58:21 fallen 155:13 falls 103:24 140:11 162:11 families 46:3 family 7:5 22:10	115:17 117:11 FAPR 1:23 171:6 far 36:6,8 39:10 53:12 64:18 110:22 111:21 117:23 148:3 157:7 farther 20:3 fatigued 140:17 favor 8:13 9:4 29:18 143:2 152:10 159:21 170:17 feasibility 65:23 66:9 70:23 74:12 Federal 59:19 110:14 111:18 112:21 Feds 130:24,24 131:4 feedback 19:7 feel 10:5 16:23 18:24 43:1 86:10 91:2 155:5 feeling 145:4 feelings 100:5 118:15 feels 47:14 117:23 fees 71:12 Fellow 171:20 field 92:21 fighting 108:21 figure 73:19 89:22 93:17,17,18 125:17 155:16 160:7 169:17 figures 43:14 file 78:9 filing 78:2 fill 79:7 82:13 119:17 125:6 filled 92:1 filling 15:10 final 77:15 87:6 finance 27:15 32:7 74:15 financial 27:17 54:12 74:12 121:8 financing 65:21 70:22 71:17 75:2 77:6 80:22,24 find 16:16 47:23 60:11 70:7 74:5 140:8 finding 9:19 fine 29:6 63:6 142:2 144:12 158:6 166:12 finished 137:15 firing 34:19 99:21 150:10	firm 157:13 first 5:13 15:23 26:24 31:5 40:9 41:9 58:23 60:13 71:22 74:20 78:2 81:18 82:4 94:1 95:19 100:1 101:10 119:2 119:3 123:4 134:18 134:24 142:17 144:15,20 152:13 160:10 161:2,7 165:13 fiscal 88:5,19 fit 92:21 156:15 fitting 47:13 five 153:4 170:22 fix 117:23 fixing 118:2 fleeing 132:5 flexibility 47:20 floated 107:22 108:7 floating 163:13 floors 25:24 Florina 2:18 6:20,20 72:23 73:2 113:1 114:4,20 153:9 fluid 47:10 focus 118:2 152:2 focused 40:20 focusing 84:8 Foley 2:17 6:18,18,18 37:7 40:8 41:9,14 42:14 43:7 44:22 46:14 53:19 60:17 61:7 62:3,13,20 63:2,6,10,14 66:4 68:13 71:4,5 72:10 74:23 77:15 98:16 126:6 151:14 152:12 folks 38:17 83:1 140:17 148:18 166:3 follow 82:23 85:12 follow-up 146:8,19 foot 38:9 football 62:18 for-profit 146:14 force 54:5,21 55:14 59:16 60:7 78:3 107:12 137:3 151:4 forced 106:22 108:20 159:6 forces 59:21 150:23 foregoing 171:10 forever 47:12	forget 14:2 64:15 156:6 form 26:24 27:21,24 28:16 86:22 100:11 131:6 141:4,8 151:3 151:9,24 160:3 formality 50:13 format 65:9 formation 87:15 formatted 65:11,12 former 149:13 formerly 106:3 formula 34:14 101:17 102:20 104:3,15 forth 10:10 27:3 39:22 forward 13:18 47:20 83:11 92:2,4 93:6 97:14 108:16 111:11 123:12 124:2 129:24 141:10,23 143:5 145:5 150:16,19 151:20 152:4 155:3 155:17 158:9 forwarded 26:20 four 12:3,5 51:2 103:9 124:12 141:6 142:8 142:19 144:8 146:14 150:12 151:24 153:1 154:5 157:9 160:5 167:15 four-member 153:2 frame 152:19 164:15 frames 15:23 framework 150:5 franchise 137:21,24 138:2 139:1,4 Franciscan 7:2 Frank 3:2 6:24 10:15 12:10 14:9 15:7 19:19 29:2 31:18 32:14 92:9 95:15 141:5 142:7,17 150:20 168:18 frankly 47:23 49:1 158:22 fraud 131:1 free 87:12 102:9 frequently 22:11 friend 56:21 front 66:22 107:9 118:2,17 159:14 frustrated 129:10 145:5 full 15:3 31:7 80:9
--	---	--	--	--

96:5 153:18
fun 30:14
function 68:9 147:12
functioning 155:14
fund 107:21 108:6
funds 75:9
furnish 25:10
further 23:8 64:13
 94:20 140:20
 145:20
future 38:18 52:14
 56:13,17 63:18
 83:14 85:4 89:5,24
FYI 169:20

G

Galassi 2:16 5:1 11:7
 11:14,15 25:2 52:1
 52:7,23 53:12 67:22
 69:7,12,19 76:19
 77:4,11 86:7,15,17
 86:20 87:7,17 90:4
 90:11,21,24 98:6
 134:4
game 67:14
games 62:18
gap 91:21 92:1
gaps 82:14
gather 65:1
general 3:2 19:17
 30:20 31:13 141:1
generally 110:14
 126:24 132:24
generate 133:4
generation 33:8
genesis 69:14
gentlemen 103:22
gently 118:7
geographic 58:1
geography 95:7
George 3:10 6:9 52:5
 56:2 60:24 62:9
 109:7
getting 16:15 33:11
 33:13 38:4 41:17,18
 48:19 75:2,6 79:21
 85:6 93:6 105:12
 111:15 116:20
 117:9 119:2 123:2
 128:17 140:17
give 41:24 42:8 51:1
 51:1 52:3 56:22
 66:18 71:22 72:19
 79:14 89:9 119:12
 122:22 127:14,22
 128:2 129:1 131:3

157:1 158:15
given 127:12 128:15
gives 30:22 165:16
giving 16:13
go 5:5,13 12:12 26:17
 26:19 30:17 31:17
 31:19 32:1,22 33:16
 39:19,19 40:5,8
 43:2 44:12 45:10
 50:11,14,21 51:13
 53:21 54:21 55:3,8
 55:9,14 58:13 59:15
 59:17,20 60:5,5,7,8
 60:16,20,21 61:17
 64:23 67:3 70:9
 71:17 73:4 75:10
 78:3 79:11 80:2
 86:11 88:2 89:6,10
 91:11 98:2 100:1,7
 101:4 102:8 105:13
 118:19 121:12
 123:1 127:24
 129:17 133:7
 134:21 136:11
 148:4 153:8 165:13
goal 154:11 156:23
goals 85:14
goes 13:3 23:11,11
 24:6 28:24 34:1
 47:6,8 62:11 67:18
 76:13 87:2 125:5
going 5:23 23:8 26:13
 26:22 27:11 30:15
 30:16 36:15,17,24
 37:14,15,18,21 38:2
 38:5,15 39:12,23
 40:10 42:17,20,21
 43:17 49:15 50:11
 51:9 54:23 56:10
 57:15,23 59:14 60:7
 60:20 61:24 63:4
 65:22,24 66:1 68:19
 69:5 70:18,22 73:6
 73:8,22 75:5,10
 76:11,21 77:7 78:4
 78:9 79:10,11 80:5
 80:6,24 83:19 94:14
 94:15 99:18,19,24
 100:6,7 101:10,24
 105:16 106:8,9,10
 106:11,19,22,23
 107:6,7 108:16,20
 108:21 109:17
 111:10,21 112:15
 114:5,12,24 117:14
 118:4,19 119:4,21

121:23 124:24
 126:21 127:24
 128:3,24 129:18,20
 129:23,24 130:3,5
 131:8,12,15,17,18
 131:18,20 132:11
 132:20,21 133:1
 135:20 151:8,14,19
 152:12,19,20 153:4
 154:20 156:17
 158:19 160:23
 165:5 166:10,17
 167:11 168:14
 169:8,12 170:2
golf 1:11 56:21 62:17
good 5:20 6:9 11:11
 16:15,16,21 19:23
 24:22 25:7 28:4,9
 28:10 30:5,13 34:10
 45:16 48:15 51:11
 63:23 70:2,2 72:3
 87:19 99:16 107:13
 107:13 125:20
 130:2 133:10
 140:13,24 145:22
 154:24 158:18,23
 167:18
gotten 57:1 103:12
government 106:8
 107:1 112:22
gratitude 162:16
grave 58:13
gray 141:15
great 7:20 13:17
 25:21 35:7 48:11
 65:15 105:22
 107:15 146:21
 157:18 162:15
greater 56:3 81:1
Greg 2:13 6:12
 107:17 161:2,4,11
Greg's 161:2
ground 70:8 140:8
group 10:12,15 14:4
 16:20 26:19 27:3
 31:15 33:11 38:20
 40:14 71:7 81:13,24
 88:1 92:20 94:18,21
 97:13 103:3 108:10
 114:10 121:19
 137:15 138:5 141:9
 141:21 143:2,20
 145:20,24 146:1,1
 146:22 147:2 148:9
 149:12 150:13
 151:9 153:10,21,23

154:22 155:1,15
 160:21 162:20
 165:16
groups 147:9
growth 110:24
 113:16
guarantee 38:15
guess 20:4 33:24
 44:19,24 48:2 61:17
 62:14 71:6 73:18
 77:16 83:16,23 84:7
 84:15 85:7,17 90:13
 139:7 146:4 147:6
 149:2
guidelines 47:9,18
Guild 3:9 6:21,21
 86:24 120:23
 121:11,16,18
guys 11:20 73:19

H

half 21:17 66:20
 138:14
halfway 157:4
halt 151:16
hand 40:7 51:16
 54:14 71:22 171:14
handle 157:13
Handler 2:10 5:2 11:8
 11:16,16 169:3,6,10
 169:12,22 170:3,8
hands 81:5 163:5
handshakes 62:17
happen 28:12 39:23
 107:11 142:14
 169:7
happened 55:24
 99:16 142:3 143:23
 154:17
happening 38:16
happens 67:10,11,15
happy 14:15 83:22
 128:4 157:5
hard 16:16 40:2,3
 77:8 79:22 115:21
 139:5 158:9
harder 24:4
hate 21:16 23:9 50:12
hats 63:8
HCR 83:2
head 134:10 156:10
health 1:3 3:4 7:11
 19:12 47:11 49:21
 62:15 75:14 78:20
 89:11 148:11,12,19
health-planning

113:5
Healthcare 6:13 7:5
 22:10
hear 25:6 53:4 69:1
 69:10 107:23
 159:11 169:7
heard 8:14 9:5 29:19
 80:17,18 169:10
 170:18
hearing 13:6
heart 118:16
heartfelt 155:3
help 5:6 9:19 85:7
 86:11 87:18 92:24
 123:3 124:3 129:7
 130:10,15 141:5
helpful 10:5
helps 63:24
hereunto 171:13
hesitancy 147:14
HFS 37:16 110:9
HFSR 5:1 6:11 11:7
 11:14 25:2 52:1,7
 52:23 53:12 67:22
 69:7,12,19 76:19
 77:4,11 86:7,15,17
 86:20 87:7,17 90:4
 90:11,21,24 98:6
 134:4
HFSRB 2:16
Hi 7:4
high 44:8 112:7
high-occupancy 44:6
hike 19:2
historian 47:4
historical 33:24 34:4
 34:6 36:21 38:17
historically 129:24
history 34:8 143:20
hit 102:2 153:4
hoc 150:23 151:4
 153:16
hold 145:13
holders 67:16
holding 103:11
hole 119:9
home 50:21 55:6,8
 110:18 117:12
 143:11
home- 111:20,24
home-delivered
 112:6
homes 7:9 110:14
 112:5 128:3
honestly 52:24
honor 160:4

<p>hook 132:4 hope 16:12 170:1 hopefully 5:22 26:19 27:2 112:21 126:16 170:4 hospital 34:4 36:11 36:17 38:14 39:4 41:18 49:24 55:4 59:14 60:2,8,20 61:15,19 75:18 77:22 81:2 hospitals 33:9 34:1 38:23 41:11,19,23 42:19 54:20 61:11 116:8 127:7 128:4 host 18:18 hour 89:3 hours 59:7 81:9 94:18 124:20,20 huge 128:10 131:13 Humphrey-Sonntag 1:23 171:4 hundred 68:16 117:12 139:19 160:16 hundredth 64:24 hung 138:3 hurdle 112:7 hurt 79:19 hyperlinked 27:7</p> <hr/> <p style="text-align: center;">I</p> <p>i's 76:15 ICF/DD 132:15 ICF/DDs 132:6 idea 13:17 16:21 17:17 19:23 24:18 87:10,22 88:7,14 135:10,20 144:12 144:16 146:20 162:15 ideas 19:6 35:22 106:15 identified 12:2 128:23 154:13 identify 125:17 126:3 126:13 127:24 identifying 127:23 IDPH 3:7,8,9,10 6:10 6:15 116:21 IHCA 6:22 Illinois 1:3,12,24 6:13 32:12 96:18,20,22 101:17 102:3,19 110:18 111:3,12 113:11 125:12</p>	<p>128:14 148:11,12 148:19 155:22 159:2 171:1,7 illogical 104:20 imagine 132:21 immaterial 51:2 impact 145:14,15 impacted 35:9 impacts 145:11 implementation 28:15 implications 149:15 important 12:19 42:8 57:21 64:21 67:20 112:13 138:17 149:11 imposed 160:12 imposes 120:3 inaccurately 131:1 inappropriate 35:13 incidental 71:3 include 16:21 35:11 61:3,8,9 135:23 included 62:10 64:4 includes 30:21 65:24 including 147:13 incomplete 114:16 incorporated 31:15 32:8 increase 96:22 independent 49:20 Indiana 6:13 indicated 54:1 indicating 52:21 77:23 114:19 indication 51:7 indicator 41:15,15 42:9 43:10 54:2 63:16,20,24 80:23 individual 86:4 individuals 17:1 Indoor 25:22,23 industry 37:15 107:10 144:24 147:9 150:3 159:1 industry's 57:14 inevitable 100:12,14 inform 64:18 148:6 information 27:17 30:22,24 31:3 33:11 51:19 53:9 65:1 79:15 82:13,14 83:6 85:2 87:11 90:19 92:2 105:15 114:17 129:4,20 130:10 163:1,18 164:1</p>	<p>initially 33:10 initiated 151:2 innovation 46:15,17 70:4,18 112:20 innovative 106:14 114:21 input 114:13 150:14 ins 120:14 Inspector 19:17 institution 112:2 institutional 136:17 institutions 132:22 insurance 59:18 integrating 113:4 intending 79:15 intent 142:4 intention 111:12 interest 9:20 11:4 interested 22:16 53:14 interesting 37:4 74:8 interests 60:9 148:9 interim 157:5 intermediate 131:24 interpreted 41:10 interrelated 99:17 interrupt 32:20 introduce 5:6 11:12 inventory 43:8,19 103:8 invested 79:9 investment 79:10 invoice 82:23 83:2 involved 54:13 87:15 156:7,11 iPad 37:7 IRS 14:13 issue 31:22 33:8,19 34:9 38:4 55:20 62:11 74:8 95:4,5 95:18,21 98:11 103:15,23 108:11 115:23 116:1 119:14,16 122:24 123:3 134:16,20 149:8 158:4 issue-type 44:6 issued 111:21 issues 35:15 62:7 70:16 76:10 94:13 94:21,23 118:11 129:8 134:22,23 145:8 151:19 item 11:24 18:8 26:7 26:10 81:8,10,11 158:3</p>	<p style="text-align: center;">J</p> <p>job 148:20 jobs 149:19 John 2:18 6:20 72:20 112:24 114:19 join 12:17 joined 11:9 joining 17:23 169:5 Judy 2:4 7:2 9:1 47:1 53:20 74:19 77:17 97:16 103:1,3 105:10 117:20 118:5 124:8 136:24 139:15 146:13 151:1,15 161:20 Judy's 99:13 June 8:19 justification 92:17 justify 80:2 justifying 92:13 93:1</p> <hr/> <p style="text-align: center;">K</p> <p>K 171:2 Kane 1:24 171:7 Kathy 87:4 93:13 163:8 Kathy's 163:4 keep 7:23 10:8 27:5 48:15 71:10 73:17 127:19 141:23 157:2 keeps 103:15,20,21 Kelly 2:8 7:4 22:9 24:7 106:4 110:8 149:6 159:13 161:22 Kenney 82:13,17,20 83:12 key 42:13 kick-start 140:19 kind 14:1 20:10 31:3 49:18 54:24 58:2 59:2,13 64:16 66:17 67:4 74:1 76:14 79:6,6 85:7 88:6 89:22 99:8 103:12 103:24 108:2 110:10 111:10 112:13,15,17 119:24 127:17 132:5 134:14,19 137:3 141:13,14,20 142:11 145:7 146:3 147:4,7,16,17 151:21 156:9 157:13 160:4,19</p>	<p>164:4 kinds 44:5 84:13 knew 81:17 164:22 know 5:14 9:17 12:21 13:14 16:5 19:2 20:2 22:5,6,13,23 23:4,5,8 26:12,21 31:6 33:16 36:24 37:7 38:2 39:9 42:4 42:13,24 43:24 46:20 47:19,21,22 48:5,13,14,16,21 49:12,13,16,20,22 50:9,11 51:14 52:23 53:20,21,22 54:11 54:17,21,22 55:20 55:21,22 56:1 61:13 63:21 23 66:22 70:24 71:19 72:1 74:16,18 75:4,6,16 76:1,9,13 77:16,23 78:3,14,17,19,21 79:5 80:10,20 83:22 84:9,12,14 85:5,8 88:10,22,24 89:19 89:21 92:5,12 93:12 94:2,3 103:5,19 106:13 107:6 108:2 108:9 110:21 111:2 111:16 112:16 113:9,11,20 114:13 115:11,13 116:4 117:6,11,16 118:11 119:12 120:17 122:1 124:1 125:4 125:19,22,23,24 126:9,12,21 127:11 127:20 128:2,3 129:4,11,23 130:5,9 130:13,16,24 132:14,14 133:1,10 134:8 136:6 139:17 139:18,20,23 140:14,15,20,22 141:3,14,15,18,18 141:18,19,22 142:11 143:6 144:11,23 145:2,6,7 145:7 146:19 147:1 147:3,8,8,11,12,16 147:24 148:17 149:18 150:2,12,12 150:14,17 151:7 152:1,20,22 153:11 153:12 155:4 156:5 156:10,21 157:1,4</p>
---	--	---	--	---

163:8,9 166:4 168:1	letters 38:14 40:2	lock 45:22	low 123:21	21:18 22:15,16 24:3
knowing 84:8	41:11,12,14,17,18	locked 48:9	lower 37:19	28:20 34:12 36:8,14
knowledge 80:13	42:7,21 44:19,21	locked-down 140:1,2	LTC 4:5,6,7,8	36:23 37:23 43:5,11
known 74:10	47:22 48:17,19,22	locks 45:5	luck 167:18	46:6,16 48:3,6,24
knows 32:24 36:11	49:5 51:18 52:10,19	lode 28:14	lunch 5:15,16 8:1	53:23 56:8,19 67:18
93:13,22 104:6	53:13 54:20 55:16	lodging 19:4	134:14 140:17	69:14 74:1 76:13
	55:22 56:3 57:19,21	logic 74:10	167:1	79:8,12 80:4,7,10
	59:3,4 61:11,11	logical 32:13		91:14,21 101:2,23
L	62:1,8,10,23 63:19	long 5:10 59:8,10,13	M	102:18 110:13,15
L 1:23 171:4	64:3,10 66:8,24	87:14 94:18 108:12	machines 25:21	110:22 111:7 112:7
lack 40:4 94:23 97:12	71:3 75:7 76:1	111:7 113:18 158:5	major 49:12 50:9	119:10 120:17
lady 89:23 167:13	77:17,22 78:8 79:22	long-term 1:4 12:1	81:19 112:17	121:11,18 123:18
land 102:7	80:11	26:10 27:10 30:19	130:14 134:17,21	126:7 128:1 129:17
landscape 47:11	level 46:2 57:14 97:4	30:21 38:12 46:21	134:23	142:3 144:23 149:4
language 18:1 27:20	109:10 145:3	76:7 79:5 110:15	majority 22:19 39:13	152:22 155:5
27:21	license 104:7 105:7	111:3,4,18 113:5	49:15 53:8 135:9	157:11 160:7
laptops 24:3	134:20	116:12,13 117:17	151:7	162:21
large 103:8	licensed 103:6,9,19	121:3 130:21	making 27:19 116:3	Meaning 136:17
larger 18:19 94:21,21	104:4,5 109:11	149:14	144:12 167:1	meaningful 48:2
94:23 97:12	122:1 125:9 128:14	longer 10:6,20 16:7	maldistribution 33:1	means 60:15 96:5
largest 111:2	128:22 136:13	27:11 106:7	managed 37:17 76:5	99:6 111:19 138:18
latest 109:18	licenses 103:11	look 13:18 19:24 20:7	Manager 3:4	156:17
Laughter 14:6 82:3,8	licensure 105:3 125:2	22:2 33:17 34:21	Manor 83:2 93:8	meant 164:22
118:6,13 162:13	127:13 130:23	35:16 38:10 44:5,13	map 155:14	measures 109:11,12
laundry 27:24	lie 130:22	44:13 48:1 53:3	March 111:23	mechanism 54:2
layer 146:2	lieu 5:4	64:15,17,19 68:22	margin 135:9	83:15 85:6 88:1
LeadingAge 147:22	life 6:17 170:4	71:21 75:13 92:3	market 34:13 39:24	105:12 125:21
148:24 149:2	lights 125:8	94:15 126:12 129:7	44:13 45:5,12,22	Medicaid 105:22
learn 78:12 84:12	likes 135:6	130:3 131:8,14	46:1 50:16 52:15	106:20 110:9 111:4
learned 62:15	limitations 89:3	133:3 138:8 143:3	54:17,17 56:8,10,20	111:5 112:11,22
learner 159:11	limited 92:18	145:6 147:11 156:3	57:19,20,24 61:3,7	113:10 119:14,16
learning 94:1	limiting 12:14	looked 104:24 137:17	61:9,13 64:4,10	126:16,23 131:15
leave 17:5 22:3 81:4	line 5:24 80:4 109:8	looking 10:18 46:3	65:23 66:9 71:16,23	131:20,22,23
81:23 133:8 149:21	145:16	49:21 53:5 103:5	71:23 77:21 81:1	132:24 149:5,7,11
149:21,22	lines 30:24	107:7 108:11	113:23 119:7	149:14,15
leaves 58:16 170:21	list 13:21 14:9,12	114:15 116:7	137:20,20 139:10	Medicare 40:13,14,21
leaving 131:21	27:24 34:1 68:18	137:14 138:21	marketability 74:11	40:23 41:2,4 59:19
left 134:5	listed 14:17 118:18	164:23	marketing 56:3 70:23	76:4 110:23 119:16
legally 59:17	little 9:9 24:8 25:8	looks 13:8,9 89:1	marketplace 39:9	126:16 131:14
legislative-type 126:8	64:13 76:6 77:2	105:24 117:11,13	42:13 45:21 47:19	132:1
lend 65:22	86:1 101:8,9 105:14	145:22 154:24	48:17 59:22 75:1,5	Medicare/Medicaid
lender 65:22	106:21 107:18	lose 23:4,9	75:10 78:4 96:7	131:12
lenders 105:5	110:11 111:15	loses 67:12,14	mass 131:19	meet 27:2 46:4 66:10
let's 18:4 55:6,6,7	113:16 140:16	lost 134:8	Massachusetts	124:22
76:13 93:17 94:5	141:2 144:16	lot 24:7 29:3 30:12	149:14	meeting 1:4 4:4,10
96:17 108:24	150:19 165:17	31:21 44:7 58:16	master 156:15	7:23 8:19 11:23
118:16,17 119:7	170:5	62:24 71:20 74:3	masterful 156:13	23:10 50:6 66:13,16
125:17,19 130:8	live 145:10	80:17 83:22 97:18	materials 26:20	82:11,11 90:16 93:5
134:7 145:22,23	living 109:2 113:19	100:4 109:4 120:14	matter 59:8 75:17,18	94:11,19 120:16,19
154:10 157:20	114:11,22 115:3,4	126:17 129:10	145:19 147:24	124:5 133:11,15
158:9	116:7,15 117:7,13	132:21 136:20	171:9	135:6,21 141:12
letter 39:22 41:24	loans 127:22	139:10	matter's 79:17	142:5,9,15 151:17
42:24 43:4 50:6	loath 127:14	lots 83:7	maxed 66:20	156:9,20 157:8,13
51:6,13 55:20 56:20	located 19:16	lottery 152:23	maximum 12:24	158:10 160:13
58:7 61:19,23 73:19	location 18:16 19:8	louder 77:2	meal 112:6 149:4	164:20,21 165:19
77:22 79:13,24 80:2	24:5 25:16 60:14	love 11:4 139:23	mean 20:24 21:1,15	167:20 168:22
81:2				

169:8,19	103:4 104:1,2,10,11	151:5,7,24 153:1	mix 68:18 69:3 92:22	81:8 83:11 92:2,3
meetings 4:6 18:18	104:14,18,21,23	160:5 162:23 163:6	model 40:24 41:1,4	95:13,13 97:13
18:24 19:8,8 20:20	105:6,7,11,16,19,21	membership 4:5 9:13	100:16	141:23
22:14,20 23:22	107:13,18,23 108:1	9:19 12:23 13:18	models 41:5 132:8	multiple 76:4 124:13
24:15 110:16 144:2	108:11,18,22 109:3	17:19 153:19 160:4	modernization 32:4	multistate 141:19
153:5,10,11 158:14	109:6,15,21,23	memory 109:17	102:15	mutually 147:15
Melanie 1:23 171:4	110:6,8 111:6,7,13	mentality 49:19	Mom 117:13	
member 2:4,5,6,7,8,9	111:14 113:7,21	merit 21:12	money 20:16 25:10	N
2:10,11,12,13,16	114:1 115:10,19	mess 165:18	50:21 51:10 65:20	N 4:1 171:2
5:1,2 6:12,14,16,22	116:2,10,19 117:1	message 25:6	67:13,14 71:1 74:9	nailed 77:7
7:2,4,6,7,8,10,18	117:15,21 118:4,7,9	messes 166:5	78:23 79:9 126:8	names 66:12 162:24
8:6,7,10,20,23 9:1	118:12,14,22 119:4	met 25:12 45:7,19	130:24 132:23	naming 66:12
10:20 11:7,8,14,16	119:7 120:4,7,8,13	method 145:21	139:12	narrative 86:21
13:1,19 14:1,7,10	120:14 121:9	methodology 16:9	month 42:4,4	national 60:10
14:12,19,21,22,24	124:23 125:16	43:9,13,20	months 115:4 152:20	nauseam 58:12
15:14,21 19:23 20:2	126:7,19,20 127:2	Michael 2:2,12 3:7 7:6	152:21	nearly 24:22 94:18
20:4,13 21:5,9,15	127:10,17 128:7,10	8:21 29:23 48:14	moot 59:1	necessarily 17:21
21:21 22:9 23:3,7	129:13,15 130:18	49:8 64:2 72:11	moratorium 95:4,20	33:14 55:11 59:23
23:24 24:14,18,21	131:11,23 132:3,10	80:16 140:22 152:8	95:21 96:5,12,14,15	116:1 126:22
24:24 25:2 28:7	133:7,12,14 134:4,5	157:6,21 167:9	96:17 97:11,17,24	necessary 30:24 59:3
29:14,16 30:2,5,7,9	135:2,5,13,17 136:4	168:5 170:13	98:9,19 99:3,6,6	71:16
30:12,13 31:13,23	136:9,10,11,12,21	Michigan 25:17	100:1,9,11,23 101:6	need 8:4,4,8,18,22
31:24 32:22 33:4	136:22 137:8,12	micromanage 67:20	101:18,24 103:21	10:6 12:19 20:17
35:24 36:4,6,15,19	138:4,10,12,18,24	70:17	106:9 119:2,3,22	29:1,8,13 31:6,10
36:21,23 37:3,10,20	139:14,17 140:3,4	middle 70:8 111:22	120:5,12,18,24	31:17 32:1 34:4,14
37:21 38:11,19,22	140:13,14 142:2,7	140:8	121:6,15 134:19	34:16 38:10 39:7
39:1,2,5,15,17,18	142:13 143:13,19	midst 141:14	135:23,24 136:5,22	40:4 41:15 42:9
40:5,9,16,17,19,22	143:24 144:6,11,19	Mike 6:3 7:14,16	137:1,2,3,13,24	43:5,8,9,10,12,15
40:24 41:1,3,7 43:3	146:6,8,11,16,18	11:17 26:12 27:4,16	139:9 140:2,6	43:19,23 44:9,12,12
44:18,24 46:9,12	147:19 148:10,15	30:16 31:11 35:6	morning 5:20 6:9	46:19 48:17 49:5
47:2 48:24 49:11	148:16 149:1,9,10	52:24 54:7 56:24	11:11 167:3	52:22 54:2,23,24
50:5 52:1,7,17,19	150:8,9 151:23	62:9 64:23 67:24	morph 100:10 116:22	58:2,18 63:16,20
52:23 53:12 57:5,12	152:6,7,23 153:15	86:24 100:15 109:7	mortgages 127:15	64:17 65:21 67:6
58:3,6,9,10,11,23	154:7,11,18 155:9	110:6 136:15	mother 28:14,24 31:3	68:12,22 70:5,10
59:9,10 60:19 61:5	155:11,13,18 156:1	138:11,13 147:20	114:10 138:21	72:12 73:6,6,11
63:13 64:6,9 65:3,5	156:13,21 157:15	150:9 159:23 162:1	motion 8:4,8,11,17,18	81:14 83:13,23 84:2
65:10,14 66:5,6,14	157:17,20 158:11	162:5 163:18,23	29:13 83:11,17	84:14,17,19 85:3,9
67:3,22 68:3,6,9	158:13,21,24	164:1 165:10 169:2	135:7 141:4 142:21	85:15 86:10,14 89:5
69:5,7,12,19,21	159:16 160:2,10,14	Mike's 109:17	151:3,22,23 152:5	89:23 91:9,15 92:3
70:15 72:13,16,18	160:18 161:2,5,7,8	mileage 20:11	170:11	92:13,14 93:1,6
73:24 74:21 76:19	161:12,15,17,19,21	Mills 86:24	motivate 137:6	96:10,11,21 98:4,15
77:4,11 81:14 82:4	161:23,24 162:2,4	mind 10:8 56:19	mousetrap 75:20	99:3 101:17 102:20
82:9 83:17 85:17	162:11,17 164:11	65:20 71:19	mouth 84:22	102:21 104:3
86:7,15,16,17,20	164:14,17,24	minds 50:7	move 70:15 72:22	105:22 106:13
87:7,17,22 88:22	165:10,15,24 166:3	minute 82:5 152:11	76:18 93:6 96:19	107:9 110:19 111:9
89:4 90:4,11,21,24	166:7,8,13,14,22,23	minutes 8:19 143:15	106:15 112:3 115:9	111:10 115:23
91:14,17,20 92:1,8	167:19 168:3,9,11	170:22	123:12 124:2 137:3	116:1 117:8 118:2
94:10 95:23 96:9,12	168:12,13,16,18	minutiae 94:24 154:6	141:10 143:5 145:5	119:18 121:2,4
96:14,24 97:1,6,8	169:3,6,10,12,22	154:8,9	150:19 152:3 155:3	122:12 124:15
97:10,15 98:6,8,21	170:3,8,12,15	missed 32:9 49:16	155:16 158:9 168:9	127:12 128:20
99:2,5,7,12,14,15	member's 10:19	mission 69:20,20	moved 8:6,20 18:16	138:15,22 139:5,11
99:21,23 100:9,13	members 9:23 12:16	misstepped 82:16	29:14 116:12,14	139:11 142:20
100:15,18,19,21,24	12:17,19 15:17,18	mistake 67:21 167:19	141:2	151:1,8,15 154:5
101:2,3,5,13,19,22	15:19 16:6,16 17:8	170:10	movement 140:21	156:1 157:15 158:3
101:23 102:13,14	20:3,5 53:1,4,9,14	misunderstood 85:18	moves 150:16	159:14,16,18,19
102:16,18,24 103:2	64:21 143:1 149:23	116:23	moving 19:7 47:20	160:21,21 163:19

164:9,13,13 170:11 needed 16:8 73:20,20 92:4 94:20 95:3,19 98:17 159:8 needs 28:1,23 44:4 45:7,18 46:4 47:11 61:23 90:8,16 107:10 108:15 125:2 139:22 141:4 141:5 negative 55:22 neither 52:15,15 58:6 Nelson 3:4 6:11 122:12 network 79:6 never 41:17 85:21 104:10,11 114:1 129:19 130:16 new 9:20 14:22 25:16 27:6 28:23,24 33:22 33:22 34:7 36:10,16 39:22 41:21 45:8,11 45:19,20 46:17,19 49:13 50:17,21 51:10 52:22 67:17 73:15 78:12,13 95:10 96:3,3,6 97:4 98:2,5,9,11,15 99:6 99:6 100:3 102:17 110:23,24 111:22 111:23 112:20 113:13,14 114:23 120:3 162:22 163:12 nice 25:20 27:5 89:20 93:9 133:14 nicer 67:11 night 19:4 nitty-gritty 16:14 nodded 134:10 nonbinding 48:23 49:3 58:7 noon 5:15,16 noonish 8:1 normal 15:8,8 94:3 normally 14:24 15:5 not-for-profit 146:15 146:15 not-for-profits 132:6 Notarial 171:14 Notary 1:24 171:6 notes 171:11 noticed 139:1 notion 141:1 November 165:6,12 165:14,20 169:9,11	170:6,7,8 number 9:17 13:1 31:10 38:8 48:3 51:21 52:11 54:12 54:14 60:12 66:19 66:21 87:13 95:3,18 96:16,18 103:6,7,18 105:1,12,17 109:19 121:24 122:2,5,17 122:18,18,22 123:2 123:10,24 125:18 126:14 129:18 130:17 131:7,13 140:18 143:11 145:4 153:21 numbers 61:4,15 114:15 124:5 128:13 129:23 130:2 131:4 133:4 164:1 nursing 50:21 55:6,8 110:14,18 111:4 112:5 117:12 128:3 143:11 <hr/> O o'clock 7:24 166:20 O'Dea 2:9 7:10 objecting 120:6 objection 143:4 objective 71:10 149:12 objectives 150:4 observer 48:22 obtain 38:13 41:22 45:8 66:7 82:13 87:11 90:19 obtained 61:20 obtaining 47:21 obvious 36:9 obviously 34:12 55:10 74:3 98:3 157:14 occupancy 31:22 32:3 34:17 37:5,12 37:22 44:8 74:4 95:16 102:1,2,4 109:10 137:16,21 139:19,21 occupied 68:16 103:10,19 occurred 83:3 October 10:13 12:7 13:17 15:23,24 16:1 18:3,5 156:18,20 157:8,21 158:10,17	160:22 164:23 165:1,1,18 169:8 170:4 off-line 104:3 offer 52:11 55:1 offered 73:15 offering 145:9 office 19:17 54:13 124:11,13 offices 19:1 official 139:11 147:24 Oh 5:20 6:4,5 10:2 18:14 28:21 36:4 88:16 91:12 93:19 98:8 122:7,15 132:3 158:23 163:14 165:7 170:8 Ohio 85:1 87:12,13 100:16 139:2,18 140:2 167:14 okay 5:12,18 6:4,6 7:19 9:8,16 10:23 11:1 13:11,23 14:19 15:15,21 16:11 18:6 18:7,10 19:22,24 20:13 21:21,22 23:6 23:17 24:14 25:9,15 26:4,6,9,18 28:10 29:12 39:5,7 40:19 41:20 42:5,21 43:18 44:10 55:10,16,17 57:2,24 59:1,4,15 64:8 67:6 69:24 70:6 72:16 94:8 97:1 100:18,18 104:4 109:3,6 116:2 119:6 121:17 122:15 131:10 134:7,8 135:17 138:4,12 139:14 142:23 146:17 151:3,10 153:3,13 154:13 158:22 159:24 163:14 164:5,17,18 165:21 166:13 167:4,21 168:11,19 169:22 170:2 old 103:8 oldest 71:7 once 56:9 98:22 115:7,12,12 116:8 123:7,11,22,24 127:24 130:6 134:14 159:20 one's 34:10,11 70:9	one- 15:1,4 one-size-fits-all 32:18 one-year 10:11,12 12:6 13:6,12 15:17 16:12 onerous 92:8 ones 31:12 138:14 ongoing 17:8 open 26:13 64:20 113:17 139:8,9 142:5,9 147:1 153:5 153:10,11 opened 36:17 opening 45:16 openings 9:17 opens 139:9 operate 49:20 132:7 139:18 141:19 145:1 153:2 155:11 operates 85:23 operating 105:14 139:2 operator 65:23 opinion 72:21,24 80:18 98:13 144:20 opinions 80:19 143:6 144:21 opportunities 140:7 opportunity 32:10 43:24 48:11 49:17 62:6 106:5 159:4 opposed 8:15 9:6 29:20 52:20 140:6 170:19 opposite 119:5 139:3 option 17:10 22:24 23:9 80:20 108:14 options 101:10 104:24 109:1 154:23 order 28:17 64:18 organization 39:11 83:2 89:19 167:13 organizations 38:12 119:17 organizing 169:23 origin 41:19 original 47:7 originally 103:5 104:24 147:21 ought 33:6 117:1 outcome 83:23 outcomes 45:14 84:1 85:14 outline 151:18	outs 120:14 outside 47:17 94:3 overall 36:24 overbedded 68:20,20 95:13 101:17 102:19,22 105:24 overbedding 69:17 127:6 overbuild 68:7 overbuilding 69:17 oversight 62:11 oversimplifying 73:12 overworked 81:13 owner 58:19,20 owns 60:2 <hr/> P p.m 1:13 133:17,18 134:3 170:23 package 71:2 154:18 paid 19:4 84:14 85:6 pain 21:2 78:5 paper 66:23 paragraph 12:22 parking 18:21 20:6,8 part 9:21 27:12 30:4 30:10,14,17,18 39:6 55:12 61:1 64:21 71:2,17 75:4 85:18 92:16,21 93:12 98:10 100:19 101:17,23 111:2 114:22 116:4,21,22 142:24 153:1,10 155:4 167:10,11 partaking 81:6 partially 53:10 participate 110:16 143:1,7 participating 22:20 participation 22:17 22:18 particular 66:17 93:9 particularly 22:16 pass 80:5 Pat 7:10 36:7 38:11 43:3 48:5 49:10 115:22 patched 11:13 patient 41:19 124:10 124:18 patients 36:11 39:13 51:21 52:12 64:20 69:2 75:17,19 116:8 PATRICIA 2:9
---	--	---	--	---

Paul 2:6 6:14 124:19 149:4 161:14	89:15 98:7 115:3,13 135:6	97:12 138:17 145:22,23 159:8 169:18	populations 147:13	44:14
pay 71:12 79:10 82:22 83:2,15 85:6 88:17	person's 49:22	piecemeal 114:8	portions 112:5	procedure 69:9
payer 68:18 69:3 105:18,20 111:3	personal 85:24 86:2,5 144:19	pieces 53:2,5 91:23	position 35:10 37:24 89:13 97:21,22 147:24 148:5	proceedings 1:10 11:10 134:6 170:23 171:9
payers 40:20 41:6	personally 47:23 148:7 163:2,9	pike 117:24	possibility 19:7 20:1 165:14	process 15:3 30:1 48:22 54:4,5,16,19 55:3,12 57:13,14 58:17,19 61:2 67:20 68:11 69:22 71:8,15 71:18 73:5 74:13 78:12,15 80:9 82:17 82:23 85:12 88:4,20 89:6 91:11 92:8 94:4,22 95:22 97:23 98:3 102:8 113:12 113:18,21 124:6 128:19 129:16 135:18 138:19 140:18 141:23 143:5 152:4
payments 48:4	perspective 53:15 106:17 111:11 112:15 122:11 130:9	pile 50:20	possible 109:16 130:19	processes 108:8
peak 123:14	Phillippe 2:11 7:8,8 8:6 21:21 23:24 24:14,18,21,24 29:14 30:9,12 40:9 40:17,22 41:1,7 58:23 59:10 60:19 67:3 69:5,21 70:15 72:16 99:7,12,15,23 101:2,5 105:6 107:13 108:18 109:21 110:6 111:6 115:10,19 118:4,9 118:14,22 119:4,7 126:19 135:2,5,13 135:17 136:4,10,12 136:22 138:4,10,12 138:18,24 140:3,13 143:19,24 144:6 147:19 148:15 149:9 150:8 162:4 165:15 166:23 168:11	place 21:16,19 47:12 51:6 64:19 78:3 80:22 91:10 102:7 117:19 125:2 133:14 155:3	potentially 118:8 121:16 126:11	procurement 84:6 85:12 90:23
pecking 28:17	planned 114:6	placement 132:16	potential 34:12,18 56:11 77:23 78:1 105:8	productive 168:22
pencil 167:22	planning 43:18 44:13 54:4,19 55:12 58:16 84:4 147:11 164:8	places 38:8 76:4	possibly 118:8	Professional 171:20
pending 132:13	play 125:12	plan 51:4 54:10,15 74:24 120:3 154:6	predict 52:14	program 4:8 41:2,4 59:19 81:22 87:16 106:15,20 110:5 112:6 113:10 127:8 132:6 135:22 149:14
penetration 61:10	played 56:21	planned 114:6	predictable 138:19	programs 70:5 106:24 110:15
people 5:23 7:20 9:20 10:10 12:6,9 19:2 21:10 22:6 24:1,15 24:16 27:1 38:18 51:1,2 54:5,10,21 54:22 55:2,14,15 59:15,16,24 60:7,13 60:15 66:16 67:12 70:5,17 71:20 74:24 75:6,23 78:23 84:13 87:12,14 99:10 100:4 101:9 103:11 105:5 107:7 111:9 115:2 116:12,14 117:8 119:14 120:5 121:12 126:24 134:8 136:14 137:3 137:6 139:10 142:6 142:8 143:10,11,15 143:16 144:1,8 145:7,8 146:14 147:10 148:4,6 153:21,22,23 154:5 154:17 160:4 163:9	playing 118:24	plus 88:5,19	preface 146:19	progress 74:4
people's 22:1	phone 5:22 24:22 37:6 51:24 83:8 99:11,16 101:16 134:22 154:17 158:19 169:1,5	pockets 65:19	prefer 119:20	prohibit 44:9
percent 31:22 32:3 74:4 101:7 102:1,2 102:4,7,9,12,12 123:20 137:16,20 139:19,21 160:16	phone's 132:4	point 11:2 16:7,18 28:5 29:5 33:5 36:1 42:14,15 43:1,5 51:17 56:14 57:2 59:1 65:18 73:14 74:8 75:16 82:19 84:9 93:5 100:22 101:3 107:4,19 115:1 117:5,10 127:7 130:1 148:2,7 154:22 160:20	premium 23:16	prohibition 98:1
percentage 104:7	phrase 152:2	points 31:17 47:3 48:13 86:21 96:1 97:6 98:23 126:1 127:11	prescriptive 47:10	project 27:1 50:11 52:13 72:1 130:14
period 46:23 56:1 58:2 63:21 72:1 130:14	phrased 74:1	plumbing 25:22,23	presence 16:24	projected 27:17 74:12
permanently 14:5	physical 103:10	plus 88:5,19	present 2:1,15 3:1 5:3 51:19 89:9	projects 33:21,22,23 65:21 137:19 164:5
perpetual 17:19,24 22:17	physically 125:7	pockets 65:19	presented 42:16 52:10 88:10	promise 26:22
perpetually 45:5	physician 60:14 75:19	point 11:2 16:7,18 28:5 29:5 33:5 36:1 42:14,15 43:1,5 51:17 56:14 57:2 59:1 65:18 73:14 74:8 75:16 82:19 84:9 93:5 100:22 101:3 107:4,19 115:1 117:5,10 127:7 130:1 148:2,7 154:22 160:20	pretty 33:7 35:5 37:13 90:17 140:2 145:22 156:24	proper 84:5
perpetuate 62:22	physicians 33:9 38:14,23 39:4,4 41:11 61:20 66:16 66:18 77:23	points 31:17 47:3 48:13 86:21 96:1 97:6 98:23 126:1 127:11	prevent 91:18	proposal 98:10,14 108:13 119:20 141:4 143:3 147:5,8 147:10 160:3,8
perpetuating 49:19	pick 31:12 59:23,24 60:13 132:20 162:17 167:13	policy 37:18 111:11 112:14 149:12 156:7,11	preventing 94:23 97:13	propose 83:10 99:24 118:20 119:21 120:5 135:2,4,19 140:15 141:6
person 10:21 17:22 22:18 27:8 87:23	picking 89:19 93:8	political 108:4	primary 20:9 69:14 69:15	proposed 4:6 9:23 18:13 102:12 135:7
	picture 31:7 42:20 67:23 103:13	poor 126:23	prior 65:1 82:11	proposing 49:8,9
	piece 26:23 76:3	population 32:12 44:3 76:5,5,7 106:1 122:21,22,23 147:12	private 39:4 113:19 132:19	
			proactive 89:16 91:19	
			probably 20:5,20 33:16 42:20 54:13 64:12 99:19 106:23 108:21 127:12 132:13,16 148:23 157:15	
			problem 34:6 38:20 41:17 42:17,17 62:2 63:20 79:1 85:18,20 85:21 90:1 109:24 127:3 130:15 136:8 137:4 145:18 149:6 149:7 151:20 167:23	
			problems 41:18	

64:4,5,19 137:11 protect 58:19 protection 137:21 138:1,2 139:1,5 provide 34:8 42:23 43:4 45:13 57:20 78:16 84:23 139:23 159:1 provided 57:21 79:19 82:14 83:8 123:13 provider 47:21 49:15 87:24 139:16 171:19 providers 41:20 45:15,22 65:19 76:9 141:7,15 142:11 144:18 145:10 148:9 provides 123:9 providing 75:21 79:13 public 1:24 19:12 89:11 111:11 112:14 148:17 156:7,10 171:6 published 148:17 pull 124:24 125:2,6 125:11 pulled 105:2 punishment 72:19 purchase 98:1 105:8 139:12 purchased 98:11 purpose 23:2 70:3 push 39:13 46:16 pushing 48:15 put 10:10,12 27:3 29:24 31:2 39:21,22 48:18 50:19,24 51:9 70:24 74:13 83:10 84:22 90:11 94:15 117:18 125:3,7 130:16 137:9 143:2 146:4 147:6 151:2,5 151:5 154:18 157:18 169:17 putting 27:9	109:7 111:24 113:2 113:8 114:5 120:9 121:19 131:5 138:6 142:3 146:9,24 questionable 76:2 questions 18:8 26:7 35:21 87:20 88:15 91:22 144:13 quicker 141:2 quickly 31:20 109:16 quiet 72:21 112:16 quite 14:7 87:14 158:22 quorum 134:9 144:2 153:13	149:22 157:5 realm 94:3 Realtime 171:19 reappointed 10:21 12:9,20 reappointments 15:8 reason 17:6 20:9 39:6 68:2 72:3 127:19 reasons 45:17 60:1 60:12 70:11 117:18 rebalance 111:18 recall 10:9 14:8,20 31:21 56:23 received 83:6 receiving 31:4 45:14 Recess 133:17 recipients 149:11 recognize 112:14 recollection 143:15 recommend 29:11 39:22 57:3 150:13 recommendation 32:2 38:3 53:5 64:12 65:16 82:12 83:24 141:9 146:5 167:16 recommendations 10:4 27:3 31:14 64:16 141:22 142:12 145:10,20 150:5 152:3 recommended 64:9 recommending 70:9 record 11:6 102:23 134:12 156:6 157:22 163:16 reduce 78:19 reducing 128:17 refer 59:24 reference 86:11 108:6 references 27:7 56:4 referencing 107:20 108:3 referral 36:2,8,9,10 42:7 51:17 52:8,9 57:19,21 60:15 61:3 73:9 76:1 88:9 144:23 145:15 referrals 33:9 34:2,8 38:15,18 42:1 56:12 57:23 66:19 67:7 69:3 73:7 77:24 78:1 referred 51:21 52:12 reflect 128:13	reflected 27:20 32:1 reform 108:8 Registered 171:18 regular 24:2,5 regularly 158:13 regulations 45:21 70:1 111:22 112:4 rehab 46:21 49:16 reimbursement 20:8 20:12 112:11 relation 20:8 relationship 60:3 relationships 62:17 63:1 75:12 reliable 33:14 religious-based 146:15 reliving 99:8 remember 10:14 101:19,21 109:9 111:10 123:20 135:5 144:6 156:8 remembers 8:2 remind 158:7 reminded 12:6 remodel 117:18 removed 27:10 renovation 32:3 102:13,14 137:16 137:18 rent 18:22 rental 20:9 reoccurring 103:21 reordered 27:13 repeat 122:13 repeated 13:6 report 1:10 30:3 61:16 62:12 109:13 131:1 148:14 160:17 reported 1:23 171:8 reporter 5:6,7,8,11 8:24 9:2 69:10 77:1 77:9 122:4,7 171:5 171:18,18,19 Reporters 171:20 reporting 129:21 reports 51:18 52:11 represent 146:14 147:9 148:10,12,21 representation 17:2 representative 6:23 149:2 representatives 16:22 representing 148:8	represents 50:6 127:20,21 reps 22:11 reputation 60:13 request 153:1 requested 27:14 requests 24:7 require 44:20 54:16 77:21 127:9 required 34:17 37:12 44:19 55:7 requirement 32:11 95:21 102:6 requirements 27:11 28:1 94:16 125:5 requires 32:11 66:10 102:6 requiring 62:22 reschedule 20:22 research 52:21 reserve 23:4 residents 145:12 resolution 140:20 142:20 resolve 35:4 resource 89:24 resources 75:9 respect 73:24 respite 109:4 response 8:16 9:7 18:9 26:8 29:21 167:7 170:20 responses 9:22 responsibility 58:18 67:15 149:23 restaurants 18:21 25:21 results 60:11 return 79:9 revenue's 66:1 review 1:3 7:12 12:21 56:9 64:22 reviewed 61:18 83:7 88:12 reviewer 61:2 revise 35:11 revised 28:6 revisions 4:7 26:10 rid 137:22 ride 5:10 ridiculous 59:5 riding 21:23 right 10:2,18 14:13 17:23 22:2 30:5,18 31:5 38:19 39:1,5 39:15 41:3,13 45:23
R				
rabbit 119:9 radar 112:17 raised 47:3 74:8 ramifications 98:20 154:14,19 ramp 130:20 range 42:3 rapidly 48:7 rate 44:8 132:7,24 149:6,7 rates 61:10,10 RDR 1:23 171:6 reactive 89:16 reading 96:8 ready 124:10,14,18 real 31:20 57:10 103:13,18 105:12 105:17 122:22 155:21 realities 150:2 reality 32:19 37:24 43:17,17 63:1 102:21 realize 114:4 really 24:1,14 25:21 29:4 30:16 42:16 43:11,17 44:10 48:1 48:1,8,11,17,23 49:22 54:16 55:2,3 62:23 63:2,2 67:4 67:19 70:5 80:6 82:2 84:7,11 89:20 101:18 103:7,10 111:24 113:20 115:15 118:16 119:9 124:3 127:3 128:21 130:10 132:2 136:1 140:11 145:5,19 147:23				
Q				
quantify 129:6,12 130:12 question 14:22 20:5 21:19 23:24 53:1,8 61:17,22 70:12 73:10 90:18 95:24 97:18 99:13,16				

<p>46:13 49:2 55:23 56:5,18,18 59:22 60:5,18 63:13 66:3 66:5 70:14,19 73:18 75:23 77:21 80:11 81:14 89:7,14 90:10 92:6 100:13 101:12 105:6 109:22 111:6 111:13 112:16,18 114:3,18 116:5,21 117:2,4,15,15 120:7 120:13 121:20 125:16 126:4,5,20 127:10,16 128:9 129:12,13 133:12 134:9 135:12 136:8 136:20 138:20 139:14 149:9 150:8 152:6 153:6,24 154:16 155:24 161:2,5 165:15 ringing 132:4 risk 54:12 117:9 139:12 road 85:3 Roate 3:10 6:9,9 11:11 51:16 52:8 56:6,15 61:1 109:14 110:4 Rodeo 1:11 role 39:10 40:23 68:3 85:16 roll 4:2 5:4 11:22 112:3 159:22 160:1 160:23 room 19:10,13,14 20:8 21:13,17 23:14 24:10 25:1 65:18 76:22 82:6 104:6 114:10 124:11,16 125:1,3,6,8,9 141:7 144:21 rooms 18:16,19 20:21 23:15 166:11 root 73:4 rotation 15:1,5 16:9 routes 87:4 rule 12:10 23:21 27:20,23 28:4 31:15 69:14 101:7 124:24 142:5 rules 3:5 4:7 25:19 26:11 27:7,15 28:11 28:15,16 29:5 30:19 33:1 37:13 43:23 45:4,4 47:12 56:14</p>	<p>56:17 60:6 61:23 70:16 111:23 125:2 125:10 run 33:5 34:18 59:8 59:10 74:6 139:19 139:21 running 102:4 150:2 runs 145:17 rural 32:16 121:1,5</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S101057 1:1 sail 37:16 sat 66:15,18 satisfaction 45:13 satisfied 160:16 satisfy 73:7 saturation 61:10 save 20:16 24:12 25:9 169:20 saw 40:6 51:15 60:11 143:11 saying 44:20 49:7 51:1 53:21 57:1 66:22 68:1,23 69:21 69:23 71:6 77:17,24 78:1 80:1 85:7 94:5 101:19 107:10 110:10 116:23 122:16 137:11 156:19 158:2 166:15 says 10:19 12:24 15:14,16 27:22 28:1 56:21 58:1 75:18,19 159:10 scale 113:13 scales 128:7,11 scary 17:4 104:2 Scavotto 2:12 7:6,6 7:18 8:7,20 13:19 14:1,7,12,19 17:24 28:7 30:2,5,7,13 31:13,24 32:22 33:4 36:4,15,21 37:3,10 37:21 38:19 39:15 40:5 50:15 57:5,12 58:3,6,9,11 59:9 61:5 64:6,9 65:3,5 65:10 66:5 72:13,18 73:24 99:21 100:9 100:18 102:13,16 108:22 109:3,6,15 109:23 116:2,10,19 117:1,15 120:7,14 121:9 136:9,11,21</p>	<p>137:12 139:14 152:6 161:24 162:2 164:11,17 166:14 166:22 168:9 170:12 schedule 8:1 19:13 20:20 26:2 157:12 158:9 scheduled 5:16 23:15 158:14 schedules 22:1 scope 83:19 84:1,17 85:13,21 86:18 89:1 90:8 118:1 Seal 171:14 seat 48:19 second 8:7,9,10,12 8:22,23 29:15,16 32:21 33:8 60:14 142:24 151:5 152:5 152:7 170:14,15,16 Secondly 95:6 seconds 152:9 section 35:8 36:2 sections 33:18 sector 132:19 secured 20:23 securing 105:10 see 7:20 17:2 21:16 22:15 23:11,11 33:6 44:14 48:8,17 54:23 58:1 65:4 69:20,20 78:4 79:2 92:21 107:11 108:24 116:22 117:7,7 120:2,21,21 123:8 128:20 131:9 133:3 141:2 148:18 seeing 39:7 40:11 65:20 133:10 seen 7:18,21 segment 114:16 SEIU 6:12 select 162:22 self-interests 149:20 sell 101:9 seller 94:16 selling 95:10 135:11 135:22 semantics 154:10 send 13:20 14:15 27:1 65:1 sending 49:15 Senior 6:16 sense 27:14 39:16 51:5,11 53:2 61:22</p>	<p>80:11 135:8,24 136:23 137:2 138:2 sent 9:18 25:5 27:5 34:2 36:18,20 84:5 88:9 138:7 163:2 sentence 13:3 14:10 separation 10:24 September 171:15 series 15:24 serious 80:22 serve 13:1 76:3 145:14 served 40:15 service 58:2 85:14,22 86:18 89:1 90:8,20 93:1 96:3 97:4 105:2 112:1,9 137:5 137:5,7 146:23 services 1:3 7:5 22:10 46:21 75:21 75:22 83:19 84:1,17 85:24 86:2,5 92:14 112:6 115:4,16 117:8 159:1 SESSION 134:1 set 14:24 15:5,5 25:1 30:19 32:24 45:4,4 47:9,12,18 60:6 82:17 85:19 98:3 106:11 124:9,20 171:13 setting 37:16 settings 39:14 setup 103:7 seven 15:19 seventh 136:16 shape 28:4 share 31:5 66:11 111:14 sharing 87:20 sheet 160:24 shift 79:3 shifted 39:9 45:16 shoot 38:8 shop 131:9 short 27:5 130:13 short-term 46:21 shorthand 171:5,8,11 171:18 shortly 5:23 show 43:20 144:1 148:5 shows 102:21 side 34:6 59:2 60:4 70:1,4 79:18 106:3 106:3 110:23,23</p>	<p>113:4,5,10,19 sidebar 140:16 sides 72:6 significantly 32:19 37:23 123:19 signs 87:4 silo 49:19 similar 86:23 102:7 similarities 85:2 simple 73:17 simpler 26:23 simply 35:5 41:15,24 93:24 127:6 single 44:16 124:16 144:24 sink 159:10 sir 53:11 69:11 144:10 sit 54:5,21 118:10 134:7 site 39:22 49:23 55:5 55:7 sites 37:1 39:12,20 sitting 7:17 12:3 44:7 46:7 68:15 110:22 situation 69:4 91:20 102:19 108:5 127:5 six 7:24 15:17,18 115:4 152:20 sixth 136:16 skewed 127:12 131:12 skilled 37:1 39:12 49:23 110:23 115:6 115:14,16 116:18 117:2,8 131:24 slate 156:2 slightly 47:15 sliver 40:14 small 82:9 snapshot 122:24 snapshot-every-year 126:1 solely 138:22 solution 60:22,23 155:4 156:14 solvable 132:23 solve 118:9 119:19 137:4 149:5,7 solving 117:24 127:3 somebody 7:17 15:8 42:8 67:5,12,14,17 67:21 78:22 79:4 94:3 101:15 108:15 118:22 120:3 138:10 145:17</p>
--	---	--	--	---

somebody's 15:10 79:10	87:13 109:10,11 116:13 124:13	street 68:17	support 52:21 58:7 73:9,10	134:18 150:22 163:10,14
somewhat 75:8	138:21 168:23	stretch 130:23	supporting 79:18	talked 31:19 51:11
soon 125:11	169:16	strides 48:15	supportive-living	73:16 75:5 82:21
sorry 46:11 54:8 69:11 98:8 108:1 122:4 133:7 149:6 160:2 163:17 164:10 165:10 168:12	staffing 22:21	strike 56:22	113:10	102:3 106:21 108:4 117:11 129:5 151:24
sort 22:17 101:24 105:8 111:9 112:3 113:17 131:5 142:4 142:13 147:8,11	stand 162:19	strong 118:15	supposed 28:18 55:13 68:10 78:18 125:13 153:22	talking 11:24 32:24 44:18 58:24 59:7,13 88:7 102:16 110:19 112:4 122:19 128:4 130:11 137:4 149:4 150:24 153:23
sounds 89:4	standards 34:17 37:5 37:12,22	stronger 58:8	sure 27:19 32:2 36:5 51:8 52:2 66:14 69:16 72:5 77:4 90:18 93:22 98:8,24 99:2 106:11 115:3 129:22 130:4,19 131:18 137:13 162:11	talks 12:22 32:16 36:2 153:12
source 105:18,20 111:3	standardized 24:10	structure 98:19 99:1 153:16	surge 140:5	target 160:5,13
sources 123:8 145:15	standards 34:17 37:5 37:12,22	structured 50:2	surgery 116:12	targeted 113:15
south 21:3,22	standing 79:17	struggling 12:16	surrounding 109:5	task 150:23 151:4
space 18:20,23 23:4 23:9 103:10	start 5:19 26:23 49:13 69:11 91:11 135:18 135:19 156:2 161:2	stuck 80:5	survey 60:10 115:12 115:15 129:16,19	technology 24:13
speak 13:4 25:7 42:6 46:19 50:7 77:2 98:7 113:20 121:23 143:16 144:16	started 16:5 33:15 56:24 66:13 96:15 103:5 136:24	studies 70:23,23	surveys 115:2	teleconferencing 25:1
speaking 61:1 83:5 120:24 122:10 147:20	starting 86:13	study 34:13 52:15 54:17,17 57:19,20 57:24 61:8,9,13 64:11 65:23 71:16 71:23,23 77:21 79:14 82:15 88:13 91:22,23	swamp 34:15	telephone 2:10,16 3:7 3:8 11:10 99:8
speaks 112:20	starts 28:13 85:13	stuff 34:4 132:5 135:7 144:13 164:4	sync 37:14,24	telepresence 23:5
specialized 27:10	state 16:22 17:7,8,18 19:15 22:11,16,19 23:21 25:10 41:10 52:11 61:8,12,14,16 61:17 84:6 85:23 87:2 96:20 102:5,20 102:22 103:9 105:1 106:3,3,16,22,24 110:13 112:1,11 113:15 118:10 128:20 132:18,22 136:7,13 139:18 147:13 149:8 150:3 150:4 155:22 159:2 171:1,7	sub-sub-subcomm... 167:17	system 38:12 68:1 79:2 112:23 117:22	tell 36:17,19 59:19 61:9,10 147:19
specific 38:14 39:19 53:5 92:13 132:11 150:22 151:4	statewide 126:15	sub-subclasses 76:6	systems 3:4 86:11 111:19	telling 86:9
specifically 32:24 52:18	stating 97:21	subcommittee 1:4 4:5,6 9:12,18,21 10:20,22 12:1 13:2 44:4 64:17 82:10,21 83:13 84:1 89:7 94:12 140:23 142:18,19 144:12 144:17 146:22 149:24 150:4 151:20 152:1 160:3 163:7	tab 167:13	tells 60:20
speculatively 52:11	statistical 122:10 123:18	subject 119:2	table 5:5 83:11 93:11 93:20 94:13 98:12 120:6 151:3	Ten 166:20
spend 58:24 59:6 78:23	statistically 122:20 123:18	submit 20:6,11 37:23 84:3 87:3	tables 94:19 95:4	term 10:11,11,11,12 10:19 12:17 13:6 15:3,4,9,10,17,18 15:19,24,24 17:7
spending 63:12 75:9	status 105:3 157:10 158:12,16,17 160:16	submitted 163:1,19 163:21	take 21:5 27:19 33:5 33:17 34:20 38:10 40:20 43:1 46:19 50:12 51:19 52:19 53:9 56:2 64:12 72:8 74:6 76:11 90:15 91:10 97:20 97:20 99:20 103:23 108:15 110:10 118:16 119:20 125:21 130:7 131:8 133:3 147:7 154:12	terms 10:10 12:7 13:1 13:2,9,18 15:2,5 16:1,4,20,23 24:15 41:16,19 42:15 46:2 46:2,3 48:14 53:21 57:19 59:15 63:18 69:17 71:7 77:16 106:6,8 110:13 145:9
spent 31:21 117:22	statute 92:24	substitute 63:19	taken 51:6 106:10 133:17 171:11	terrific 48:14
spiral 34:15	statutes 92:19	succeeds 146:22	talk 54:22 64:23 82:5 84:24 87:12 88:15 95:19 103:6 108:17 115:2 119:8 122:16	test 66:10
split 131:17	stay 10:16 35:16 96:16,18 157:20	successful 68:2 75:11 76:12,14 155:20	takes 26:21	TESTIMONY 171:13
spoken 83:1	step 108:15 135:23	suggest 23:3 64:6 119:5 151:17 157:17,18	talks 26:21	Texas 70:9
spot 85:4 148:23	sticks 65:21	suggested 32:15 134:19	talk 54:22 64:23 82:5 84:24 87:12 88:15 95:19 103:6 108:17 115:2 119:8 122:16	text 25:6 27:14 30:21
Springfield 19:3 21:10 22:22 24:16 166:3 170:22	stop 28:20 70:18	summary 27:5		thank 5:8,11 7:19 8:21 9:2,3 29:23 30:6,7 35:19,19 53:11 72:10,10 76:16 77:9 80:15 81:6 89:18 93:3,7,8 122:7 133:9 151:12 159:13 167:9,12,15 168:22 169:4
Springwood 35:8	store 74:15	supersede 96:13		
squad 34:19 99:22 150:10				
SS 171:1				
staff 3:1,6,7,8,9,10 6:10,11,15 7:13 22:19 33:12 41:10 53:4 55:21 61:14,18 63:11,15,22 76:21				

thanking 30:9	122:5,17 123:3,11	149:18 162:3	137:1	158:13
Thanks 53:17 77:10 169:23	123:22 124:8,19	163:22 168:6	transfers 139:9	two- 15:2,4
theory 55:9	126:11,23 127:4	Tim's 74:1	travel 20:3,6	two-hour 81:15
thing 5:13 10:8 26:24	128:12,16 129:3,4,6	time 7:23 9:21 15:23	traveling 22:13 24:3	two-month 156:17
31:5 38:4 48:11	129:10,15 130:15	25:12 26:19,21	tricky 126:17	two-plus 94:2
57:20 59:12 62:15	130:18 134:16	29:24 31:21 32:11	tried 74:4 82:1 127:4	two-year 10:11 15:18
65:17 66:9 67:10,11	135:24 136:14,15	32:13 35:5,13 38:24	142:14 159:20	type 113:17 126:1
80:11 88:12 101:9	136:15,23 138:3,6	42:14,16 43:1 47:5	trigger 153:5	typical 85:22
112:20 117:7 126:1	138:17 139:10	47:23 53:23 58:24	trip 31:9	typically 40:22
126:8,22 127:18	140:7,15,24,24	63:12 64:24 69:1	true 41:7 55:11	
143:22 148:5	142:10,13,16,18,24	72:8,9 75:8,9 77:8	115:10,19 121:9,10	U
154:20 155:23	143:10 144:11,21	77:19,20 82:2,19	140:3 171:10	Uh-huh 58:3 60:17
157:3	145:2 146:21,21,21	87:14 90:15 94:1	truly 43:11 55:2	61:5 86:15 109:21
things 34:16 35:3,16	147:6,15,22 148:22	99:20 102:3 107:4	truth 130:23	116:24 118:21
48:5 57:16 70:3	148:23 149:17,18	108:12 113:12,18	try 23:10 39:12 45:2	126:19 148:15
86:6 94:19 99:17	150:1,17,18,23	115:1,14 122:24	68:6 70:1,17 84:4	166:21
106:10 112:21	151:1,15 153:15	123:1,1 125:5	93:23 94:15 106:16	unanimous 162:9
118:18 130:11	154:4,19,23 155:2,7	130:14 148:5	107:11 117:2	unanswered 91:22
140:24 141:14	155:21 156:4,6,9,23	152:19 157:1,5	119:21,24 120:2	unbelievable 21:3
154:12 158:3	159:7,9,16,22,24	158:20 164:15	141:10 149:22	unbiased 123:9
160:20	160:10 162:14	165:17	154:22 166:10,17	uncomfortable 91:23
think 8:2 10:8 11:3	163:22 168:21	time-consuming	169:17	underbedded 95:14
12:14 14:17 19:16	thinking 18:2,18 32:6	77:18 78:5	trying 16:14 46:16	104:17,19,19
19:23 20:16 22:19	78:21 93:11 114:20	times 55:15 78:6	47:14 56:16 57:6	undercurrent 112:15
23:1 24:6 26:23	147:3 158:18	119:10 148:1	59:23 69:16 70:7	underinsured 69:16
28:3 29:6 33:5	thinks 107:10	156:12 159:12	71:10,20 73:4,5,16	understand 12:4 52:2
34:18,21,21,22 35:4	third 60:14	timing 38:3	78:12,14 84:23	53:20 74:24 76:10
35:5,6 38:1,9,19	thought 16:21 23:20	TIMOTHY 2:11	86:18 89:13,15	76:11 78:15 79:21
41:9 42:7 44:4,18	74:19 81:17 85:5,18	tiny 40:14 101:9	91:17 92:3 97:8	79:23 82:16 85:8
44:20 45:3,6,11,18	91:5 152:16,22	today 21:2 40:15	98:24 112:20	113:8 116:19 129:9
45:24 46:15 47:2,4	156:24	47:19 48:6 51:5	117:22,22 123:10	130:10,15 144:23
47:16,16 48:5,8,13	thousand 102:22	75:16 84:8 85:5	124:6 130:20 142:9	144:23 145:8,11,14
49:11,13,18 50:1,18	136:18,20	96:15,17,24 104:15	146:4 147:6 150:17	145:15 149:10,15
50:23 51:9 52:24	thousands 104:20,20	115:5 135:23 156:3	150:18 160:7	159:12
53:7,8 54:6 55:3,5	three 10:1,2,3 12:2,5	156:12 158:4	169:15	understanding 71:10
55:15,23 56:6,9	45:15 60:12 103:9	today's 70:21 104:5	TUESDAY 134:2	79:12 80:13 88:7
58:9,11 59:1,2,3,7	123:13 124:12	149:9	turn 37:8,11 129:22	140:5
60:8 61:14 63:22	125:19 152:21	told 93:16	131:7	understatement 9:11
65:15,17,24 66:9,24	157:9 159:12	tomorrow 48:7	turning 61:24	92:11
69:12 73:15,21 74:7	three-year 10:11 15:2	169:20,21	tweak 28:11	undertake 54:11
74:8 75:7,10 78:1	15:4,4,9,18 16:22	ton 20:16 24:12 26:13	tweaking 101:8	undertaking 130:14
78:17 79:1 80:11,17	123:15	tool 54:18 63:10,14	tweaks 27:18	underutilized 68:24
80:20,23 84:10,10	three-year-term	63:23	twice 78:2	unfortunately 94:4
84:21,23 89:12,13	16:20	topic 144:1	twist 47:15	union 155:10
89:21 90:1,6,7 91:9	throats 107:12	total 40:14 77:19	two 6:1 9:18,23 13:2	unit 66:17,19
92:6,14,18 93:1,7	throw 141:24 152:23	96:21 136:12	13:9 16:15 20:20	university 82:15
93:15,19 97:16	throwing 65:20	totally 45:24 46:8	21:3 23:11,13,21	83:21 86:1 88:13
98:10 100:15 103:4	Thursday 166:9,16	86:6 91:12,13	24:8 31:17 33:18,20	unused 122:1,17
105:4 106:14,22	tie 58:4 68:8	touch 35:16 72:15	35:3 50:3,7 51:1	123:4,6 124:7,7
107:9 108:15	tied 95:6 127:15	traditional 33:24	59:7 80:18 81:9	125:15,24 128:17
109:12,15,17,19	Tim 7:8 29:13 58:22	102:8	86:24 90:15 93:5	unusual 139:7
111:9 112:13,19	63:11 67:2 69:18	train 21:5,23	94:18 103:22	update 4:7 26:10 29:3
114:9,24 115:24	72:7 74:1 75:15	transcript 4:4 171:11	107:14 115:13,14	138:7
117:1,5,6,10 118:1	78:22 102:9 135:1	transcripts 8:18	125:19,23 129:5	updated 27:2
119:19 120:8 122:2	137:11 141:8,19	11:23	132:13 144:13	upgrading 131:24
	145:3 148:14,23	transfer 135:11,21	147:15 152:9 155:6	urban 32:16

Urso 3:2 6:24,24
 10:17 12:13,21 13:8
 14:14 15:12,16,22
 17:18 19:21 30:6
 92:10,12 98:18,22
 99:4 100:12 121:14
 121:17 122:12
 142:22 150:21
 151:11 152:11,14
 152:18 153:4,11
 154:1,4,10 159:22
 161:1,4,11,13,16,18
 161:20,22 162:1,3,5
 162:7,9 168:17
usable 103:20
usage 128:14
use 17:17 19:17
 33:23 34:3 42:1,3
 52:19 71:14,14
 84:14 90:1 92:17,19
 92:20 96:2 98:11,13
 109:11,11,12
 112:22 123:23
 143:20
useful 85:2 128:18
 129:4
useless 47:24 75:8
uses 46:14
usually 41:16 67:15
utilization 37:19
 68:23 127:13
utilize 39:12 83:13
 92:5
utilized 95:17

V

vacant 15:10
valuable 54:18
 144:20
value 67:1 69:22
 105:8 127:20
variance 44:1,1,2,6,6
variances 43:22 44:5
variety 22:19 60:1
 70:10
various 92:17
vending 25:20
vendor 82:18 83:12
 85:19,23
venerable 39:11
venue 26:7
venues 4:6 18:13
versus 57:19 95:10
 128:14
vetted 157:1
Vice 2:3 7:15 17:6,13

17:21 18:13 19:10
 19:19,22 25:24
 106:2 107:14 108:9
 108:19,24 109:4
 112:19 113:23
 114:24 115:11,20
 115:24 116:3,6,11
 116:24 117:4
 118:21 158:15
 162:8 165:16,21
 167:23
video 24:7
videoconference
 19:15 24:16
videoconferencing
 19:11,20 20:18
 22:24 23:15 24:22
 169:13
viewing 110:14
virtually 34:24
visitor 2:17,18 6:20
 6:21
visitors 153:9,14
voila 45:15
voluntarily 128:2
 129:1
voluntary 127:7
volunteer 10:10,16
vote 145:23 151:6
 159:17,18,19
 161:13 166:4
voted 141:10
votes 151:9
voting 153:15
vulnerable 147:13

W

wade 65:7
wait 10:6 18:3,4 26:4
 28:12 30:2,2,2,3
 106:7,18 110:7
 152:11 158:5
waiting 9:22 68:18
walk 93:11 116:16
 117:6
walking 74:15
wall 65:20
want 13:14,20 18:1
 20:21 22:3 23:14
 28:11 29:23 31:11
 34:20 35:12,17
 39:18,19,24 46:19
 48:6 50:1,2,21 53:4
 53:19 58:23 59:6,16
 60:5,6 61:11 62:22
 62:22 63:18 70:4,5

70:6,9 72:5,8,17
 74:2,9 75:3 76:17
 77:13 79:2 80:7
 81:16 84:22 85:11
 89:8,18 92:10,16
 93:7,8,10 106:4,12
 113:1 116:22 125:6
 134:18,24,24
 137:13 143:7
 147:16,17 151:3
 152:18 153:7,16
 155:15 158:5
 162:18 163:18,24
 165:13,22 167:12
 167:15
wanted 16:19 18:24
 19:6 28:9 47:8
 51:17 57:18 59:12
 93:22 107:20
 114:10 121:2 158:6
wanting 37:10 76:14
 119:16
wants 60:8 61:8
 72:18 76:12 111:18
 132:18 152:15
 163:10,14 167:5
Wasatch 108:10
Washington 18:17
 19:1 166:19
washrooms 8:2
wasn't 38:21 47:10
 85:20 86:1 100:22
 119:13
waste 72:8 77:19
water 25:10,11,13,14
 25:17
Waxman 2:2 5:4,9,12
 5:18 6:4,6 7:14,14
 7:16,19 8:8,11,15
 8:17,21 9:3,6,8,15
 10:14,23 11:19
 12:15 13:5,11,22
 14:4,23 16:2 17:4
 17:14,23 18:4,7,10
 20:24 21:6,14,18,24
 22:5 23:12,17,20
 25:4,9,12,15,18,22
 26:2,6,9,16 28:19
 28:22 29:8,12,15,17
 29:20,22 30:15
 35:23 40:6 41:8
 42:11 44:23 45:23
 46:11,13 47:1 48:21
 49:2 50:4,14 51:23
 52:16 53:11,17 54:9
 56:2,16,19 57:8

58:22 60:24 61:6,21
 62:14,21 63:4 64:2
 64:8 65:13 66:3,11
 66:15 67:24 69:18
 70:14,19 72:7,11,17
 72:20 73:1,18 74:7
 76:16 77:10,13
 78:10 80:16 81:16
 81:21 82:1 84:10,21
 87:9 89:12 90:13
 91:4,12,16,19,24
 92:6,9 93:3,15,19
 93:24 94:8 99:10
 101:1,15,21 102:11
 103:1,14,17 104:9
 104:13,16 105:9
 107:15 110:7
 112:24 114:3,9
 115:22 116:5 117:5
 117:16 118:3,24
 119:6 120:11
 121:22 122:8 124:4
 127:16 129:3,14
 130:8 131:10,21
 132:2,9 133:9,13,16
 134:7,13 135:4,12
 135:16 136:2
 137:10 138:16,20
 139:15 142:16,23
 143:18,22 144:7
 146:7,10,12,17
 148:22 150:11
 151:10,12,21 152:5
 152:8,16,24 153:6
 153:24 154:3,16
 155:7,24 156:4,16
 157:11,23 158:8,18
 158:23 159:7,19,24
 160:9,12,15,19
 161:3,6,9 162:6,10
 162:14,18,22 163:4
 163:8,22 164:2,18
 164:21 165:2,5,8,12
 165:22 166:2,10,16
 166:21,24 167:4,8
 167:21 168:1,5,14
 168:19 169:4,7,11
 169:16 170:6,9,13
 170:16,19,21
way 8:3 15:20 32:14
 32:17 34:10 48:10
 48:20 59:6 71:19
 73:22 79:12 85:22
 86:6,16 87:5 88:15
 88:17 89:14,15
 97:22 99:1,5 108:20

114:21 121:6
 124:14,17,24
 125:12,17 126:12
 127:23 128:12,16
 129:16,19 130:22
 131:2,15 135:18
 140:8,9 144:21
 154:14
ways 73:22 111:8
 112:21 126:18
 131:14
wayside 58:21
we'll 5:19 7:22,23 8:1
 19:24 20:14,22 25:7
 26:5,23 42:24 72:14
 74:6 89:8 133:10
 145:13,15,24
 154:22 155:5 158:9
 158:11 161:1
 169:15,19,20
we're 16:15 28:3,9
 30:3,8 31:16 32:2
 33:13 34:22,22
 35:10 37:23 38:5
 40:11,20 42:17,20
 44:18 47:14,17
 56:16 57:6,9 59:13
 60:7 63:4,7,11
 65:17 68:10 69:16
 70:7,18 73:12 74:3
 75:16 77:24,24 81:8
 84:23 85:7 87:5
 89:14 90:1 93:4
 94:5 99:18,24 100:6
 100:7 102:3 105:14
 105:24 106:8,14
 108:16,20 111:17
 112:4 114:15
 117:22,23 118:19
 119:21 126:23
 127:13 128:4
 129:18,19 130:5,20
 133:16 142:9
 150:17,24 156:7,11
 156:17 164:23
 165:5 168:14,16
 169:15
we've 11:21,22,23
 12:16 16:14 34:9
 37:16 41:17 48:10
 53:22 74:3 113:14
 113:15 119:10
 129:5 130:11
 144:22 145:3 152:8
 154:23 155:15
 158:13 164:3

<p>Wednesday 166:8 168:15 week 165:1,4,13 166:1 weeks 81:20 157:9 weigh 106:4,5 weight 56:7 welcome 5:7 10:4 11:19 77:12 169:6 170:1 went 33:10 111:22 115:3 weren't 47:13 94:4 99:11 143:11 West 18:17 19:1 166:19 whack 32:19 WHEREOF 171:13 white 141:16 wide 113:13 135:9 WILLIAM 2:3,5 willing 34:20 50:8 76:11 120:20 124:3 139:12 142:1 163:11 win 151:8 Wing 126:6 wise 120:1,2 wish 13:13 31:12 162:12 withdrawn 164:6 witnessed 143:9 wonder 34:3 wondering 31:11 107:20 108:2 144:15 word 42:1 46:14 words 84:22 work 23:8 26:13 27:3 28:18 29:24 30:12 31:1,14,18 33:11 38:20 41:5,5 44:15 47:22 50:8 63:18 75:3 81:13,24 82:12 82:20 83:3 88:24 89:10,22 90:16 91:3 91:7 93:6 94:22 96:4 102:8 133:5 135:20 137:15 138:5 140:6,23,24 141:13,20 142:11 143:20 144:8,21 146:2 153:20,22 160:21 165:17 167:9,10 168:2,4,8 168:20</p>	<p>worked 27:4 42:12 88:21 158:8 working 39:10 42:15 57:10,13 94:24 111:17 137:15 144:12 146:22 147:2 157:2 167:2 workings 9:21 works 107:11 130:22 144:14 worksheet 27:16 world 51:5 104:5 worry 21:9 119:8 worst 67:10,11 157:3 worth 158:22 159:3 wouldn't 15:7,7 17:16 71:19 91:1,6 112:10 149:8 Wow 132:9 wrap 33:4 wrapped 10:7 33:6 writing 50:24 66:23 91:2,7 wrong 33:19 45:9 87:23 117:19 142:17 170:9 wrote 143:13</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 4:1 66:19 105:1</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 13:22,24 20:13 21:14,18 29:10 32:22 36:4 44:22 53:13 56:15 57:7,17 61:7 62:13 64:7 67:23 90:21 91:6 94:7 97:9 98:21 101:1,22 110:4 118:4 121:23 122:9 122:12 132:3 143:18 146:6,11,18 157:11 159:13 161:6 165:5 168:4 168:11 170:3 year 10:9,13,21,24 12:8 13:3,7,15 14:18 16:13 37:1 60:12 88:5,19 109:18 115:12 119:23 120:5 132:13 years 16:15 37:11 45:15 47:8 62:16 71:9 94:2 105:1</p>	<p>115:13,14 117:12 117:22 118:10 125:19,19,23 126:15 129:5 130:2 139:21 140:18 143:21 145:4 155:6 Yep 118:12 136:21 York 67:17</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 96:6</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>084-004299 171:5</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 30:4,10,14 123:20 143:14 164:6 167:10 1:27 1:13 170:23 10 42:4 101:7 102:9 116:9 143:14 10:08 1:13 11 143:14 1115 107:22 108:7 1125.540 36:5 1125.580(b) 33:2 12 143:14 12:21 133:17 12:51 133:18 134:3 13 143:14 14 116:9 143:14 15 143:15 144:2 16 143:15 162 4:9 164 4:10 17 143:15 170 4:11 18 4:6 164:7,12 19 1:13 16:6 134:2 1st 10:13 15:23,24 16:1</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 30:17,18 42:4 143:14 167:11 20 125:24 132:12 144:3 153:22,23 154:17 200 24:9 68:15 2001 1:11 2009 163:21 164:16 2014 1:13 15:23 134:2 164:16 171:15 2015 15:24 2016 16:1 2017 171:22</p>	<p>21 164:8,13 22nd 165:6 24 124:20 24th 8:19 25 132:12 2500 82:21 26 4:7 28th 165:1 29 164:11 294 21:2</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 42:4 143:14 164:6 30 62:16 132:12,13 142:6 30-minute 32:11,13 35:4,13 30th 165:1 31 171:22 31st 123:14 326 132:4 39 164:6,7,10,12 3rd 165:6,12 171:14</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 11:24 18:8 24:11 42:4 143:14 43 164:5 48 124:20 4th 165:23,24</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 4:2 18:11,12 26:10 42:4 143:14 5th 166:2,8 167:24 168:2,3,4,8,15,16 168:20 169:8,11 170:4,6</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 81:8,10,11,21 143:14 6/24/14 4:4 60490 1:12 69 18:17 19:1 166:18 6th 166:2,8,12,13,14 166:15,16 167:20</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 42:4 143:14 70s 130:21 78 102:4</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 4:3,4 143:14 81 4:8 83 143:10</p>	<hr/> <p style="text-align: center;">9</p> <hr/> <p>9 4:5 143:14 90 31:22 32:3 74:4 102:1,2,7,12,12 137:16,20 98 139:21 99 139:21 9th 165:1</p>
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