STATE OF ILLINOIS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

LONG TERM CARE ADVISORY SUBCOMMITTEE

525 West Jefferson Street, 2nd Floor

Springfield, Illinois 62761

MEETING OF THE LONG-TERM CARE ADVISORY SUBCOMMITTEE

The meeting of the Subcommittee was held by video conference on November 5, 2014, scheduled to begin at 10:00 a.m.

MEMBERS PRESENT:

Chairman Michael Waxman

Vice Chairman William Bell

Alan Gaffner

Charles Foley

Tim Phillippe

Michael Scavotto

Cecilia Credille

Judy Amiano

Steve Lavenda

John Florina

Joe Ourth

Bill Casper

Kelly Cunningham

Neyna Johnson

Carolyn Handler

ALSO PRESENT:

Frank Urso - HFSRB Counsel
Claire Burman - HFSRB Staff
Nelson Agbodo - HFSRB Staff
Ann Guild - HFSRB Staff
Courtney Avery - HFSRB Staff
George Roate - IDPH Staff
Michael Constantino - IDPH Staff
Jason Speaks - LeadingAge

Court Reporter:
Jennifer L. Crowe, CSR
Illinois CSR #084-003786
Midwest Litigation Services
15 S. Old State Capitol Plaza
Springfield, Illinois 62701
217-522-2211
1-800-280-3376

AGENDA

CALL TO ORDER

1. Roll Call
2. Approval of Agenda
3. Approval of August 19, 2014 Meeting Transcript
4. LTC Subcommittee Membership Tenure
5. Proposed Amendments to LTC Advisory Subcommittee By-laws
6. Update - Revisions to the LTC CON Rules and Application
7. Update - "Buyer/Seller Requirements" Workgroup
8. Other Business
9. Next Meeting
10. Adjournment

(Start time 10:13 a.m.)

MR. CHAIRMAN: I would like to suggest that we start, and since -- as Chairman I have that right. So please, if we can come to order.

I am -- are you going to do roll call?

UNIDENTIFIED: Start there.

MR. CHAIRMAN: We will start in Springfield with roll call, please.

MR. CONSTANTINO: Mike Constantino, Illinois Department of Public Health.

MR. AGBODO: Nelson Agbodo, HFSRB staff.

MR. GAFFNER: Alan Gaffner, Alden Network.

MR. FOLEY: Charles Foley.

MR. PHILLIPPE: Tim Phillippe.

MS. CUNNINGHAM: Hi. Kelly Cunningham, Healthcare and Family Services.

MR. SCAVOTTO: Mike Scavotto.

MR. BELL: Bill Bell.

MR. SPEAKS: Jason Speaks with LeadingAge. I am not on the subcommittee, I'm just here kind of observing.

MR. ROATE: And George Roate from Illinois Department of Public Health.

MR. SPEAKS: That's it for here.

MR. CHAIRMAN: We have four voting members in Springfield?

UNIDENTIFIED: I have five.

UNIDENTIFIED: I have got six.

MR. CHAIRMAN: We will start with you.

MR. FOLEY: I'm new.

UNIDENTIFIED: Six.

MR. CHAIRMAN: Six voting members in Springfield?

UNIDENTIFIED: The guy in the blue shirt is not included.

MR. CHAIRMAN: We will start here. Cece, is that you down there, all the way down there?

MS. CREDILLE: Cece Credille, IHCA representative.

MS. AMIANO: Judy Amiano with LSM or LeadingAge I guess it is.

MS. GUILD: Ann Guild, HFSRB.

MS. HANDLER: Carolyn Handler, at large.

MR. URSO: Frank Urso, board staff.

MS. AVERY: Courtney Avery, board staff.

MR. CHAIRMAN: I am Mike Waxman. I'm Chair of the committee.

MS. BURMAN: Claire Burman, board staff.

MR. LAVENDA: Steve Lavenda from Frost Ruttenberg & Rothblatt.

MR. FLORINA: John Florina.

MR. FOLEY: F-L-O-R-I-N-A. I got you covered, John.

MR. CHAIRMAN: All right. Chuck, you are always there for us. We appreciate that.

We have several new members, some of which I have not met yet. So I apologize for that. But Steve, would you -- do you want to do like an hour presentation?

MR. LAVENDA: An hour?

MR. CHAIRMAN: Five minutes.

MR. LAVENDA: Let's see, I'm a partner with Frost, Ruttenberg & Rothblatt Health Care Group. I have been with the firm for about 30 years. I have been in the long-term care field close to 35 years. My main responsibilities are with the cost reports, Medicaid/Medicare reimbursements, and also I serve on the Supportive Living Facilities Advisory Board, and I was asked to be part of this committee a few months ago. I gladly accepted.

MR. CHAIRMAN: Thank you, Steve.

John, you have been here, but you are now

officially a new member, so please.

MR. FLORINA: John Florina, licensed nursing home administrator, nursing home administration. I have been a visitor for the last approximately a year and have now joined the ranks with the rest of you. So thanks for inviting me.

MR. CHAIRMAN: John, had a year to decide whether we were crazy enough for him to join, and he decided to.

New members in Springfield. Chuck has been here longer than I have, but he is now an official member.

So Chuck, you have got 30 seconds. Everybody knows who you are.

MR. FOLEY: I am Charles Foley. I'm from Springfield. Health care consultant.

MR. CHAIRMAN: Thank you, Chuck. You know I'm teasing. You can have another 30 seconds if you need it.

MR. FOLEY: Well, actually I have got about 40 pages to read, if that's okay.

Go ahead, Alan, introduce yourself.

MR. CHAIRMAN: Alan, sorry, I don't know you, but I know of you, so please.

MR. GAFFNER: Thank you. I look forward to getting to meet you, Mr. Chairman.

Alan Gaffner. I have had over 34 years in both acute care on the hospital side and long-term care and have had the privilege of serving for approximately ten years as Secretary of the Illinois Health Care Association Board and also served for two and a half years on the Health Care Council of Illinois board.

This is my first meeting. I was extended the opportunity to join. I know am serving with the Alden Network. Over the years I have had responsibilities in a lot of areas that span the gamut from marketing, fundraising, legislative, regulatory governmental affairs, and it is a privilege to join this group, and I am grateful for that opportunity.

MR. CHAIRMAN: Thanks to you, and, again, a warm welcome to all of our new members. I think the committee has changed since our beginning. I think we have come into a more cohesive working group with a more complete understanding of what our direction is and what our obligations are, and I welcome the new members to fall into that move

forward kind of opportunity. I feel like I just won an election. I don't know why I'm doing this, so forgive me. That's what you get for spending three hours in a car doing five miles an hour.

So I need a motion to approve the agenda, please.

MR. PHILLIPPE: So moved.

MR. CHAIRMAN: I have a motion. I need a second?

MR. SCAVOTTO: Second.

MR. CHAIRMAN: I have second. All in favor.

(Ayes heard.)

MR. CHAIRMAN: Any opposed? Motion carries.

I need a motion to approve the transcript of our last meeting which was August 19th.

Yes, sir?

MR. URSO: You need the person to say their name.

(Discussion off the record.)

MR. CHAIRMAN: Okay. Well, we are fine. I need a motion somewhere in the world to approve the agenda, to approve the minutes. Now I scared everybody. So somebody please move to accept the --

MR. SCAVOTTO: I move we accept the meeting transcript.

MR. FOLEY: Second.

MR. CHAIRMAN: Thank you. All in favor

(Ayes heard.)

MR. CHAIRMAN: Any opposed?

(No response.)

MR. CHAIRMAN: Motion carried. Thank you all. I think everybody is aware that this meeting will end at 1:30 instead of 2 due to whatever.

Next on the agenda is long-term care subcommittee membership, and Frank, is that you, is it Courtney?

MR. URSO: Claire, you sent out a document that listed everyone's current terms.

MS. BURMAN: Yes, the last time that we -- yes, this is a listing of terms that were given to the membership, and this is approximately from a year ago. We needed to divide everybody into three basic groups, one year, two year and three year.

Since that time we had one member who resigned, Mr. Sullivan, and in our discussion of this, this matter at the last Long-Term Care Subcommittee meeting we were talking about perhaps

making the representation from different state agencies more of a permanent membership. That is something that we need to talk about and approve or not today.

Then we have members who were never really placed into any of the three groups. So this is their opportunity to tell us what their preferences are and see how we work that out.

So right now on the one-year list, which the expiration of that term is October 2014, we have Mr. Raikes, Mr. Scavotto, Ms. Johnson and Ms. Evans who is not present right now.

I guess is Neyna present in Springfield?

MR. CONSTANTINO: Mike Constantino. No.

MS. BURMAN: Okay. We did not hear from anyone in that group as to what they wish to do. There was some discussion at the last meeting that perhaps someone might want to stay on past this one-year term, and it is open for discussion.

MR. SCAVOTTO: Could I speak? This is Mike Scavotto. I am looking at this as my last meeting.

MS. BURMAN: Well --

MR. CHAIRMAN: We won't accept that.

MR. FOLEY: I will second that, Mike.

MR. SCAVOTTO: You will second that. Thank you, Charles.

MR. FOLEY: No, that we don't accept.

MR. URSO: Let me, let me add onto what Claire said. This is Frank Urso. According to the by-laws that were approved, once the terms expire, so for instance the one-year term and two-year term, three-year terms, then the static three-year terms begin.

So what I mean by that is anybody who is in a one-year term now that expires, if they want to remain, you know, on the committee or if new people come forward, they become three-year terms.

So after the second term has expired, that becomes a three-year term. So you have staggered three-year terms once we end this initial termination of terms.

So therefore, everybody's term after their initial terms are completed, if I am not confusing you, it becomes a three-year term.

So if Mr. Scavotto, for instance, decided to stay on, he would then be in a three-year term. Everybody else would be, once their term ends, would be in a three-year term.

Does anybody have any questions about that?

MS. HANDLER: What about new people that come on?

This is Carolyn Handler. My question is what about the new individuals that came on since the by-laws were revised?

So like Bill Bell, Bill Casper, do they come into three-year terms automatically?

MR. URSO: Well, let me -- I will back into answering that. What we are proposing with some new by-law changes that are on the table is that the members that represent state agencies would be perpetual standing members. So that pulls four members out of the 19, okay?

So you have IDPH, DHS, Healthcare and Family Services and Aging. Those people would be on a perpetual membership or those agencies I should say, whomever represents those agencies.

So therefore you have 15 members left. So essentially you have five members in each tier or five members in each term, okay?

So with the new members that are coming on board, a decision has to be made whose slot they are filling, okay, or what slots are available.

So, for instance, Bill Bell and so on, there would have to be a determination made where the slots are open, that's where they would fit, and there are five slots per term.

Does that answer your question, Carolyn?

MS. HANDLER: Yes, it does. Thank you.

MR. CHAIRMAN: Frank, just to clarify, when it says one year, two year, three year, at what point are we counting for year one, year two, today's date?

MR. URSO: Well, technically it is the date that is in the by-laws. So, in other words, the first term expired October 1st, 2014.

MR. CHAIRMAN: Okay.

MR. URSO: The second term expires October 1st, 2015, and the third term expires October 1st, 2016. And once again, each of those termination dates, that begins a three-year term for those people that are in that, those five people or five slots that are in that one-year term.

Do you need me to repeat anything there, Mike?

MR. CHAIRMAN: So in effect, the people whose one-year term expired last month --

MR. URSO: October 1st, correct.

MR. CHAIRMAN: So we need to know from these one, two, three, four people -- we have heard from Mike -- the other three people whether they want to continue on in the new three-year term or whether they are parting company with us forever.

MR. URSO: Correct. What you also have in the one-year term is a vacancy. So one of these people at the bottom of the list in terms of not being in a term, one of them has to fit in a one-year slot so to speak, so on, so forth. Because when you take out the state agency people, you have 15 slots left, and that's five slots available in each term, if my math is correct.

Is it correct?

MR. CHAIRMAN: Okay.

MS. CREDILLE: This is Cece Credille. Can I ask a separate question?

And I -- who are the representatives now, the officials from IDPH, DHS, Department on Aging and such, who are they?

MR. URSO: Well, you have Paul Corpsmen from Illinois Department of Public Health, you have Neyna Johnson from Aging, and you have Terri

Dederer from Healthcare and Family Services and who is DHS?

MS. CUNNINGHAM: This is Kelly Cunningham in Springfield. If I can -- yeah, just to correct that, Frank, Terry is with DHS, and I am with HFS, Kelly Cunningham.

MR. URSO: Okay. Thank you, Kelly, for correcting that. So those are the four people who are agency representatives.

MS. CREDILLE: This is Cece Credille again. So Neyna Johnson is sitting up in a one-year term, but you are proposing that she be a permanent member under, as a Department of Aging rep?

MR. URSO: That's right. That's another opening in a one-year slot, correct.

MR. CHAIRMAN: If she chooses.

MR. URSO: Well, the agency will always have a slot, a perpetual slot.

MR. CHAIRMAN: But it may be somebody else.

MR. URSO: Correct, but she vacates the one-year slot. So that opens up for the new members, one new member to take that slot.

MR. CHAIRMAN: So do we need -- are we looking for two volunteers to fill the one-year

terms and then agree to a three-year term after that to solve this issue and move forward?

MR. FOLEY: Mr. Chairman, Charles Foley here. I would like to ask Mr. Scavotto to kindly reconsider.

MR. CHAIRMAN: I thought I did, but we definitely would like to have Mike reconsider.

MR. FOLEY: Yes.

MR. SCAVOTTO: I will get back to you.

MR. CHAIRMAN: Yes, you reconsider?

MR. FOLEY: We have to vote now.

MR. SCAVOTTO: No, I made up my mind. I'm out. I have been doing this from its inception, and it is time to, time for other people to take over and move on.

MR. FOLEY: Okay.

MR. BELL: I respect that.

MR. FOLEY: I respect that wholeheartedly.

MR. CHAIRMAN: So again, Frank, my question is do we seek volunteers to fill, to take the names off of the one-year term and then assume -- and assure ourselves that they will move into a three-year term effective today?

MR. FOLEY: I will volunteer to make Mr.

Scavotto's place.

MR. CHAIRMAN: Chuck, did you say that?

MR. FOLEY: Yes, sir, I did.

MR. CHAIRMAN: Okay. And you are willing to accept the three-year term?

MR. FOLEY: Yes, sir, I am.

MR. CHAIRMAN: John, were you going to do the same thing?

MR. FLORINA: I was going to make a comment. I would like to work with some kind of specific criteria. It appears we don't have any -- this is Florina by the way -- that we don't have any specifics as to how you fill an open spot when there is an opening that occurs.

I'm not referring just to the initial one, two and three-year terms that you have arranged, I'm talking about somebody leaves in the middle of their term, when you have a replacement do they fill that spot, do they take a different term?

It is not clear, and here we are basically just talking about it saying who wants to take which slot. That's the point I was trying to make.

MR. CHAIRMAN: Well, in the past what we've done is if someone leaves mid-term, they simply

step in -- whoever was newly appointed stepped into that position.

This is actually the first time as a committee we have designated terms with specific end dates. It has not been done in the past. The earliest by-laws did not establish end dates or expiration or terms. So this is sort of a new process, John, and anyone else that has the same questions.

So in the future if someone was to leave in the middle of their term, we would seek new applications, that process, approval by a couple of us and the mother board chair, and they would then step into the position of the person who left.

MR. FLORINA: Is it appropriate that the by-laws so state that so we know what we are talking about?

MR. CHAIRMAN: Mr. By-law writer is looking for that.

MR. URSO: John, we are going to talk about by-laws today, and I think it would be really appropriate if you had some thoughts about additions, we will then, you know, draft some language to cover that, and we can talk about it.

MR. FLORINA: This is Florina. I don't have a comment as to how to deal with the original process that was established, but clearly if an existing current member is no longer participating, the replacement for that member should fill that person's spot that was vacated.

MR. CHAIRMAN: Correct. I mean, that's my logic, too.

MR. URSO: The only thing I think the by-laws speak to right now if there was a complete vacancy and therefore then the board chair picks the members that have -- let's say there is only 18 members and we want to fill the 19th slot and there is nobody, you know, there is nobody in the wings so to speak. The board chair, the mother board would then pick that member. So we speak to that aspect of it.

You are asking a different question, though. I think you are talking about when you have -- like we have now, we have six members who are not designated in a slot; how do they get chosen for the particular term, correct?

MR. FLORINA: Yep. Well, you need to get a starting point, and you need to assign everybody up

to 19 into one of these spots or 15 I should say after you take out the four state personnel.

MR. URSO: I think when you think back and maybe some of the other members that were here at the time, when we first designated these staggered terms it was who wanted to take what term, and it was basically a volunteer kind of thing.

Then if there were people who didn't have preferences, then I think the Chair said okay, you know, you are going into that slot.

MR. CHAIRMAN: Correct.

MR. URSO: Sometimes it was just because you only had -- I think we had six, six and seven at the time, six slots, and first term six slots and second term and seven slots. Wherever there was a slot opening somebody was left, the Chair said well, you got to take that term basically.

MS. AMIANO: Judy Amiano. The original intent was not to have this go on forever and ever, the work of this group, correct?

So that's why there was nothing, John, in the original by-laws.

MR. CHAIRMAN: Tim?

MR. PHILLIPPE: I'm just wondering if we

could just propose maybe the same thing. Rather than spending an hour and a half talking about this here and trying to get people to volunteer and figure out by video, can we just let the Chair, like you said before, decide the slots that people go in. I know he is very good at talking to people and getting their buy-in and let you do that so we don't have to do all that at the meeting. If we need to change by-laws to do that, we should go ahead and do it and don't have to spend time in our meeting talking about it.

MR. CHAIRMAN: I'm fine with that except -- and I accept your compliment, except it didn't work with Mr. Scavotto.

MR. PHILLIPPE: I tried also for a couple, a few months. Didn't work for me either. But the rest of it I think you're capable of handling so we don't have to spend a lot of time trying to organize it through a conference call.

MR. CHAIRMAN: I'm fine with that.

Do I see a hand in Springfield or just fuzziness without my glasses?

Okay. So are we done with this subject matter?

Courtney and I will kind of go over all of this, and we will put people into --

MS. BURMAN: This is Claire Burman. I think that we need a vote on the idea of having perpetual membership for representatives from the state agencies.

MR. CHAIRMAN: I need a motion to the effect that we will create four perpetual memberships for the state agencies listed on the sheet.

MR. PHILLIPPE: I will so move.

MR. FOLEY: I will second. Second by Foley.

MR. CHAIRMAN: A motion from Tim. Motion from Tim and a second from Chuck. All in favor?

(Ayes heard.)

MR. CHAIRMAN: Any opposed? One opposed, Cece Credille.

From what I have heard I think the motion carries.

Frank, do we need to do a show of hands or are we okay?

UNIDENTIFIED: You could do roll call, too.

MS. AVERY: This is Courtney. I was just clarifying with Claire that this motion does not change the by-laws at this point, correct?

MR. URSO: I don't know if -- the committee has not discussed the proposed by-law amendment.

You are just talking about concept, or are you talking about --

MS. BURMAN: Well, yes. This is Claire Burman again. Yeah, I think technically speaking it should be a by-law change.

MS. AVERY: It should be.

MS. BURMAN: So we can rephrase.

MS. AVERY: I don't think we need a motion for it. When we had the discussion about the members that we just agreed on, we can put that, and then that has to come back to the Board, right, and we can do, have the amendment at that time in the by-laws. So it is two separate things. It doesn't change the by-laws at this point.

MR. CHAIRMAN: Do we want the committee to agree upon the concept of four?

MR. URSO: I think we are talking about a concept, correct me if I am wrong, because the by-law amendment that's proposed that was sent to everybody has not been put on the table yet for a discussion.

So you are just talking about a concept

right now, and according to the current by-laws, any revisions to the by-laws requires 12 votes out of the 19.

MR. CHAIRMAN: Tim, are you okay if your amendment, if your motion is changed to accept the concept of?

MR. PHILLIPPE: Yes, that's fine.

MR. CHAIRMAN: Okay. Mr. Foley, second?

MR. FOLEY: Yes.

MR. CHAIRMAN: Okay.

MS. CREDILLE: This is Cece Credille. Can we have a discussion about what my concern is?

MR. CHAIRMAN: Sure.

MS. CREDILLE: I'm not opposed to the concept of these individuals from these departments, but we, as other members, have restrictions that we can only miss two meetings a year or we are not on the committee.

I would be concerned that if people just come in and out of the committee, then they don't have all of the information. So I would want parameters. I would suggest that we have some kind of parameters around it.

MR. CHAIRMAN: I certainly agree with your,

with your point, and we've also established via the by-laws that there is a process for someone who is not able to attend a meeting to send a proxy.

So I think that process should also extend to the four agencies so that there is someone from all four agencies at our meetings. I agree with you, Cece. Thank you.

MR. URSO: Cece, I can tell you that although we have not discussed the proposed by-law change setting this in motion, there is no language in that proposed by-law change saying that those four members are excluded from other by-laws.

So the rest of the by-laws would apply to them unless we, unless this committee decides to restrict it in some respect.

MS. CREDILLE: This is Cece Credille again. My notes may be incorrect, but I thought we -- it was mentioned that the department would be on the committee but not the individual. That's what I thought. I could have misunderstood.

MS. AVERY: This is Courtney Avery. The idea comes from inconsistency with the Board, overall Board. By statute there are three departments that are represented as ex-officio

members that we work closely with.
So these agencies also we work closely with in this, in the long-term care subcommittee. That's what we have decided that we can have, those four as the standing members.

But the people that are appointed, I'm not sure how they were appointed, if the director of those agencies appointed them or someone else appointed them.

So I guess we would have to work closely with them to make sure that it is consistent and when they aren't available to attend, they give us ample notice for a proxy and those people be brought up to speed.

Everything is always on the web site, and we had a conference call with three, three of the four who agreed to that like if they had to send someone, they will bring those people up to speed so there won't be any rehashing or not knowing what is going on.

MR. URSO: These would be four voting members.

MR. CHAIRMAN: Cece, are you okay with what is being said?

MS. CREDILLE: Well, so -- this is Cece again. So is it really the department, or is it an individual on the committee?

MS. AVERY: It is really the department, but the person, the individual should be appointed by either the director or the division person, the division head.

MR. CHAIRMAN: And they have to follow the same rules as everybody else; that if the person appointed is not there, that they do send a proxy, and the proxy is sent to the committee and approved in the normal process. So there is continuity and regular attendance, accountability.

Okay. Let's just make sure that we are all in the same place. There is a motion to accept the concept of making the four state agencies perpetual members. We have a motion from Tim, approved by Chuck.

Can I ask everybody to vote again. All in favor aye?

(Ayes heard.)

MR. CHAIRMAN: Any opposed?

Are you opposing or are you late aye-ing?

Is there one opposition?

MR. ROATE: I think everybody is in agreement here, sir.

MR. CHAIRMAN: Oh, I heard a late, a delayed transmission. We heard, we heard one aye late.

Okay. Thank you, all. The motion carries. Wow, that was fun.

Is there anything else that we have to do, agenda item?

MR. URSO: I don't want to belabor the fact, but Mr. Florina had an idea perhaps that the ability of the subcommittee chair to make assignments in various terms.

Your thought, if I understood you correctly, was perhaps to have that as an amendment to the bylaws; am I right?

MR. FLORINA: Florina again. Just to clarify, when there is opening and a replacement for that opening, the replacement member would serve the remaining term the person they are replacing.

MR. URSO: This is Frank Urso. We can put some language together for the next meeting to hopefully address what your thoughts are about the assignments being made by the subcommittee chair.

MR. FLORINA: I guess --

MR. URSO: Is that okay?

MS. AMIANO: This is Amiano. Just for clarification, Frank, is that that once a member is identified, the Chair slots it into a one, two or three-year term, or the Chair has unilateral authority to pick any member?

MR. URSO: You mean pick a new member?

MS. AMIANO: A new member.

MR. URSO: New members have to be chosen by mother board chair. So this would be the second level. The subcommittee chair would then say okay, this new member that's already been chosen by the board chair is going to go and do this particular term.

MS. AMIANO: Thank you for the clarification.

John, is that okay with you?

MR. FLORINA: That's fine with me. You are still working through the original way you set this up to fill all of the spots. We have not gone through the first three-year term --

MR. URSO: We have not gone through all the three-year terms where everybody that would be on a

three-year term. We have not done that.

MR. FLORINA: I didn't mean to bog anything down with this, I was just trying to --

MR. CHAIRMAN: This is your first official meeting, John, so be careful.

Frank, are we done with this topic?

MR. URSO: I believe so. Claire?

MS. BURMAN: Yes, I think connected to this are draft changes to the by-laws.

MR. CHAIRMAN: That's the next agenda item.

MS. BURMAN: Yes.

MR. CHAIRMAN: Okay.

MS. BURMAN: Sorry. John?

MR. FLORINA: John Florina again. Item 5-7, I just want to make sure it is clear what a quorum is and how many votes you need to make a decision.

As brought up if we are going to discuss by-laws, it appears that you need eight in a quorum, to form a quorum, but in Section 5-7 it says that if you only have six that you can vote and pass something. So that seemed inconsistent with the requirement.

MR. CHAIRMAN: Frank, do you have a response, or are we inconsistent?

MR. URSO: John, we will take a look at it and clarify 5.2 as discussed in the quorum in relation to 5.7 We will do that and bring it to your attention.

MS. CREDILLE: This is Cece Credille. Do we need to -- and I don't know if it is today or at another point we talk about a change in the quorum or whatever. If there are four permanent department people on the committee and it only takes six votes --

(Neyna Johnson now present.)

MS. CREDILLE: You know what I'm saying, Mike?

MR. CHAIRMAN: While Frank is figuring this out, can we roll call Neyna into the meeting, please.

In Springfield isn't that Neyna?

MS. JOHNSON: It is. I apologize for my lateness.

MR. CHAIRMAN: Just identify yourself for the minutes.

MS. JOHNSON: Neyna Johnson.

MR. CHAIRMAN: Please identify yourself for the minutes, please.

MS. JOHNSON: Neyna Johnson.

MR. CHAIRMAN: Thank you. I'm sorry.

MR. FOLEY: We all got you, Neyna.

MS. AVERY: Courtney Avery. Can we go to Cece?

Is there a concern, Cece, that it might be a way of the state departments having more power than the rest of the subcommittee because it only takes --

MS. CREDILLE: I may be articulating -- this is Cece Credille. I may be articulating it incorrectly, but the thought is if it only takes six people to vote but four are permanently from the state, then that just seems different than how the committee functions.

MS. AVERY: Okay.

MS. CREDILLE: But I don't know if I am articulating -- Frank, you may need to help me in what I am saying.

MR. URSO: I think the by-laws say that it is 40% of the 19 membership is what the quorum has to be. Those are eight members. So to pass anything, there has to be, or not pass something, there has to be eight votes.

So maybe the confusion with the six that you are talking about has to do with what John Florina brought up in terms of 5.7, but the quorum is designated by the bylaws as eight. You recall that it was a majority, and we weren't getting enough people to have a quorum. So we, the committee, decided to reduce that to 40% which is eight members, once again, if my math is correct.

MR. CHAIRMAN: We have a new attendee in Chicago. Would you please identify yourself?

(Mr. Ourth now present.)

MR. OURTH: Joe Ourth, Arnstein & Lehr.

MR. URSO: Cece, did that answer your question?

MS. CREDILLE: Yeah.

MR. URSO: I don't know if it addresses your concern.

MS. CREDILLE: It still remains a concern, then, because -- so I don't know if we need to change the quorum or something if there is four permanent departmental and individuals are in that slot but it is really the department.

MR. URSO: There have always been four representatives from those state agencies. They

have always been voting members.

Making them perpetual members, does that cause a concern for you?

MS. CREDILLE: I mean, we had trouble getting to a quorum before. So I know why we got in this situation, but we have more members now.

MR. CHAIRMAN: More active members.

MS. CREDILLE: Active members, yeah.

MR. CHAIRMAN: So your basic fear is that the four agencies could significantly influence a vote?

MS. CREDILLE: Correct.

MR. URSO: But that's no different --

MS. CREDILLE: It is not a fear, it is just a --

MR. CHAIRMAN: A question.

MS. CREDILLE: It is a question.

MR. URSO: Cece, is that any different than these four members being on the committee anyway?

MS. CREDILLE: No.

MR. URSO: Do you understand my question?

MS. CREDILLE: Right.

MR. URSO: They have always been on the committee.

MS. CREDILLE: Right.

MR. URSO: All we are talking about is changing, taking them out of a specific term.

MS. CREDILLE: Right.

MS. AVERY: This is Courtney. I was just asking Mr. Waxman, what if we looked at some kind of way to reconfigure the number of members and make the state departments ex officio and consistent with the board. So we can make, we can do some different scenarios and bring them back.

MR. CHAIRMAN: My understanding historically is that the original 19-member concept came from someone who is not longer here, right?

And I think it was an attempt to kind of --

MS. AVERY: It was to mirror the other long-term care boards that were in existence I think.

MR. CHAIRMAN: Okay.

MS. CREDILLE: This is Cece. So what you are suggesting mirrors the way the others -- I don't have any experience.

MS. AVERY: Just the board. Like the board has the nine members and then three ex officio departments.

MS. CREDILLE: Okay.

MS. AVERY: So they are non-voting. The state departments are-non voting. They are there to provide input, and they can join in the conversation, they offer things, but they don't vote on the actual applications. So that can be possible.

MR. CHAIRMAN: That will solve the problem. Any problem with --

MR. URSO: The statute that created the subcommittee does not address the number of members that need to be on the subcommittee. That was an arbitrary number that was designated in the beginning as having the right people, I guess, around the table that represented, you know, various important aspects of long-term care, but the 19 is not in the statute. So it is not mandated that there be 19 members.

MR. CHAIRMAN: I'm fine with that. I mean, sometimes when you say it is a 19-member committee, they say that's impossible. So going down to 15 is fine.

MS. AVERY: So we will write the different scenarios.

MR. URSO: Maybe you should put that out as a concept, and then we will have to change the bylaws, put it as a motion as a concept, see if everybody is comfortable with the approach that you are discussing. This is Frank Urso.

MR. CHAIRMAN: Would someone be kind enough to make a motion to a concept that the four state agencies becomes ex officio members with no voting rights and that the subcommittee itself be a 15 member committee? Tim?

MR. PHILLIPPE: Can I make a comment before we do that?

MR. CHAIRMAN: Sure.

MR. PHILLIPPE: I have been here since the beginning. Actually, the people from the state agencies have certainly not been aggressive in trying to control things, and I don't -- we have never had any concern with that.

If they don't show up for meetings, the same thing works for the other people. I mean, the same concern. You could have, you know, one or two people show up for a meeting. So the vote would be very much skewed toward whatever influence of non-state.

MR. FOLEY: We still need eight votes.

MR. PHILLIPPE: We still need eight people of some kind, but the second -- the more -- this is more the concept. I would actually prefer if what we are proposing and want to do kind of is they feel like will that work or if they don't support it, I prefer to know those issues on the table to be talked about when we are working on issues versus kind of what -- if I were a person that was a state agency leader and didn't like something, I would be more likely to talk about it after the meeting. So it helps actually to know all of the groups involved are supporting something.

So certainly they have not been too aggressive because they are actually sometimes slow to express their opinion.

MR. CHAIRMAN: I hear what you are saying. Any other opinions, please?

MS. CUNNINGHAM: Hi. This is Kelly Cunningham from HFS, and I definitely appreciate the conversation about this topic and whether this state agencies are ex officio non-voting or not. I understand all of the concerns presented.

I do agree with what Mr. Phillippe just

stated. If the role of the state agency is to attend and provide expertise or policy interpretation or something along those lines, you know, I think that's an important role that state agencies' staff play.

I guess I agree with what Mr. Phillippe said, and I would appreciate the opportunity to present, you know, to present that during the meetings as salient topics, you know, come up. Whether we can vote on it or not I think is a different question.

I am a member of several different both governor and director appointed boards. For the most part state agency staff are considered ex officio non-voting members in those other categories, but that does not, that does not limit our input, our ability to participate or communicate --

MR. FOLEY: That's good to know.

MS. CUNNINGHAM: -- on topics where we might have expertise or interpretation to act.

MR. CHAIRMAN: Thank you very much. Judy?

MS. AMIANO: This is Amiano. Kelly, thank you for stating that because I think that the state

agencies provide a terrific perspective in an area where some of us, you know, where we might be lacking in that perspective.

I think the most important thing is that there is open and robust conversation at the meetings and that we can discuss items thoroughly and appropriately at the meetings.

MR. CHAIRMAN: Totally agree, Judy. Again, thank you for your comments. They are very helpful.

Anybody else?

MR. URSO: Can I ask Kelly a question?

MR. CHAIRMAN: Of course.

MR. URSO: And Neyna also. As two agency representatives, do you, do you think that your roles are diminished or there is less conscientious going on if you're ex officio versus a voting member?

MS. JOHNSON: I'm probably one of the least talkative people on the board, and I think I was supposed to rotate off last month, but I'm having a hard time finding someone to take my place.

You know, I'm supposed to be representing the consumer, the resident's side. So I have no

problem with not having a vote, I just appreciate having the ability to respond and then questions and comments as I feel appropriate. But it is not going to make or break me.

I don't know if the director is going to appoint someone else. I don't know at this point what's going to happen with me being over here. I just don't know, so I can't really speak. I will just speak for myself. It doesn't matter to me either way.

MS. CUNNINGHAM: I, too, agree with Neyna, Frank. I don't have concerns about being an ex-officio non-voting member. That's frankly what I am used to when I participate in other committees. As long as there is an opportunity to, you know, express concerns and participate in dialogue, I think that's really the role of the state employee in this, in this setting.

MR. GAFFNER: This is Alan Gaffner. Having heard from the two department members, I would move that we consider the concept of having the subcommittee consist of 15 members with the four state agencies being ex officio but would ask that my motion include within the minutes that that ex

officio designation encourages their active participation at the table.

And that's how I have always understood, at least from my committee experience, that ex officio does not limit and should not limit their input, participation and all of the dialogue that takes place.

MR. FOLEY: I second that.

MR. CHAIRMAN: We have a motion, and we have a second. I thank you both for saying it so well. All in favor?

(Ayes heard.)

MR. CHAIRMAN: Any opposed? Any opposed?

(No response.)

MR. CHAIRMAN: Hearing none, the motion carries. Thank you very much. Frank is busily writing all these adjustments.

MR. URSO: The only thing that I would say in response to that is I think we have to run it up the flagpole so to speak to the board chair who is actually in charge of appointments and whatnot and make sure that she and the board are comfortable with reducing the size of this subcommittee.

Of course, I have no response, so I don't

know. So that's my only observation about that motion.

MR. CHAIRMAN: That's fine. So now we are back to or once again we are going to attempt to get to agenda item 5.

So is this Claire, Frank, Courtney?

MS. AVERY: I think it is null and avoid right now.

MR. CHAIRMAN: We need to do item 5 for the next meeting?

MR. URSO: So let me just say something. A proposal was sent out to redraft Section 1.2, and based upon our discussion just now there is probably going to be some more revisions to that section.

But the new language that is underlined probably just goes along with the concept that was had approved a little bit earlier, but there is some more revisions that need to be, that need to be drafted in terms of Section 1.2.

So it is up to the committee if they want to discuss this section at this point or wait until we include all of the revisions that we talked about.

MR. CHAIRMAN: What is the pleasure of the

committee?

Do you want to wait to have all amendments presented at one time, or do you want to look at the draft of what was presented for today's meeting?

MR. FOLEY: I would prefer that we do it all at one time so that way we can have the total picture right in front of us.

MR. CHAIRMAN: Okay. So we will ask staff to, whenever they are prepared, to bring it to the most appropriate meeting, whether it is next meeting or the one after that.

Okay. Does anyone have anything that, that they want to have Frank look at or staff look at in terms of by-laws and adjustments while we are doing by-law adjustments that has not been codified also.

Whatever is going on in Springfield, I am glad it is there.

Frank? John?

MR. FLORINA: Florina again. I would just say to be consistent, make sure we take a look at the other portions of the by-laws that would be affected by changing the voting members from 19 down to 15, that your quorum and your voting change

also. I would assume that will be done anyway, but I want to make that --

MS. AVERY: Okay.

MR. CHAIRMAN: That being done, then, we are up to item 6, revisions to the long-term care CON rules and application.

Claire, is that you?

MS. BURMAN: That would be Mr. Scavotto, and I will join in.

MR. CHAIRMAN: Okay. Mike, you are up.

MR. SCAVOTTO: Thank you. When Cece and I presented our report at the last meeting there were two areas that we felt could use a little bit of work. So we went back at it, and I will go over those adjustments now.

The first one concerns the use of the referral letters, and from the last discussion it was pretty clear that there is just two factions on the committee, and it doesn't really matter which one you are in. We have two factions. One thinks that the referral letters are useful, the other thinks that the referral letters are useless.

So we are trying to find a compromise to that, and what we've come up with is to split the

use of referral.

First of all, we're suggesting that we change the use of the term "referral" to support, and there is some method behind that madness. We broke the facilities up into two groups. One was the existing facilities and the new facilities.

If we stop to think about it, the existing facilities already have the historical data that is being requested in the referral letters, and that would be the resident origin by zip code, name and specialty of the referring physician or other referral source and name and location of the recipient long-term care facility which presumably is the applicant.

So since the existing facilities already have this information, just haven't given it to you, if they are not giving it to you now, they can certainly augment that with letters of support so you can see what they're -- how well they are serving the community.

The discussion that we had at the last committee meeting really got bogged down in the use of hospital data, and that's -- we looked at this. Primarily this is my observation. The hospital

data is good for Medicare, but that's it. Most of our admissions don't come from the hospital. We get a fair amount of important admissions from the hospital with Medicare, but there are private pay admissions, Medicaid admissions, come off the street.

So you can use the letter as a support, but it is not giving us an idea of the depth of commitment that the hospital has. You are missing a lot of your market share, if you will.

So for the existing facilities, just give us the last three years of what your admissions look like, and you have basically got the referral letter requirement right there.

For new projects involving additional beds, what we are recommending is we just go to the bed need methodology. I say that with some hesitation because I notice that on the next agenda item we have got a buyer seller presentation coming, and there is some, some concern about the utility of the bed need methodology.

That being said, the bed need methodology is in place, and if you decide to change it in the future, that's fine, go ahead and do it, but, you

know, if you are going to be looking at a new project that flies in the face of the bed need methodology, I think there has got to be a strong rationale. I think for the purposes of determining whether a new facility is necessary, the bed need methodology could serve a useful purpose.

The second point that we have concerns the use of a one size fits all standard, a 30 minute drive time. The discussion that we were having was that the 30-minute drive time might be appropriate in a rural area. In a very dense market, particularly in Chicago for example, a 30-minute drive time doesn't make much sense.

So our suggestion was that we break that requirement into two divisions. We have one for urban markets and one for rural markets, and we arbitrarily defined an urban market as any county with a population of over 200,000 or any primary service area with a population of 200,000 or more.

And I thought that that second distinction was important because there is -- you have some service areas that overlap from one county to another. So where we decide to draw that line ultimately is a matter of debate, but 200,000 I

thought that was a pretty good place to start.

So what our methodology recommends is that if you are an applicant from an urban market, give us the primary zip code served in the admission from each of the last three years, give us total population by age cohort.

We have broke it down into three cohorts. You have got 65 to 74, 75 to 84 and 85 plus. Then go ahead and calculate the use rate in terms of resident age per thousand population for each of those last three years for each of those cohorts.

Then you have got a chance to use a forecast population whether you want to use Woods & Poole or Scan USA, Claritas. Whatever you want to use, pick a current one and calculate the use rate and then forecast, use that to forecast the use rate for the next five years. That should give us a pretty good idea.

I do the same thing for secondary service area. So at that point the staff can verify whether or not the applicant is providing a good assessment of demand in the application.

The real problem in trying to solve this is that there is just so darn many excess beds in

Illinois we are not going to -- it is just unrealistic to think that this one item is going to solve that. There is no way that we can resolve that discrepancy. So what we are trying to do is figure out is there a realistic assessment of what the usage is going to be within that market.

Now, for the rural markets we would use the same methodology, do the same calculation, only use a 30-minute drive time as the barometer for your population calculation, and those two things, we think, will complete the work of this subcommittee, and we can ride off into the sunset in a blaze of glory.

MS. CREDILLE: This is Cece Credille. I just want to comment that really Mike Scavotto did the bulk of this work. I want to thank him, and he is moving on, but he really kept on this.

And it started with Eli, Mike and I, and then it became just Mike and I, but Mike was very instrumental in continuing to address the issues, and these really were the two outstanding ones.

MR. SCAVOTTO: So thank you, Cece, but this is open for discussion.

MR. FOLEY: This is Charles Foley.

Are you then suggesting a market study, then, that would basically give you all of this information?

MR. SCAVOTTO: A market study would give you a lot of this information. I think we recommended a market study in another part of our report, but a market study would give you this.

I mean, the whole -- the standard calls for an indication that there is not going to be a maldistribution of beds. So the idea of the use rate would be if you are sitting there in a certain market and you know your utilization, you already know what your existing utilization per 1,000 is albeit you might have an outdated population forecast. If days per thousand are going down, which is generally the case, and you have got an application where your utilization is going up, you have a disconnect that needs more review at the staff level.

That would be -- that's the direction that we're taking with this thing. A market study could show you the same thing, but I think you would have to have your market researcher specifically commissioned to calculate the use rate because a

lot of them don't do that.

MR. FOLEY: So if we do have a market study as you said might come up in another part of your discussion, if we are going to require a market study, then I believe that we need to include, as you just said, instructions as to what the market study should exactly or specifically include because you know there is market studies out there and then there is market studies out there.

MR. SCAVOTTO: Some will do use rates, some don't.

MR. FOLEY: So if you want use rates, then I think we should have it outlined somewhere in the application if they require a market study, detailed components of what needs to be in that market study.

MR. SCAVOTTO: I have no objection to that, no.

MR. FOLEY: I'd like to hear from staff if at all possible as to what their thoughts are on this.

MR. SCAVOTTO: George is sitting over there being real quite.

MR. ROATE: It looks -- I mean, from the

notes and everything that I hear, it looks well thought through. The market study --

MR. SCAVOTTO: Say that loudly. Project when you say that.

MR. ROATE: The market study is something -- Mike, if I may speak for the two of us, the market study is something we have always thought would be a good representation of that.

So, Mike, any comment?

MR. CONSTANTINO: I have been in favor of the market study for quite awhile instead of the referral letters, something that we would design and require as part of the application. I have been in favor of that.

MS. BURMAN: This is Claire Burman. In terms of the market study, we had already discussed the idea of having explicitly stated requirements for the study. I think that is a very good idea.

My question is which review criteria would this be put under?

MR. FOLEY: Need demand.

MS. BURMAN: We have talked about unnecessary duplication and maldistribution. That was one of the two sections that we are working on.

MR. SCAVOTTO: While you were talking, Claire, Charles made the comment down here that a market study would probably go under the demand section, and you can extend it to this maldistribution.

I agree with that. You and I have had this discussion. I'm not going to leave without making this comment. There is -- the semantics of unnecessary duplication really bother me. It implies there is necessary duplication, and I would just love to see us get back to duplication. But nonetheless, that's not going to happen. That and fifty cents won't get me a cup of coffee.

MS. BURMAN: It is a term taken from the statute.

MR. SCAVOTTO: I know. You know my position on that. If it is in the statute, it doesn't mean the statute can't be changed.

MS. BURMAN: Well --

MR. SCAVOTTO: So anyway, the market study can go in the demand section.

MS. BURMAN: Then how should the maldistribution and unnecessary duplication requirements be handled?

MR. FOLEY: The market study can be referenced there.

MR. SCAVOTTO: I agree with that, what he said.

Did you hear that?

The market study can be incorporated. You can incorporate the data from the market study into this section.

MR. FOLEY: Or just reference it, make comments about it.

MS. BURMAN: Yes, maldistribution is then even distribution of services.

MS. AVERY: This is Courtney. I'm wondering, thinking out loud if the conclusion can be reached from the review of staff if a market study dictates either one of the two are needed.

MR. SCAVOTTO: Say that again. I'm not with you.

MS. AVERY: The staff, when staff reviews the application and a market study, could there be a question that would address this; does the market study dictate a maldistribution or unnecessary duplication or neither. So is that a requirement?

MR. SCAVOTTO: You could do that, but I

would, I would hope we'd be more realistic than that because right now we are looking at a situation in the State of Illinois where we have lots of excess beds, like over 20,000 excess beds.

So I don't think we should be trying to solve that problem. We are not going to be able to solve that problem. It is just massive. It doesn't really matter how we got to a position of having excess beds. It is huge. We are never going to convince so many providers to go out of business.

I think what you want to, I think what you want to accomplish is whether or not there is a realistic, realistic forecast of the utilization in the area, and that's what -- you know, if you are looking at maldistribution, the answer -- if you looked at maldistribution in the context of the number of excess beds right now, nothing would happen. It is just there is just no way any new project should be built. One could take that position. I don't think you should.

MS. BURMAN: This is Claire Burman again. In terms of maldistribution, if you take a planning area and let's say you have a big square as a

planning area, that means that if you have ten health care facilities and eight of them are in the upper northwest corner and the remaining ones are scattered, that is a type of maldistribution. It is linked to the too many services, but this is different kind of focus.

MR. SCAVOTTO: Well --

MR. FOLEY: Claire, at the same time -- excuse me, Mike.

MR. SCAVOTTO: Go ahead, Charles.

MR. FOLEY: Before I forget it because I have a tendency of forgetting things real fast -- see, I forgot already what I was going to say.

No, but Claire, on your suggestion there, if you have a cluster of facilities in a specific geographic area, that can mean one thing and one thing only. That is because that's where the population is.

Down here you may have no facilities at all or just one, and that's only because there is no bodies there.

So just because they're all clustered up here, that really and truly does not represent a maldistribution? I would not think --

MS. BURMAN: This is Claire again. It could be the population issue that you just mentioned or it could be because of a better payer mix in certain --

MR. FOLEY: That is what the market study will determine. That's what -- you are absolutely correct. That's what the market study will show hopefully.

MS. BURMAN: If you require that as one of the pieces that should be part of that study.

MS. AVERY: This is Courtney. I think it would be because when you were saying that I was thinking it could be there are facilities there, but are there beds for Medicaid/Medicare which goes to the payer mix.

MR. SCAVOTTO: Let's stay with Claire's example for a minute. Tim, you can relate to this. So let's say you have got a cluster in one of those corners. You are coming in at about 15,000 days per 1,000 population. You -- some guy, Jason, the guy in the blue shirt comes along with an application to put another facility up there and his utilization is going to be 17,500 per thousand. He is out of step with reality. Your market study

should show that, and it should trigger a comment from the staff.

On the other hand, if Jason has got more sense, he'd put his facility down in the area where there is less competition, and it would be a more targeted location.

MR. FOLEY: If the bodies are there.

MR. SCAVOTTO: If the bodies are there, correct.

MR. FOLEY: Right.

MR. SCAVOTTO: We rest our case.

MR. FOLEY: But Mike, aren't you also mentioning that you want to get rid of the 90%?

MR. SCAVOTTO: Well, 90% was out the last time. For modernization and renovation the minimum occupancy was dropped. I'm not aware that it's back in.

MS. BURMAN: It is not.

MR. SCAVOTTO: Good.

MR. CHAIRMAN: Well, first of all, I want to thank Mike and Cece for all of the work they have done. It's been a tremendous amount of time and effort put into a very, very difficult subject, and I think they have done an incredible amount of work

with staff support, and wherever it goes, you know, it will have a final destination.

But again, thank you to the two of you, and Eli, you know, did start with the two of you. So, again, on behalf of the committee I want to thank you all for doing that.

MR. URSO: Thank Eli, too.

MR. CHAIRMAN: Thank Eli, too. I'm sure he is listening.

MR. URSO: I have a question. Mike and Cece, maybe you said this or from the documents, but who would be doing the market study?

I think -- you know, is it a formal company or would it be an internal marketing study?

Did you give any thought to that, and, you know, what is the preference?

MR. SCAVOTTO: Let me go first. Cece can respond on her own. But I don't see where there is any credibility to an internal market study. It needs to be independent, and I just, I just can't see any public policy relying on internal data if you want, if you want an independent analysis and one that can be verified by your staff. That's my thought.

I'm not saying, I'm not saying that there aren't people that are capable of doing an internal market study. I recognize that there are plenty of places that can do a fine market study internally, but what is going to get examined in the public like this is, i think it needs to be independent.

MR. FOLEY: For transparency.

MS. AMIANO: This is Amiano. There are certainly -- my company is one of them. We have adequate internal resources. We do this for other companies.

So there would be -- you know, I think it is -- you can't set criteria on who you use. I think the board's role is to set criteria for what elements need to be evaluated and up to the applicant to evaluate those in a manner that they see fit rather than to dictate who does it. It is really what is the data that you are looking for and let the applicant figure out how they are going to get that data.

Not all facilities are single site facilities. You know, particularly over the last several years there's been lots and lots of consolidation, and there is many companies in the

State of Illinois that have the internal ability to do this, so --

MS. CREDILLE: This is Cece Credille. I concur with Judy that you would have some people who would need to hire from the outside and some organizations would have the ability to meet the criteria themselves. I agree that the Board, then, we would need to, I don't know us, to review what needs to be in the market study. I don't know how this plays out.

MS. AMIANO: This whole thing might change when we go to the next section of the conversation here.

MS. BURMAN: This is Claire Burman again. I don't know if anyone had the chance to read the one-pager sent out with your materials, and under overall consideration -- it is at the top -- there is one fact that everybody remembers. That's we have an excess of beds in Illinois.

Part of this also is -- and I guess we will find out more when Judy gives her presentation on buy/sell and development. There is a chance that there will be some kind of moratorium in the package. If that does happen, then the concerns

over these rules are minimized. You know, if it is a full moratorium flat out, then we are not using these rules. It just depends how that is going to be structured.

So the other thing -- and I don't want to rehash this, but I just want to remind you that what I have learned from participating in these meetings, and it's been a great learning experience for everyone, was managed care is now in effect in long-term care, and because of the way, if I am understanding correctly, when a facility makes an agreement with a managed care organization, the referrals, the bulk of their referrals are going to come from who they have agreements with. That's a built-in referral source who can give you their estimates of future referrals.

So I don't know if that is not true or if it is more complicated.

MS. CREDILLE: Way more complicated.

MR. SCAVOTTO: I would say more complicated.

MS. BURMAN: Basically what we are trying to find out from the applicant is how did you figure out how many beds you are asking for, how did you estimate that number, how did you estimate the

number of people that will be coming to you in a year. That trickles down into when you figure out how many and what kind of staffing that you are going to need.

So sharing with the Board how you figured this out, that's the bare bones of it.

MS. CREDILLE: This is Cece Credille. I'm going to put on my hat of my job that I do on a daily basis, and I work for HCR Manor Care, and I have information from our organization. We operate in 38 states, and this is the only state that requires referral letters.

So letters, letters of support is what we are accustomed to in working with and working with whether it is a managed care organization, hospitals, physician offices, home health agencies, supportive living, whoever it is. The number of agencies that letters of support are more meaningful than referral letters, and as the health care climate has changed with ACO's and managed care contracts, the whole climate has changed.

So the concept of referral letters just doesn't even work anymore quite honestly. We are not doing it in any other state but this state.

MS. BURMAN: This is Claire again. It is a means of how you estimated your numbers, and it is not a problem for everyone. You know, if you are talking about hospitals as a main referral source, it may be or may not be. They know how people are disposed. They know where people go, so --

MS. CREDILLE: So back to Mike's comment that we can use Medicare data from the hospitals. That's not all inclusive, but that data is already there in terms of referral sources in a community.

MR. SCAVOTTO: Agreed.

MS. BURMAN: Just one more thing. This is Claire. Discharge planning is not based just around Medicare. Yeah, they have a commission on all the patients. They have full departments doing this. They have for quite awhile. So that's all that I am going to say.

MR. SCAVOTTO: Claire, I think Cece and I are going to stick to our position on this. If you want to use the hospital data, go ahead. That's fine. Just recognize that it is a limited data set. You get 25% of the admissions from a facility, fine. Maybe you get 30. But, you know, you are missing a large percentage of the

admission, the admission experience of the facility.

So at this point, at this point, I mean, that's -- to me that's the way it is. We can't change that. That's the business, and, you know, if you look at referral letters from hospitals to represent 100% of your patient population, that dog ain't hunting.

MS. BURMAN: Excuse me, we don't ask for hospital referrals, we ask for information from your referral sources. That's the term, "referral sources". It could be hospitals, it could be social services, it could be people that live in the neighborhood, you know, you could have a list of people who know about your facilities.

Let's say you have more than one facility and they think gee, it would be great. You know, you took care of my mother. It would be great if we had a facility from your operation but have one located in our area because I have an aunt that is going to be needing something soon. There is -- I would assume you hear from people in the communities.

MR. SCAVOTTO: Yes, you do.

MS. BURMAN: No?

MR. SCAVOTTO: Yes, you do. You do hear from people in the community. You hear from them all of the time.

MR. FOLEY: Can I make a comment? Charles Foley.

Go ahead, Claire. I am sorry.

MS. BURMAN: No, I was going to say that would be another type of information that would be useful in terms of showing how you ran into your estimate. You know, the question again is how did you estimate your numbers.

MR. CHAIRMAN: It seems to me that in a demand market study you are incorporating all of this together.

So a referral letter -- having been in the business maybe not quite as long as some but longer than most, a referral letter sometimes is just a phone call to someone in your Rolodex that says give me a referral letter because I'm doing X, Y and Z. It doesn't mean they will ever commit a resident to you, it just means they are doing you a favor of giving you a letter. It means nothing.

A market study, to me, has a great deal of

research to it and a quantitative determination of what will come through your doors.

So I would certainly support and use Michael's term and Cece's term, support concept rather than referral concept because, again, I have been around a long, long time. I have called a lot of people asking for referral letters. It is nothing more than sometimes a favor to you without any commitment to follow through. For real.

MS. BURMAN: Okay. Well, I speak from experience on the acute side. I have worked with hospitals for quite a long time.

MR. CHAIRMAN: I can say health care in general is different than hospitals.

MS. BURMAN: The hospitals that I was employed by did not handle it in that manner.

MR. CHAIRMAN: That's my opinion. Certainly anyone else sitting around the table is welcome to share what they think.

MR. FOLEY: This is Charles Foley. Sorry. Go ahead. Carolyn, want to say something? Go ahead, Carolyn.

MS. HANDLER: This is Carolyn Handler. I can support, you know, Michael's comment about from

the receiving end. I have been on the receiving end of that request, you know, can I write a letter of referral to support a CON application and really didn't, wasn't in a position to necessarily deliver on or couldn't commit that we would deliver.

I mean, if it was the right thing we would deliver a referral, but if was not the right thing there was not a referral delivered. But I have been requested to write those letters.

MR. CHAIRMAN: Thank you. Chuck?

MR. FOLEY: I understand completely where Claire is, where she is actually coming from. A referral letter is not gospel. All it is is just simply an indicator. It gives somebody just an indication that there could be this number of potential referrals. It is not, it is not intended in any way, shape or form to be gospel.

It is a way, it is a mechanism, as Claire has stated, to tell the planning board this is how we arrived at 120 beds versus 99 beds versus 150 beds.

I also agree with the fact that if we have a market study, a market study could, in fact, show the same information. So within a market study if

you are going to have an indicator, you are going to have to go to a hospital, that provider.

I think it is -- you know, again, it is not a commitment in any way, shape or form. It doesn't have to be a hospital. It can be a group of doctors, it can be a local -- there is other referring agencies. I think the staff has received letters from different kinds of agencies, not just hospitals.

Our office has never -- maybe I shouldn't use the word "never". Maybe once we had a problem of getting a letter, a referral from different sources, but by and large in general we have never had a problem in getting referral letters.

We try to tell them that it is not a commitment. You can use a range of 1 to 3, 3 to 5 per month,5 to 7 per month, you can use the word "approximately". So thereby you are not -- the person writing the letter is not committing themselves that they are going to send that many patients to your facility each month.

So it just depends on how you sit down and talk with that provider, whoever that provider may be. But again, if it is -- if we are going to have

a market study and if we determine what needs to go into that market study, all we are trying to do is just reaffirm the Board's numbers anyway; that the Board is saying there is a need or if there is not a need, there is not a need because -- you know, you are going to address an issue, say of maldistribution, and we talked about this cluster up here in this corner, that may mean there is not a need for beds because you have got all these facilities, but yet that may not be true either because you have to look at each and every single facility and see who they are, what they are doing.

If there is a cluster of private pays over here and no private pay, then you have got access issue, and that is how you document a variance under that access issue.

So you can still go to a referral source and say we need, you know, a referral from the hospital, not a commitment of any way, shape or form. I don't think that's a major issue.

MS. CUNNINGHAM: Hi. This is Kelly Cunningham from Healthcare and Family Services, and I certainly am coming from a different perspective maybe than most everyone around the table, but

there are just a couple of thoughts that I'd kind of like to share about this.

In terms of the concept of support, I think that that is something that would be very important to, you know, include in any kind of application process, especially given there's been a lot of illusions to the changes in the long-term care arena and health care arena now.

I think that the facilities or applicants that are considering applying for new nursing home beds or to build a new facility, I think there are many more factors at play than the concept that the referral letter was designed to address, take into account.

Those might be things like the greater availability of home and community-based services in an area that are outside the realm of a facility, the whole role of managed care and coordinated care and the decisions that those entities are going to make and how and for how long individuals that are sent to long-term care facilities are going to be in residence there.

I also think, too, it is really important this whole concept of the market study, and I would

agree. I think Judy made the comment it may not matter who does the market study. It is really an interpretation of the data and in terms of the state and the Board setting out what the requirements are for the market study in terms of qualifications because I think a market study, if you don't have very strict parameters about the data, about what you're measuring, how you are calculating it, a market study can say about anything you want it to.

MR. SCAVOTTO: That's true.

MS. CUNNINGHAM: And I do know that from experience with the supportive living program. If you set your catchment area very, very wide, you can manipulate your market penetration rates.

MR. SCAVOTTO: You can justify anything.

MS. CUNNINGHAM: You can justify anything. So I just wanted to sort of point out that I think this whole concept of moving towards some concept of a support letter, something that exhibits that a relationship is there and that it is a positive relationship and that it is less about a commitment to a specific number of residents or individuals being sent because I would think honestly even in

the hospital world with just all of the changes in health care, that that has to be a very difficult position for any provider in health care to make right now.

MR. CHAIRMAN: Yes?

MR. GAFFNER: Alan Gaffner. The market study would be a very valuable and objective tool. I think there is great credence for what they propose.

I do not believe that we should overlook the importance, however, of the subjective data that does come either under the umbrella of a letter of referral or a letter of support in that.

We all know that there are many factors both objective and subjective that will determine the ultimate success of any facility expansion or a new one.

So certainly the objective data from the market study, although it would indicate that the numbers are there, that does not indicate that facility will ultimately be filled if there are some underlying factors that will not allow it to be successful in the marketplace.

The other thing that I would caution us

about is not to rely heavily on what managed care is going to do to the long-term care community when we are simply standing, waiting for that train to arrive.

Yes, we know it is coming, but unfortunately the managed care concept in the state has not proven to be successful. Those of us that have had acute care experience know that those managed care entities fled the state, threw up their hands, said can't do it.

So although we know it is coming, it is going to certainly come more quickly in urban areas and less quickly in rural areas. I don't believe that we can model it on what all other states are doing. I think we should take a very deliberate approach and look at what is being done well and not well in other states.

But Illinois is very unique in that it has a very large urban concentration very far north, and it has a very rural concentration in other areas where managed care is going to get to likely much less quickly. They will not be able to be a good indicator of what is going to happen from a referral standpoint.

I'm not discounting at all what you have suggested, Mike. I think it has good staff support and has importance, but I want to not bank too heavily on managed care and not overlook the importance of subjective date as well. That's why we have staff, and that's why we have the nine-member board. Those skill sets and talents come together, sort through all of this and end up with the final product. Thank you.

MR. FOLEY: Very well said.

Mr. Chairman?

MR. CHAIRMAN: Yes, sir.

MR. FOLEY: This is what even Kelly was saying. Our own application form does specifically state, provide letters from referral sources, parenthesis, hospitals, physician, social services and others.

So you can go to other agencies. It does not have to even be a hospital because there are, in fact, other referral sources out there.

So I still think that as an indicator of need, I still believe at least that something should be provided either in a separate letter with any application or even part of the market study.

MR. CHAIRMAN: I guess at this point of the discussion I'm getting confused. When I am trying to flip back in my mind, I think we are all saying the same thing. We all agree that there needs to be some documentation that demonstrates how we arrived at our numbers. Whether it is a market study that incorporates support letters or a market study that incorporates referral letters, we are all saying the same thing.

Are we not? Am I missing something?

MR. GAFFNER: This is Alan Gaffner. The only reason I said what I did contrasting objective and subjective, I thought and perhaps misunderstood, that some were suggesting that either the referral letters would go away or that that would no longer be part of the process.

I would not support incorporating of the full blown market study would be done at the exclusion of those other types of justifications.

MR. SCAVOTTO: Support letters always welcome.

MR. GAFFNER: But I think there can be value -- excuse me. Go ahead, Mr. Chairman.

MR. CHAIRMAN: I don't know how you can do a

market study without the inclusion of support letters or referral letters. That's a key piece of a market study.

Michael, am I wrong?

MR. SCAVOTTO: No, I think we are saying the same thing, although I think for -- in our parlance we were thinking that a support letter would be a better characterization than a referral letter. You are not going to get it all with referrals.

MR. CHAIRMAN: So Michael, what do you need from us to move forward?

I want to make sure we have enough time for Judy and her report and her committee to report.

MR. SCAVOTTO: As far as I'm concerned you have got our report, and I would add to it today Charles' comment on the market study.

I would -- you know, we are circling the wagons on this thing as we did the last couple of meetings. I think vote it up or vote it down.

MR. CHAIRMAN: So unless someone has something else that they want to add to this discussion, because I think we are going in circles right now -- we are basically in agreement with what is being said.

I would like for a motion to accept the report from Michael and Cece that incorporates two changes to what was previously done.

Michael, do you want to make a motion since it is coming from your --

MR. SCAVOTTO: Well said. I make that motion.

MR. CHAIRMAN: Will someone second it?

MS. CREDILLE: I second it.

MR. CHAIRMAN: Okay.

MR. FOLEY: You going to have discussion?

MR. CHAIRMAN: The motion is basically to accept Michael's report.

MS. AVERY: Which report?

MR. CHAIRMAN: The one he just gave an hour and a half ago.

MS. AVERY: So to get rid of letters of referral, put in market studies overall?

MS. BURMAN: Incorporate it into the market study.

MS. AVERY: We will have to get rid of that and then put it into the market study.

MR. CHAIRMAN: Sorry. Say it again.

MS. AVERY: We will have to get rid of that

section and then make sure it is spelled out in the market study.

MS. BURMAN: Before we revise it, we will essentially get rid of it.

MR. CHAIRMAN: Michael, did you hear what was being said?

MR. SCAVOTTO: I think so. I think I could paraphrase it maybe a little differently.

Courtney, I think we are suggesting that the market study be incorporated into the demand sections of the application.

MR. CHAIRMAN: Yes, sir.

MR. OURTH: Joe Ourth. A couple things on the market study.

As Mike Constantino probably remembers, twenty years ago. It was not uncommon to have market studies as part of that. Then what would happen is you get the market study, everyone would take the good part of the market study out and leave all of the rest of it, Xerox it, submit the good stuff, and then Mike and others started saying no, if you are going to give us a market study, you need to give us the whole market study.

there became a little bit of a cottage

industry where you would do -- there were market studies that were done for the bankers and making the real decisions and market studies done to give to the planning board. Every market study ever submitted founded a need for.

So if you are going to do that market study kind of thing, you know, some people are thinking about is this an independent thing, is it going to be basically an argument for that. It makes a difference.

The other is others can probably give you a better estimate, but if you are going to look for an independent market study that's good, you know, you may be talking 20, $30,000 to do that.

So that, you know, you may want to consider for the community do you want -- if you are wanting a market study that's worth anything, it is going to add 20 or $30,000 to the price of that and, you know, whether or not you want to do that.

MR. CHAIRMAN: But you are talking about multi-million projects. To build a nursing home you are talking about millions of dollars, so 20,000 is nothing. So I don't have a problem with that. I don't.

MR. FOLEY: Well, Mr. Chairman, I understand what Joe is saying. Joe is absolutely correct. Our intent originally was try to keep the initial cost for an applicant down to a minimum until such time when he got a permit.

Twenty, $30,000 up front plus an application fee up front, you are talking before an application can be filed and depending on the size of the project, you could be talking $100,000 on up, okay?

You also have the option on the land that has to be included in that cost. There are going to be some attorney's fees, going to be other fees. So we are talking about a substantial amount of money.

However, still supporting a market study and understanding where Joe is coming from because what he said was absolutely correct, if we could -- maybe a market study is the wrong word to use also. -- but if we can have a document that could incorporate certain aspects that are usually found in a market study, that would help, you know, to determine the need further.

Maybe that's what is needed so that we can keep that cost down of a market study so it is not

20, 30, 40. I have seen them up to $75,000, you know, for a market study.

What increases the cost of a market study is if one has to go out and do a lot of legwork. When you are in Chicago and you have got a planning area where you have got competition within 15 miles or within 15 minutes you have got 40 facilities, and you go out and you got to do an assessment on each and every single one of those facilities, you are jingling a lot of money.

MR. SCAVOTTO: You are really looking at demand.

MR. FOLEY: Absolutely correct. You have got profiles give you a lot of that information that is usually also in terms of a facility analysis. That's all right in the profiles. We don't have to have that kind of a market study.

MR. SCAVOTTO: Don't have to do the secret shopper routine. You look strictly at demand.

MR. FOLEY: That is absolutely correct. So if we are going to have a market study, we need to define what a market study is going to include.

MR. CHAIRMAN: All right. Chuck, hold on. Frank?

MR. URSO: Mr. Chair, maybe if this subcommittee is accepting the report of Mr. Scavotto and Cece, maybe staff can then step back, take a look at what has been proved and then maybe come up with some parameters and some verbiage that could be incorporated into the demand section if that's where everyone thinks it should fit and then, you know, put that on the table and have this committee discuss it at the next meeting or something.

MR. CHAIRMAN: Michael, as the lead in this are you okay with that?

MR. SCAVOTTO: Yeah.

MR. FOLEY: One more meeting, Michael.

MR. SCAVOTTO: That's sufficiently vague to be workable.

MS. AVERY: This is Courtney. I just want to know a little bit of a snapshot.

When providers or owners of a facility are looking to expand beds, add beds, discontinue beds, whatever, what is used in lieu of?

Is it a strategic planning document or is it a market study that's kept internally?

What do providers use to make the

determination?

MR. CHAIRMAN: I think what Courtney is asking, Judy, if you are going to build a new facility, how, where, what are you going to start with?

MR. FOLEY: Bed need. If there is bed need in a planning area, that's where they start.

MR. CHAIRMAN: Hold on.

MR. FOLEY: I'm sorry. My apologies.

MR. CHAIRMAN: I'm not going to allow you in Springfield anymore.

MS. AMIANO: So, you know, clearly we would go through some of the same machinations that are being talked about here in terms of what is, what is needed in the marketplace, you know, what needs are being unmet in that market place, how might we fill them in.

I will go back to the referral or support letters. They are, I would just say, absolutely useless. We would never do those just for internal because we know what the marketplace is, and it is an exercise and a lot of time that doesn't yield you anything because there is no guarantee of those at all. It is all about relationships and types of

services that you provide.

So I would just add one more layer that I would support that we go away from those, but we do look at, you know, what is the population, what is the age banding of the population.

That is not as specific as it used to be, though, because now with managed care we get a lot younger people as I'm sure Cece does in her company as well.

So the dynamics keep changing. You know, it used to be a three-day stay and deal with hospitals. We have several of our places that have waivers on that. We have direct admits from ER's.

So all of the rules keep changing, and so that part is very difficult.

MR. URSO: You have to keep in mind that you have to justify --

MS. AMIANO: We always have to justify. We have a board.

MR. URSO: Let me finish. You have to justify, however you come up with your decision, you have to justify it to the Health Facilities and Services Review Board, and they may be looking at it differently than your board, of course, because

your board is going say are we going to make money or is it going to be successful, you know, whatever the parameters.

MS. AMIANO: That would not be our first question but --

MR. URSO: I don't know if it is, but I'm thinking that your board would be looking at it differently than the Health Facilities and Services Review Board which has to take a look at need and access to care and unnecessary duplication and things along that nature which may be different and I think would be very different than what your board, your banker, your supporters would be looking at.

So something needs to come into the mix when you present the package to the Board, to the Health Facilities and Services Review Board, how do you justify this to them.

We are not going to be looking at it the same way your internal strategies, you know, would look at it and your business plan and your documents to the bank and your board.

MS. AMIANO: Right, although many elements would be very similar.

MR. URSO: Yes, I agree.

MS. AMIANO: You know, no one wants to build an unsuccessful project. I think everyone does their best to be -- to do their proper diligence to be sure you are going to be successful.

Now, is that at the cost of another provider? It may be, and that goes into innovation.

What does the market want? What does the consumer want? Where should the consumer be in this conversation?

We have very different inventory in the State of Illinois, and I think that was one of our initial premises of this committee is how do we move forward and allow for innovation and trying to update inventory and trying to meet the needs of the consumer of today. So we are all challenged by this.

MS. AVERY: My second part, of course, I was a toddler 20 years ago, but did providers welcome the market study?

What happened that it went away?

Do you know why we changed to a letter?

MR. OURTH: Mike, you were around then.

MR. FOLEY: I think that it was a little bit of expense, and it was also a little bit of every market study -- because what would happen, every market study would cherry pick all the right materials to show that, and so I think it was a combination that it kind of fell away. It was always optional.

MS. AVERY: Even with the cost minimum on a multi-million dollar projects, that that would go against what the Board is charged with on another aspect with cost.

I was wondering if people were saying these market studies cost us too much, you are supposed to be about cost containment but you are adding another level, and this is going to cost us probably up to $75,000 extra.

MR. OURTH: I don't remember all of the reasons it fell away.

MS. AVERY: Okay. Thanks.

MR. CHAIRMAN: Steve, your client base, how do you feel about this whole discussion about market studies and costs and investment, all that good stuff?

MR. LAVENDA: Sure. This is Steve Lavenda.

You know, most of our clients have not built any new places in quite some time. I mean, I can think of one in the last ten years. Mostly the clients who we deal with are in the acquiring mode. They are -- you mentioned consolidation before. I think the thing to build a new facility currently is just so expensive that people are just acquiring new facilities and modernizing them.

If you build a new facility, looking at it from a Public Aid rate standpoint, the most that you can get is close to $50,000 a bed for your reimbursement basis whereas the actual cost of building one is well over 120,000 per bed. A huge disparity there.

If the goal of this committee is to help serve the Public Aid population, you know, something has to be done on the reimbursement end to encourage new construction.

MS. AVERY: And the $120,000 fits into not just the actual room but the overall facility? So if you have whatever amenities, fancy ice cream shops, waiting rooms, things of that nature?

MR. LAVENDA: If you are going to go that route, it may be a little bit higher. I have not

looked at it in awhile.

Also, don't forget that at one time you could build a 250-bed facility and maybe the cost per bed would be a little bit less, but I believe most of the projects now have to be 200 beds or under. So that cost per bed is going to go up.

MS. AVERY: I understand totally that you have to have those amenities outside of the room in order to attract people to want to come there. Got to have some kind of attraction.

MS. LAVENDA: Even from what we see, urban area homes have done an awful lot the last number of years to modernize or make their facilities more attractive.

I mean, I see it because one of the things that we do is we file for rate increases based on their capital improvement spending, and I know that our homes we are filing about 40 or 50 of these a year. I know we are not the only firm doing it. So I know there are homes out there that are investing, you know, in their property.

Now, some of it the last two years has to do with the sprinklers, but, again, it is not -- again, I see a lot of this. It is not all

sprinklers. It is some of the things that Courtney just mentioned, you know, the ice cream shops or the theaters or the barber beauty, just things to make it a little more home like.

But certainly the new construction, most of our clients have shied away from it.

MR. CHAIRMAN: How much time do you need for your --

MS. AMIANO: Depends how much discussion there is.

MR. CHAIRMAN: I want to make sure you have enough time.

MS. AMIANO: A lot of it dovetails.

MR. CHAIRMAN: Unfortunately -- if we were in our usual mode, you know, then there wouldn't be a time that we are up against. Today we are up against 1:30, right?

So I would like to then take Frank's suggestion and put this back -- Michael and Cece, this is incredible work -- give it back to staff, let them kind of redesign it.

For the purpose of the court reporter, would you recognize that Bill Casper has joined?

(Bill Casper now present.)

MR. CHAIRMAN: And if no one has any objections, then I would propose that we take Michael's and Cece's suggestion, give it to staff, let them incorporate it into some language and bring it back to our meeting and then take a 15 or 20-minute lunch break and then let Judy and her group go to town.

MS. AMIANO: Even a five or ten-minute break if people need to get something.

MS. AVERY: Are you all going out for lunch? Did you order lunch in?

MR. FOLEY: There is no place to order from.

MR. SCAVOTTO: No, we didn't order anything.

MR. CHAIRMAN: Do you want to take a ten-minute potty break, phone break and stand up, stretch, then those that are eating lunch, we will work through lunch? I'm fine with that, too.

MS. AVERY: I apologize. Next time we will have a menu there in the beginning to order from.

MR. CHAIRMAN: So we will --

MR. GAFFNER: May I ask a question as to what we are recommending to staff?

Does that include their consideration of the letter of referral issue, or is that not part of

it?

MR. SCAVOTTO: Yes, it is part.

MR. GAFFNER: So they would be considering whether to let them remain or to remove them; is that correct?

All right. Thank you. I was getting an explanation from Michael. You couldn't hear it. Thank you.

MR. CHAIRMAN: Anyone have any problem with what we are suggesting?

(No response.)

MR. CHAIRMAN: Not hearing any, then we will take a ten-minute break.

(A lunch break was taken.)

MS. AVERY: Okay. We are ready. I have got it.

MR. CHAIRMAN: Okay. We are going to -- we are turning the meeting over to Judy and her group or just Judy?

MS. AMIANO: Well, I think we will all participate, so thank you.

First I want to acknowledge the team members. Tim Phillippe has been participating, and we are glad to see you back.

MR. PHILLIPPE: Thank you.

MS. AMIANO: Cece and then Bill Casper and myself. So the four of us have met several times in person and by phone. And really to put it in context, our goal was to be able to maybe put these together in a way that we could move forward because we seemed to be rather circular over the last few years in some of these issues that we were stuck on.

So what you will hear from us today is probably nothing earth shattering, but we tried to put it within a context that when you see the whole, folks might be able to have maybe a different picture of it then get stuck on each little point.

I think what we'd like to do is walk through the document that you have in front of you, and we will just maybe hold questions to the end so we don't get knotted up on any one singular issue until we have a chance to go through it.

So if you turn to page 2, we really start our first section saying let's go back to the beginning; what problem is it that we are really trying to solve here.

As you can see with the sides of the bubble so to speak, the thing that we tried to keep centralized -- I think one of the original people on this group. How many years has it been?

So four years that, you know, one of our major charges was how do we allow for innovation in the State of Illinois given all of the other concerns that we have in the long-term care field.

We also were looking at access. So we know that access for the poor is an important issue and how do we ensure there is proper access throughout the state.

This bubble should be bigger, but the excess bed is probably the 100-pound elephant in the room or 1,000-pound elephant in the room.

I went back to my original notes. Job creation was one of the other things, although that probably has become more minor over time, but generation of construction and new jobs was one of the special interest groups that were originally represented.

Then this whole notion of lack of capital. There is no funding, you know, there is not enough money in the system to recapitalize what is there,

how do you build new. It all goes back to innovation and how do we provide residents in the State of Illinois new and better services given some of these constraints.

That was just kind before we get into a discussion let's all agree on this piece. I just wanted to share with you that was our framework that we started with as we went forward.

I will tell you that the four of us are not in complete agreement with everything that you will see here, but we believe that it is important enough that we put it together this way so that it gives the group an opportunity to weigh in and each of us to learn from one another and be able to move this forward.

So flipping over to the kind of the decision tree, if you will. So the buy/sell, I think the group has pretty well agreed based on the last couple of meetings that buy/sell is the way that we want to go.

So we are saying if we implement buy/sell, if a decision -- would you guys mind muting on your side for a minute? There is a lot of background noise.

So the group talked through that for some reason and decided buy/sell was a no, then this group should really disband. That would be our recommendation because we are not -- we won't be able to move forward.

MS. AVERY: The work group or the subcommittee?

MS. AMIANO: Probably the broader group.

MS. AVERY: Remember, it is more than buy/sell you all are charged with.

MS. AMIANO: We know that, so --

MS. AVERY: So don't disband.

MS. AMIANO: It was just a strong point. How do we get change? How do we get off the dime?

So if the answer is yes, our recommendation would be that we implement a freeze on the long-term care beds. When we went through all of the ramifications of what that meant and what the existing variances are that are allotted to providers in the state, we decided to kind of get rid of all the variances with the exception of CCRC and the religous exemption.

That was based off of, you know, in talking with Claire. There's been very little in that

bucket anyway, and so it didn't seem to upset the apple -- why upset that apple cart if it is not being utilized type of thing. So that variance is in there.

So if you move onto the next page, you know, --

MR. CASPER: I think the other element of that, implementing a freeze, we have had a lot of discussion about that and came really to the conclusion that just about every state we looked at with a buy/sell program had a freeze in place, and if there was not a freeze, then there really was no reason for people to buy or sell beds, and it really then dodged the entire bullet of the excess bed issue.

MR. URSO: Do you mean a moratorium? Is that the same thing?

MS. AMIANO: Moratorium and freeze. I will tell you that all of us -- and we represent different groups -- went to our various groups and are in 100% support of this particular piece of our recommendation. So coming from providers that's big. That was a big step.

MS. AVERY: Can you tell me the groups?

MS. AMIANO: We have a consensus on that issue.

MS. AVERY: What was the groups, Cece -- I'm sorry, Judy?

MS. AMIANO: Pardon?

MS. AVERY: Which group?

MS. AMIANO: Went through Leading Age, Illinois Health Care.

MS. AVERY: Okay.

MR. LAVENDA: What about HCCI?

MS. AMIANO: They are not in this work group.

So we will kind of keep on. So in terms, you know, kind of how do we get there, what does it look like if we implement the buy/sell and we have a moratorium in place, our recommendation would be to buy beds without restrictions of geography.

We talked about and looked at that, and several of us work in multiple states. So, you know, some of that very early research that was done, some places restricted it, some places didn't. It looked like it was effective with no restriction. So our recommendation would be let's go in open minded and not have restrictions in

terms of geography in the buy/sell.

We also tried to think about, you know, what are we doing with the excess bed issue, and there are a couple -- you will see a couple of recommendations in here on how to start to begin to address that piece of it.

One would be in the buy/sell program provide for a premium, if you will. So if I am selling beds, that I have to give 15% back to the state with any of those transactions, and it would be on the sell side of things is what we talked about for that.

Does that make sense?

So we went through all these issues on what do you do with rounding and then said, you know, kindergarten rules apply. If it is --

MR. CASPER: I thought they were tax rules.

MR. LAVENDA: We can ask Steve. I don't know.

MR. CHAIRMAN: Judy, just to make sure I understand, if I sell 100 beds, I have to give 15 of those back to the state, take them out of --

MS. AMIANO: In addition. So however you want to think about that.

MR. CHAIRMAN: Or sell 100, then 15 back to the state on top of that or sell 85 and 15 back?

MS. AMIANO: However you want to think about that, but the state gets 15% with any transaction back and standard rounding rules apply. MR. OURTH: Fifteen percent of 85 would not 15. I can't do that math in my head but -- MS. CREDILLE: Other states have had similar kinds of programs.

MS. AMIANO: I want to say if you guys want to take off mute now that all of the lunch papers are done. We don't want to exclude you guys from the conversation.

so keeping on through this, one of the other concerns was access. So when we looked at this, we said well, how do we begin to address that if buy/sell is going only go in the marketplaces that it is certain payer that is being sought.

So we looked at it and said what if we offered that for anything that triggered over 100 beds, because sometimes it is smaller, with smaller facilities to be able to survive on the Medicaid rates in the State of Illinois, but 100 seems reasonable because you have got enough density, if

you will, that anything that was over 100 beds licensed facility at 20% of them at a minimum would have to be certified for Public Aid.

We also said implementation. I know there has been a lot of conversation around, you know, do we pilot this in certain areas. We said, you know, that's probably a recipe for disaster. If we do it, we jump straight in and do it immediately and do it statewide. That is our recommendation on that. Moving to the next page, we have had a lot of conversation around how does this get started, who pays the price. Price will be dictated by the market. We will just let the marketplace do that. The states where they -- in our evaluation the states that tried to impose metrics around that seemed to falter a little bit. So let the market reign.

For those of us that have experience in multiple states, we didn't find where folks were way on one end, way on the other. It tends to migrate to market and that we would look at that happening.

On the CON review process, what does that look like if you have a buy/sell? So it really

would be very expedited. So a transaction between parties would be, you know, essentially a 60-day review, but things that would fall into a more substantive type of review would be anything that was a new facility.

We define new facility as any project that adds beds where none currently exist. So it wasn't really by size or anything like that. If you are putting brand new beds somewhere, that's going to get a more substantive review than if you are just modifying, adding, deleting through the buy/sell program.

We talked about, you know, when, if Cece sells beds to me, when do I own them, what does that look like in that transaction.

So we really felt that the CON review process was the determinate for that. So once you were awarded within that 60-day time frame, then that's when the actual transaction would happen.

We also talked about, you know, how -- what would happen if people tried to hoard beds type of thing. And we have all kinds of conversation around that; how do we legislate to the lowest common denominator.

So we tried to take some of that into account here. We said, you know, really that if you don't put a shovel in the ground in 18 months, then those beds all come back to where they came from.

MS. AVERY: Part of it -- this is Courtney. Sorry. Part of it with new construction is that someone can purchase beds to establish a new facility?

MS. AMIANO: Yes, we have to buy them from someone somewhere without restriction to geography.

MS. AVERY: But you still have to look at the need formulas?

MS. AMIANO: Let me keep going. Let me keep going. We will go back to that.

So the next page is -- you know, the big elephant in the room is what do you do to get unused beds out of service, and that's really an elephant.

This is one point we don't have agreement within our group necessarily, but we put this forth as a recommendation acknowledging that there has to be a mechanism at some point in time get these mechanism at some point to get the 20,000 extra

beds out of inventory because the whole bed need formula doesn't currently make sense with all the excess beds.

So if we were being very honest, then, you know, we would recommend that the department implement rules regarding how long you can, the operator can have beds without operating them.

So we would make that as a recommendation. So all of the beds that are out there that are not in service, how do you begin to do that?

We talked about perhaps offering a premium. So that, for example, in the first 24 months if we implement the buy/sell program, that providers at the end of 24 months would be at risk of losing some of their licensed beds if they didn't sell them.

So at the end of 24 months if you are below the 80% occupancy, which the state's average is what, 79%, right?

MS. AVERY: Seventy.

MS. AMIANO: So we talked about establishing a threshold.

How do you get buy/sell starting to work?

What is going to motivate people to do that

if they are at risk of losing some of those beds or making a profit off of those beds in that 24 months?

That would be an excellent way to kick start the program. It would be risk free for the providers, and it would help to start shuffling this process.

So, you know, we talked about we have got 80% in there as a number. So if you are below 80% occupancy, then you might be at risk of losing 10% of the beds that are above that down to the 80% level type of thing.

So, you know, it would force people to look at what are the licenses that they have that are not being used and do I sell them to another operator or do I risk them being called back by the state at some point in time.

So we looked at that as something as a biennial or every other year type of process. You have kind of a two-year window of time because the acknowledgment if you are running a Medicare population, that can be wildly fluctuating, you know. But a two-year period of time is a good period of time to look at an average of occupancy

and to start to address that.

Then our last point which is not new to anyone is that the bed need formula needs to be revised but for four different reasons that you will see here.

If we implement buy/sell, if we implement the fall back, then fundamentally the existing formulas, we are going to create artificial demand. When you start to take beds out of service occupancy is going to come up to 90% when it would have been 70 before. So, you know, does that make sense, then?

So the whole bed need formula we believe needs to be evaluated in the context of if you do buy/sell, if you are doing a retrieval of excess beds, then you have to revisit the entire bed need formula.

Bill or Tim, did you want to add anything?

MR. PHILLIPPE: That was a great summary. Very well put together. Thank you.

MR. CHAIRMAN: I will open the floor up to questions from anybody or comments.

MR. GAFFNER: Thank you, Mr. Chairman. This is Alan Gaffner.

About the time it was muted, I think the question was asked about the provider constituency and their support. I believe I heard it indicated that IHCA had either weighed in or approved, and then the question was asked what about HCCI. I didn't hear an answer on that. And then I would also just ask about the Council on Long-Term Care, if they have weighed in as well, please.

MS. AMIANO: They were not part of the subcommittee, so we were just referencing that the participants on this went up the flag pole with their, who they were representing.

MR. GAFFNER: I know this is my first meeting here today.

Am I, then, assuming that since those two groups which comprise almost 50% of the Medicaid beds have not seen or been exposed to this, this is going on the table today and it is not an action item?

MS. AMIANO: It was just a work group of the committee, and we were reporting back on recommendations not too dissimilar, Alan, to what Mike and Cece presented. It is just a subgroup to try and, try and take some of these concepts and

work them through and think them through without all of the -- I don't know what word I want to use here.

This is your first meeting, you know, and it has been challenging on any singular one of these concepts to be able to move it forward, either to accept it or reject it. It's been in inertia for some period of time. It was really an effort from the last meeting we had, a group of us that just said let us just see if we can work on this and come back and talk about it.

This is really just a discussion. This is not a motion for accepting in totality or anything like that. It was really just meant as if we put all of these disparate things together and put it to see where -- this is gave and take. It is -- as I said, not all of us agree with every aspect that's in here, but we agree it is important enough to bring it forward to say if it looked like this, maybe we didn't quite get it right, but it is a place to start where it puts some of these very touchy subjects all together.

MR. GAFFNER: Great. That's a helpful explanation because I have been attempting to

follow the work from the sidelines and stay as current as I could about where things were, and then I know this was passed out this morning.

Great. I have a greater comfort level with that because I would not have supported our consideration of an action item when we have obviously a very large constituency that have not seen or made comment about the document.

I can really appreciate where the work group went similarly to what Mike and his work group had done earlier. I think that makes great sense, but I don't believe there would be logic in moving forward without some input from those two groups.

The only other thing I would add at this point is I do not support the moratorium concept even if the buy/sell program moves forward. I think Illinois has some unique differences from the other states that would not be in the best interests of the long-term care residents we serve, especially, again, speaking about rural areas. Thank you.

MR. SCAVOTTO: Do you want to clarify what those would be, what those unique characteristics for Illinois would be like?

I would like to know what they are.

MR. GAFFNER: Sure. One of those that I would begin with as a driving force in where we are with this is centered on the state's very low Medicaid rate. I mean, that is bundled into part of where we were today.

Secondly, I think Illinois has historically been challenged to have an accurate bed inventory as it relates to areas.

Thirdly, as I mentioned earlier, I think the state's unique geography and population distribution makes it very difficult not only from long-term care service but in others where you do have high concentration pockets of population and then largely rural areas.

So those are three things that I see that would differ from a number of other states that don't encompass a state that is almost 300 miles long from north to south and have those population discrepancies.

MR. SCAVOTTO: So does the -- let me follow up on this, please. This is Mike Scavotto.

Does a moratorium, does the presence of a moratorium prop up the price?

MR. GAFFNER: I have not thought through that part it, Mike, whether it is going to prop up the price, but I think to say that there is no opportunity for beds to be used or to put in place, if I'm understanding the moratorium concept correctly, that it could only be done through bed buy/sell and not by authorization of the full nine-member committee, I have concerns about that.

MR. SCAVOTTO: Okay. All right.

MR. PHILIPPE: Can I just join in?

I remember a discussion we had at the last meeting or two meetings ago where the new bed need numbers came out, and what I remember is there actually is very little bed need across the state as a whole already anyway.

MR. SCAVOTTO: That's right. That's right.

MR. PHILLIPPE: I'm thinking maybe one or two places, but the state as a whole, very little bed need using the formula.

So the more practical issue with this is that it forces people to buy or sell because what would be confusing is if you could go to the Board where there is no bed need and still justify a reason to build which is happening today. It's

happened in the last few years. There is no official bed need, but it is approved anyway. Doing that would really confuse the whole process.

MS. GILES: I was just wondering how the group, how implementing a moratorium, if the group had considered what that does to the price per bed, and I was actually thinking when I was framing that question in my head thinking about the rural providers who some of them may -- it would just add to their cost where they might be able to get beds through the normal process.

MR. GAFFNER: If I can go back a minute. In trying to review some of the comments from the August meeting, I would reference those made by John Florina. I thought he made some good points relative to occupancy levels and total bed counts.

I think that we cannot lose sight of the fact that an excess bed is not a problem from the standpoint that it is an excess bed because all of us as providers today know that an excess bed does not increase the cost of the Medicaid program. If it is a staffed bed it does, but it if is not a staffed bed, there is no cost.

So -- and, John, you know, I wasn't there in

the context of what you referenced in August other than I think we need to make sure the bed buy/sell program is also addressed from a universe of all these things regarding the overall census occupancy level throughout the state as well as what really occurs in the harm of an excess bed and with that, then, what will be the demand.

I think, John, that was one of the things that I really was taken by that you commented which was trying to look at the future need that's going to occur in Illinois or at least that's what I was catching from the written word on the page. If that is not what you were trying to say, I misinterpreted.

But what is going to be long-term planning need, and if we reduce these beds, what really does that do from a delivery position standpoint?

MR. FLORINA: This is John. Just real quick. Alan, I think you read my comments appropriately, at least as far as -- there is a lot of questions that I had more than answers of this whole thing. Some of them go back to, you know, why do we have an excess bed situation now. Do we know the cause of it to know why we need to address

it? You know, secondly, what is, you know, what is the future need?

And one thing we have always been wrestling with here even before the subcommittee dealt with it is where are the so-called unused beds, and why can't we find a way to get them out of the inventory if they are not being used?

You know, those are some of the key points. All these details in here are very helpful for discussion, but they go one direction versus another, and we may not all have the same opinion of them.

MS. CREDILLE: Well, the current occupancy in the state -- this is Cece Credille -- somewhere between the number 75 and 78%.

So if, if there was some mechanism and unoccupied beds went back to the state today but we maintained the current bed need formula, then there would be a need for more beds.

I mean, the bed need formula is counter to -- if we gave beds back today and the current bed need formula was in place, then we would -- and there is no moratorium, then more buildings would be built all over the place, and we'd have this

excess of beds. We'd continue in the same loop that we're in.

MS. AMIANO: This is Amiano. One of the premises that we worked off of was the fact that we were given which was all beds --

MR. CHAIRMAN: Claire?

UNIDENTIFIED: Can the person who has got paper --

MS. BURMAN: Thank you.

MS. AMIANO: So when we started, when we said in our work group we had some data from staff, that was a map that was entirely red with the exception of just a couple of handfuls, two, three, four, I can't remember, but it was not -- the map was exceptionally red, and red was an indication by this state's current formula of overbedding. So it was statewide pretty much with a couple of pocket exceptions.

So, again, it was just one of the foundational documents we had in trying to address, you know, if we do have so much excess inventory, how -- what is a process. There is no current process for working excess beds out of inventory. That was our premise.

MR. CHAIRMAN: Mike?

MR. SCAVOTTO: Tim, go ahead.

MR. PHILLIPPE: This is Tim Phillippe. Two things. One is that we talk about the price which is a very good question, you know, because it would cost to buy beds to be able to build new. That would add to the cost of the project we talked about earlier today.

So that is partly -- that is probably the biggest reason we went statewide because as Mike said earlier, if we have 20,000 unused beds and it is statewide, we have a lot of unused beds to be sold, potentially could be sold, and with this two-year kind of deal, you are going to lose them if you don't. It motivates people to sell them. That should push the prices down.

The second point is really the unused beds do not cost the state. They may -- I agree they don't cost the state, but they create a policy problem.

So there are locations where, because people have downsized the staff number, their census is lower. Their census may be running 80% or lower. However, there is not access for people into that

market who need beds. So there is not good access because people have artificially downsized the size of their building, but if you run the numbers their census is low so it says there is no need.

It all has to do and is really driven by the desire on payments to have more private pay and Medicare versus Medicaid. This doesn't happen in every area, but it does happen across the state.

MR. SCAVOTTO: Question.

MR. CHAIRMAN: Beyond the issues we have talked about forever is that owners are reluctant to give you the correct number of beds because licensed beds is probably securing their loans.

So even though they may be operating with 20 fewer beds, they need to maintain the license number because it is securing collateral for their borrowing. Otherwise, why would you pay bed tax on a bed that is ultimately unoccupied or may not be in existence? But yet they won't come forward with those numbers.

MR. CASPER: This is Bill. We had some discussion about that. I think, I can't remember, we need some additional research because there are many examples of states that have policies in place

where if you have you an unstaffed, unoperated bed that's not being operated can only be in place for a certain period of time before the license gets extinguished. Lending rules in this state can't be so different from other states that that is a true statement.

So again, it may be collateral, but the real test of your financing is whether you are making your payments or not.

MR. CHAIRMAN: Definitely agree.

MR. CASPER: I think some more research needs to be done to that.

MR. SCAVOTTO: I have a question, Tim. My recollection is when we were first talking about the buy/sell program was that it was something that owners could do, they could take advantage of.

What I am reading about this one is a little bit different. If you have got excess beds, you have got 24 months to move them or start paying a penalty.

MR. PHILLIPPE: I'm not the right person to answer that because I did not attend those meetings. I was having my bones chopped off about that time, so that came up later.

MR. SCAVOTTO: So Judy, we will give it to Judy or Bill or Cece.

MS. AMIANO: What was the question?

MR. SCAVOTTO: I forget. When we, when we first started talking about buy/sell, my recollection was that it was an optional program. The operators who wanted to move beds could sell them, people who wanted to hang onto them could keep them.

I read this a little differently. I may be reading it incorrectly. I read this as that there is a grace period in which you can move your excess beds without paying a penalty.

So there is a real incentive to take excess beds and redistribute them; is that correct?

MS. AMIANO: We tried to put some incentives in place to help get the program and start it and to incentivize folks who have excess beds.

So yes, it is a -- yes, there were premiums or incentives built into our recommendations.

MR. CASPER: Let me address that also. I think there were -- quite frankly, this is the element of this that is sort of beyond pure buy/sell that we don't have full agreement among

the folks that were on the small subcommittee, but I think as I, as we thought about it, it has been mentioned as an elephant in the room.

There are really two elephants in the room in this entire issue. One is the Medicaid rate in this state, and I don't think that's within our ability to do anything about.

And the other is the number, the bed inventory is so skewed in relation to the bed need formula by the fact of this unquantifiable number of beds that are not currently being operated in the system.

We know there is access issue. That's maybe largely a factor of the Medicaid rate. We know there is no bed need anywhere in the state. That may only be a factor of the fact that there is beds that are out of service and we don't know how many there are.

So the more we talked about it, the more we came to some consensus that something -- we all know about the Medicaid rate, but it is not part of this even the Health Facilities and Services Review Board purview. The total number of beds is something that can be addressed by policy within

the scope of what this subcommittee is able to make recommendations about.

MR. SCAVOTTO: So it sounds -- I'm not finding any fault with that, I just want to make sure I was reading it correctly. Sounds like I am.

But I would also like to say that I think this group ought to be commended for putting this on the table. They did a good job with a tough issue, and I know Cece and I can relate from our experience with the work group that it sometimes takes awhile get the stuff out on the table. I think you did a great job, and it is a place to start. I can't imagine this could be much better.

MS. AMIANO: I appreciate that comment. We tried to be mindful and thoughtful of various different interests in this process, and we are probably certain this is not perfect, but it is a place we can say can we conceptually kind of agree with this and work through what all the nits are.

MS. AVERY: This is Courtney. Judy, anybody else that worked with the work group, give me an idea of the discussion behind the new construction concept, because I think from the start pretty much said that should not be an option in this program.

MS. AMIANO: Yeah, I think it was really more around some of the special interest groups who were at the table who new construction led to new jobs.

I don't think the group is making a recommendation for wholesale new construction. We'd like to have that opportunity obviously through the innovation piece of it because I think, you know, we do -- you know, Illinois is behind. You know, we don't have the types of services for our residents that many of the other states do, and that's a reality. So that's something that we shouldn't be very proud of.

MS. AVERY: When you say programs, do you mean like the innovative care or something like the bed sale?

MS. AMIANO: I mean it more around the physical plant issues.

MR. URSO: Can you give some examples?

MS. AMIANO: I think the movement towards all private rooms. You know, we just came back from a national conference, and, you know, I mean, the type of buildings that are happening in other places are not happening in Illinois. We just now

have our small house in Illinois being constructed right now. That's been going on for what, ten, maybe more years in other places.

So we just have not had that ability due to some of the constraints in the State of Illinois.

MS. AVERY: But I think that the single room concept is what got us into this with the access beds because facilities decided to convert those rooms but never took the beds, two or three in a room, out of the inventory.

MS. AMIANO: There are at least some of us that are supporting the notion that the state would take those back at either -- I mean, our recommendation is to be evaluated, maybe set a time frame.

There is probably 100 different ways to go about it, but we thought if we went to the buy/sell and we implemented a moratorium, while there is a moratorium the moratorium doesn't mean the industry is static, it means that it is now going to move through this buy/sell program.

So you are still going to have all of those beds, but they might be recast in a different way as people are buying and selling them. But we just

wouldn't award any more through the current process. So you just freeze that up, and it forces this other one to start to work. But it is going to take some incentive and stuff to get people to feel comfortable doing that.

MR. CASPER: Courtney, of the things we clearly didn't address here but we talked about was the fact that if it was merely adding to an existing building it would be an expedited review, but that if it was a new, totally new building or building of beds where there were no skilled -- we were adding to the system, that would require full review so that you could --

Again, we didn't say what criteria we applied, but we would hope there would be innovation, and we would hope there would be certain other criteria involved around.

MS. AVERY: We have said innovation a couple of times. That's how this all started. You know, we wanted to bring this group together to get it back and write rules to have innovation, and then the bed sell exchange popped into the picture.

So I'm still not seeing the innovation part of it. It will come to me, I'm sure.

MR. CHAIRMAN: Did you incorporate existing rule of 10 beds or 20%, or are you saying that rule goes away?

MS. AMIANO: That is the CCRC variance, and that --

MS. AVERY: No, it is different.

MS. AMIANO: Oh, oh, ten beds, I'm sorry.

MR. CASPER: We talked about that, and we felt that this would replace that.

MR. CHAIRMAN: So that rule goes away.

MS. CUNNINGHAM: I just -- this is Kelly Cunningham in Springfield. I just wanted to address Courtney's point. I just had this pop in my head.

In terms of this proposal as innovation, I think as much as anything this is sort of about rightsizing, you know, maybe this particular profession, and I think that can be looked at as something that's very innovative.

MR. FOLEY: What is innovative again? I didn't catch that.

MS. CUNNINGHAM: May be some rightsizing. I mean, it is some reallocation. It is -- you know, I think there are a number of, you know, pretty

complex things incorporated into this proposal. I think at the heart of it really it does speak to making some significant changes to the bed need formula itself, but I think that many of the ideas in this are very innovative and not that maybe it creates something brand new but it makes something more appropriately sized.

MS. AMIANO: Let me add, I think as we were thinking about it, you know, you don't -- I guess the way we were thinking, and I will speak for the group, is when you are buying a bed, you are not doing that to replicate exactly what it was. You are wanting to do something new and different with it.

So we came from the framework of you are not just going to buy it just to replicate exactly what it was, that it becomes something new. You know, this gives people the ability to do that, you know, whether you are transferring within your ownership or, you know, you are moving them around in the marketplace, you are building some new inventory, you are doing all those things. So by the virtue of buying it, the new owner has a desire for something for that bed that didn't previously

exist.

MR. OURTH: Judy, a question. What role does the Review Board play in this? What is the standard?

Okay. You have an application. If there is already a buy/sell in place, is the Board supposed to look at that, or is that a forgone conclusion that it happened and sold, or is there any real review criteria role for the Board in this kind of transaction?

MS. AMIANO: We probably didn't get down into nits of that, but based on it being an expedited review, it was check the box, did it meet certain things in terms of, you know, governance and those kinds of things.

MR. CASPER: Ownership suitability, nature of expedited.

MS. AMIANO: That kind of thing, but, you know, that could be another avenue that it reduces workload of the Board by having that in a very expedited fashion because then it really becomes a marketplace type issue.

MR. CHAIRMAN: We had always talked about we would want to make sure that a buyer was not

operating with deficiencies. That has been discussed over the time period. So I assume that's part of your check box thing?

MS. AMIANO: Well, that was suitability of the buyer.

MS. AVERY: This is Courtney again. I'm still kind of stuck on new construction. When you all meet, again, take it into consideration. I'm pretty sure that whatever beds have been sold is going to, again, increase the cost of the facility I was purchasing.

How do I finance that I'm buying these beds and demonstrate that I have the capability to finance the purchase of the beds and the overall construction project?

I'm not asking for an answer today, just to think about because, again, we have heard --

MR. PHILLIPPE: That's true.

MS. AVERY: -- within the group and outside of the group that if we change anything on our documents, it will cost us an extreme amount of money. I can't quote. I think it was like $100,000 or something to change those documents for the financing of it.

MR. CHAIRMAN: We had an attorney at one of the meetings who said that if you change the collateral, that to rewrite the loan documents could be upward of 50,000. I have heard people laugh and say it is outrageous, but he did say it.

MR. LAVENDA: One other thing mentioned, the leases. Sometimes the lease is based on number of licensed beds also. So if you are going to change the number of licensed beds, the landlord is going to be getting less money potentially because they are leasing out based on what their license is. I don't know how many homes there are in the state that have these.

MR. CASPER: The landlord is owner of the beds. The landlord would have to be the seller.

MS. AMIANO: Right, not the operator, the landlord.

MR. LAVENDA: I can tell you there are landlords that aren't going to.

MS. AMIANO: Then they don't have to buy/sell. It is optional.

MS. AVERY: So I'm a facility operator. I lease the building from you or beds from you?

MS. AMIANO: But he owns the bed.

MS. AVERY: But you own the bed?

MR. LAVENDA: I own the building, I own the real estate.

MS. AVERY: Okay.

MR. LAVENDA: But I'm not operating. The license is with the --

MS. CREDILLE: But the lease agreement is based on number of beds being operated.

MR. LAVENDA: Some of them. The ones that I have seen, that's what it is based on.

MS. AMIANO: It is a good thought for consideration.

MS. GUILD: This is Ann Guild. For a facility that is selling the beds, did you talk at all about whether they should be able to sell other beds effectively closing their facility or whether this was strictly aimed at, you know, selling some 20, 40, whatever, some useful number of beds for like a modernization project or something that someone was willing to purchase for?

MS. AMIANO: I don't think we thought about that, but if they wanted to sell all of them, they would sell all of them and go down the path of closing the facility.

MS. AVERY: Which would require a CON. So that's a catch-22.

MR. PHILLIPPE: Judy, this is Tim. I think we did talk about it briefly, if most of my memory is not gone in the last few weeks, because it came up as more of a practical discussion. If you have a building that's operating with 70 beds, you are not just walking away from the beds, you are walking away from the building.

So it is more of a practical issue. How often is somebody going to actually walk away from an investment that's full?

It doesn't seem like it would come up very -- it would come up rarely maybe but --

MR. LAVENDA: I think it comes up. It comes up every now and then. I was looking through the inventory thing. I think there was three homes in here that they mentioned they just closed the facility.

MS. AVERY: County owned facility, do you remember?

MR. LAVENDA: I think one may have been, and the other two were for profits that the owner was not able to sell, and they just decided to close

them. They walked away.

MR. CASPER: In which case those beds go somewhere else. But you are right, closure would have to go through a CON process.

MR. GAFFNER: This is Alan Gaffner. Excuse me. Steve?

MR. LAVENDA: Can I point out one other thing you probably didn't think about with reimbursement with the cap rate for nursing homes?

Anytime, you know, you file for one of these capital changes, they look at what the current bed amount of beds is, and if your number of beds have gone down, the first reaction of the reviewer is to reduce the building reimbursable building costs based on number of beds that it went down.

So you have to jump through this hoop to let them know that you actually didn't stop using part of the building, but that, you know, you just reduced the number of beds.

I'm just saying that there is -- you have to be careful with this. I understand what is going on here, but in the process of this there is a danger of lowering everyone's capital rate. As we discussed, the Medicaid rates in the state are low

enough. There would have to be some type of thing in there to make sure that capital rates wouldn't go down.

MR. AMIANO: So we have Mr. Foley sitting at the table hearing this. So that's one of those unintended consequences that could happen for us so that people weren't harmed.

MR. LAVENDA: I know in our office would write something like that. I don't know if other people filing these are really aware that there is a remedy. You know, just show them the floor plan of the place and before and after that you really are not, not using part of the building.

MR. PHILLIPPE: Mr. Chair?

MR. CHAIRMAN: Yes, sir.

MR. PHILLIPPE: Could I -- the task force, the work committee actually was useful, efficient with Judy's leadership because we sort of took the steps one at a time. So we kind of started and worked through it. I would encourage actually the full subcommittee to do that because otherwise we will bounce around between different topics.

For example, the core, you know, the idea of taking beds away after two years or giving up or

selling, you know, the premium, giving 15% back to yourself, those don't have to be core features. They do not exist in other states necessarily, that's just something that is brought up. It would be more useful to actually start at the beginning.

For example, the 10% rule expansion and the moratorium, they were all based -- in building new buildings, based -- really the idea is if we continue to allow people to expand 10%, 20 beds, whatever it is, and anyway we have no new buildings, so can't buy to build, really then it is a very limited function here because all we are talking about, then, is buying beds between that range, between what you can get free by expanding but can't build anyway.

So it is a fairly small issue practically to do all of this just for that one little niche area which would be important to some people but would not have a big impact.

So I suggest we kind of start at the beginning, if we can, whenever the Chair is ready and the subcommittee is ready and kind of walk through the things because otherwise we will just get stymied by the most difficult ones such as

taking the beds away after two years.

MR. FOLEY: We have only got eight minutes to do that.

MR. PHILLIPPE: We can start it at the next meeting.

MR. CHAIRMAN: We have about seven minutes, and before we adjourn I certainly want to thank Judy and the rest of the committee for doing an incredible job.

Those of you that have been around know that we have talked about these subjects for months, if not years, and I think your document has put things into perspective, and for that we are grateful.

Clearly there needs to be a little more discussion. I think in the next few minutes I think we need to determine how we want to proceed.

Obviously one way is to let the committee continue working and bring back further ideas to us, or the other way to do this is for it to become a discussion of the committee as a whole.

Maybe Judy or Bill, Cece, what do you think should happen next?

MS. AMIANO: We all had a genuine desire to move something forward.

MR. CHAIRMAN: I think some of us who have been here a long enough time have that same desire.

MS. AMIANO: So whatever, you know, is the pleasure of the group. It is not meant to be exclusionary. It is -- so we will do whatever will help move this forward.

MR. CHAIRMAN: Again, for those of you that are new, the reason it was four people is to avoid Frank coming after us with the Open Meetings Act. He is vicious, and we don't want Frank mad at us. It wasn't that we chose to exclude people, it was we wanted to be productive without having to go to jail over the number of people working on it. So please don't feel that you are left out, but it obviously has worked. To that we are very happy about it.

So, again, what are the thoughts that are on the table about next step for the next meeting?

MR. CASPER: This is Bill. I would have one comment. I think maybe the thought I'm having right now is that a good -- after people have had time to digest this, it would be a good idea for the entire subcommittee to have a discussion about it because, again, today a couple questions or

areas for additional research have surfaced.

Following that discussion we could then decide whether it made sense for the smaller group to get back together to process all that and come back or whether we have made enough progress for the subcommittee to make a recommendation without them. Does that make sense?

MR. CHAIRMAN: Does make sense. Does anyone have any objection?

MR. GAFFNER: If that process is followed, I guess the only thing that I would urge us to do, and I understand the transparency and Open Meetings Act issues, is that we somehow be able to actively involve the other long-term care associations in the subcommittee's work. I think that will speed up the process and avoid any issues that might arise later.

So I don't know whether there is a decision to actually go beyond the four and then we have a transparency issue, or if not, as long as there is a mechanism to get Illinois Council and HCCI, any others involved, I'm comfortable with that.

MR. CHAIRMAN: I think there is an easier way to do this. Terry Sullivan, who used to be a

member of this, is the executive director of one group and at one time --

MR. FOLEY: No, that's not correct.

MR. GAFFNER: He has left. He is not there any longer. You are correct, Mr. Chairman, he was in the past.

MR. CHAIRMAN: Time out. Terry is in charge of the Illinois Nursing Home Administrators Association.

MR. GAFFNER: He is of that.

MR. CHAIRMAN: And Illinois Council supposedly was -- my belief there is a lot of Illinois Council members who do belong to IHCA. Not all, but I think there is significant numbers. I think we may have some representation that way, and, again, Alan, I'm not sure what other group you are talking about.

MR. GAFFNER: Well, there has been significant change in that no longer are council members, at least that I am aware of, members of IHCA. There was a division of the two under the same advocacy umbrella in July of 2013. There are some --

MR. CHAIRMAN: I'm aware merger didn't go

through, but what is other acronym you are using?

MR. GAFFNER: Health Care Council of Illinois has some members within that group that are not member of Council on Long-Term Care. I'm not trying to muddy the waters.

MR. CHAIRMAN: For years I have never heard of that group.

MS. AVERY: It is Pat Comstock, isn't it?

MR. FOLEY: Yes.

MR. CHAIRMAN: That is a lobbying group.

MR. GAFFNER: No, not any longer. John can probably explain it. I know he is familiar with it. I don't want to take up valuable time.

MR. CHAIRMAN: I will talk to Steve or John, I don't care.

MS. AVERY: Well, two things and, again, I heard all of the concerns that we have heard from the outside about not being inclusive in this small work group, and we are taking the brunt of it. I voiced to both the Chair and Co-Chair a lack of staff member being there, but we will have to figure it out about the smaller work group. We have had people complain about it.

MR. CHAIRMAN: You never make everybody

happy.

MS. AVERY: No, you don't.

MR. CHAIRMAN: I think this has been a productive meeting. I think the two subcommittees have done an incredible job, and that on behalf of the entire board I want to thank them. And we do need to pick another meeting date.

Ms. AVERY: Yes. Is it your wish -- what is your wish about location?

MR. CHAIRMAN: My wish is whatever makes people happy.

MS. AVERY: Okay.

MR. CHAIRMAN: You know, attendance is the most important thing. So if attendance is improved by doing it this way, then I'm in favor of it.

MS. AVERY: You will suffer through.

MR. CHAIRMAN: I will suffer through. God only knows what parking lot my car is in.

UNIDENTIFIED: Take the train.

MR. CHAIRMAN: I have places to go next.

MS. AVERY: Sorry. Our next board meeting for the planning board, Health Facilities and Services Review Board, is November 12th, and then the following one is December 16th, and then we are

into the first of the year.

MR. CHAIRMAN: So probably don't want to meet in December because of the holidays?

MS. AVERY: No, it is hard.

MR. CHAIRMAN: We will go to January.

MS. AVERY: Okay. Dates? Do we stick to that, what is this?

Didn't we do Tuesdays, second or third Tuesday or something?

MS. CREDILLE: I'm not available either one of those.

MR. CHAIRMAN: In December?

MS. CREDILLE: No, January.

MR. CHAIRMAN: January, sorry.

MS. CREDILLE: Can we do January 27th?

UNIDENTIFIED: What day is that?

UNIDENTIFIED: Fine with me.

MR. CONSTANTINO: We have a board meeting that day.

MS. AVERY: How about first of February? One of those holidays. We get a lot of days off. Those are Mondays.

UNIDENTIFIED: Martin Luther King is January 19th.

MS. AVERY: Did you want to go into February or try another date in January?

MR. FOLEY: Let's try another date in January. We have been holding off on this for too long.

MS. AVERY: The 19th or 26th?

UNIDENTIFIED: January 19th is Martin Luther King.

MS. AVERY: I would prefer not to have a board meeting the next day. I think the 12th is what, nothing.

UNIDENTIFIED: It is Monday. Monday?

MS. AVERY: Yeah, we are out of Mondays. Tuesdays?

UNIDENTIFIED: How about Thursday, January 15th?

UNIDENTIFIED: I cant.

MS. AVERY: The 8th, January 8th?

UNIDENTIFIED: I can't.

UNIDENTIFIED: Going to February.

MS. AVERY: What about the 21st, January?

UNIDENTIFIED: I'm out of town.

MS. AVERY: 14th, January 14th?

MR. PHILLIPPE: Yes.

MS. AVERY: January 14th?

MR. CHAIRMAN: What day is it?

MS. AVERY: It is the 14th. January 14th, location to be announced. Video conference, but we need to schedule a room.

Okay. We need to move out quickly or else we will get a bad reputation. Thank you, everyone.

(Concluded at 1:35 p.m.)

CERTIFICATE OF REPORTER

I, JENNIFER L. CROWE, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that proceeding was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

_____

License No. 084.003786

C