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STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD
LONG TERM CARE ADVISORY SUBCOMMITTEE

IDPH Administration
525 West Jefferson Street, 4th Floor
Springfield, Illinois

- AND -

HFSRB Offices
69 W. Washington Street, Suite 3500
Chicago, Illinois 60602

MEETING OF THE LONG TERM CARE ADVISORY SUBCOMMITTEE

The meeting of the Subcommittee was held by
videoconference on Tuesday, March 24, 2015, scheduled
to begin at 10:30 a.m.

1 MEMBERS PRESENT:

2 Michael Waxman, Chair (Chicago)

3 William Bell, Vice-Chair (Springfield)

4 Judy Amiano, Member (Chicago)

5 William Casper, Member (Chicago)

6 Paul Corpstein, Member (Springfield)

7 Cecilia Credille, Member (Chicago)

8 John Florina, Member (Chicago)

9 Charles Foley, Member (Springfield)

10 Alan Gaffner, Member (Chicago)

11 Timothy Phillippe, Member (Springfield)

12 David Raikes, Member (Chicago)

13 Greg Will, Member (Chicago)

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1 ALSO PRESENT:

- 2 Nelson Agbodo, HFSRB Staff (Springfield)
3 Courtney Avery, HFSRB Staff (Springfield)
4 Ted Bokios, CPA (Chicago)
5 Claire Burman, HFSRB Staff (Springfield)
6 Michael Constantino, IDPH Staff (Springfield)
7 Bill Dart, IDPH Staff (Springfield)
8 Amanda Ginther, HCCI (Springfield)
9 Ann Guild, HFSRB Staff (Springfield)
10 John Kniery, Foley & Associates (Springfield)
11 Jeannie Mitchell, HFSRB Staff (Chicago)
12 Juan Morado, HFSRB Counsel (Chicago)
13 Charles Sheets, HCCI (Springfield)
14 Jason Speaks, LeadingAge (Springfield)

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20 Court Reporter:

Angela C. Turner, CSR

21 Illinois CSR #084-004122

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AGENDA

CALL TO ORDER

1. Roll Call
2. Approval of Agenda
3. Approval of January 14, 2014 Meeting Transcript
4. Legislative Initiatives - Courtney Avery
5. Proposed Amendments to LTC Advisory Subcommittee Bylaws - Jeannie Mitchell
6. Impact of a Buy/Sell Program on HUD - Financed Beds - Ted Bokios, CPA
7. UPDATE - Ad Hoc Group - Buyer/Seller Program - Judy Amiano
8. Other Business - LTC Bed Need Formula - Bill Bell
9. Next Meeting
10. Adjournment

1 PROCEEDINGS

2 (Start Time: 10:40 a.m.)

3 CHAIRMAN WAXMAN: Because you guys have
4 introduced yourselves to yourselves, I am going to
5 ask you to introduce yourselves to us, because we
6 can't see in the far corner. And I am taking your
7 word that Courtney really is back there.

8 Courtney, starting with you, can we come
9 around that table? And then we'll do this table
10 also.

11 MS. AVERY: Courtney Avery, Health
12 Facilities Service Review Board Staff.

13 MR. SHEETS: Chuck Sheets. I am here for
14 HCCI.

15 MR. FOLEY: Charles Foley, subcommittee
16 member.

17 MR. KNIERY: John Kniery, visitor.

18 MR. BELL: Bill Bell.

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

21 MS. GUILD: Ann Guild, HFSRB.

22 MR. CORPSTEIN: Paul Corpstein, IDPH staff.

23 MR. PHILLIPPE: Tim Phillippe, subcommittee
24 member.

1 MS. GINTHER: Amanda Ginther, HCCI.

2 MR. AGBODO: Nelson Agbodo, HFSRB staff.

3 MR. DART: Bill Dart, IDPH.

4 MR. BELL: That's us.

5 CHAIRMAN WAXMAN: Is that everybody?

6 Thank you very much.

7 John, we'll go with you.

8 MR. FLORINA: John Florina, subcommittee
9 member.

10 MR. CASPER: Bill Casper, subcommittee
11 member.

12 MR. BOKIOS: Ted Bokios, visitor.

13 MR. WILL: Greg Will, subcommittee member.

14 MR. RAIKES: David Raikes, subcommittee
15 member.

16 MS. BURMAN: Claire Burman, board staff.

17 CHAIRMAN WAXMAN: Mike Waxman, Chair.

18 MS. MITCHELL: Jeannie Mitchell, Health
19 Facilities and Services Review Board staff.

20 MR. MORADO: Juan Morado, board staff.

21 MS. AMIANO: Judy Amiano, Franciscan
22 Communities and LeadingAge.

23 MS. CREDILLE: Cece Credille, IHCA
24 representative.

1 MR. GAFFNER: Alan Gaffner of the Alden
2 Network, HCCI representative.

3 CHAIRMAN WAXMAN: Okay. Thank you all. And
4 I appreciate everybody coming.

5 The agenda seems a little long, so we'll try
6 and kind of move it along. And I will take the
7 liberty of moving things around a little bit to make
8 sure that we get as much covered as possible. But I
9 do need a motion to approve the agenda, please.

10 MR. RAIKES: I will make motion.

11 CHAIRMAN WAXMAN: Mr. Raikes made a motion.
12 I need a second for that motion.

13 MR. CASPER: Second.

14 CHAIRMAN WAXMAN: Bill Casper has seconded
15 that motion -- that motion.

16 All in favor.

17 (Chorus of ayes.)

18 CHAIRMAN WAXMAN: That's what you get for
19 spending two hours driving down to a meeting, you
20 know.

21 All in favor.

22 (Chorus of ayes.)

23 CHAIRMAN WAXMAN: Any opposed?

24 (No response.)

1 CHAIRMAN WAXMAN: I assume everybody has
2 read the transcripts of the January 14th meeting.

3 And does anyone have any changes to the
4 transcripts? Otherwise, I move to entertain a motion
5 to accept the January 14th meeting minutes.

6 MR. RAIKES: So moved.

7 CHAIRMAN WAXMAN: We have a motion.

8 MS. AMIANO: Second.

9 CHAIRMAN WAXMAN: All in favor.

10 (Chorus of ayes.)

11 CHAIRMAN WAXMAN: Any opposed?

12 (No response.)

13 CHAIRMAN WAXMAN: Motion carries.

14 Courtney, do you want to stand up and do
15 whatever you're going to do?

16 MS. AVERY: No, I don't want to stand up,
17 but --

18 CHAIRMAN WAXMAN: You don't have to. I just
19 want to know it's really you.

20 MS. AVERY: It's me.

21 CHAIRMAN WAXMAN: Okay.

22 MS. AVERY: So as you all know, we sent you
23 the House Bill 3510. And I guess Chuck and Amanda
24 from HCCI, and Ann Guild from our staff will chime

1 in. We'll try to spend as little time as possible on
2 this, because I am pretty sure there will be a big
3 discussion about it.

4 But the board has decided to oppose this
5 legislation. And there's a couple of reasons why.
6 And I will go into that as soon as I bring it up
7 here.

8 One of the reasons is the timeline for what
9 we need to do or what this bill is requiring us to do
10 I think is impossible. For one, it is asking for the
11 rules and guidelines no later than April 1, 2016.
12 And I guess we'll need more clarification on the
13 separate set of rules and guidelines for submission
14 to the Secretary of State. I don't know if that's a
15 mixup with the 1125, which is the rules that we did
16 maybe two years ago. So I don't know if that needs a
17 revision to those rules or what. But that's not
18 really clear.

19 And the other approach for the new study to
20 the current bed need formula. Not really opposed to
21 that. We can look at it. But the deadline for it of
22 October 1, 2015, is unreasonable. There is no way we
23 would be able to accomplish that. And we'll have a
24 further discussion down the line about the long term

1 care bed need formula.

2 And the other reason is the revoking of the
3 current subcommittee and the reestablishment of
4 another one. Really not clear on the issues that are
5 occurring with that, other than it's probably taking
6 too much time for us to come up with a recommendation
7 for the bed buy/sell. And I think the name has been
8 changed according to one of the workgroups. I think
9 it's exchange or transfer. So I don't know if that's
10 the new official name of the program or what.

11 But at this point, the board has taken the
12 position to oppose this legislation. But there is
13 still time to do some amendments on these dates and
14 to look at the bed need formula.

15 And the other issue was the HSA, to redraw
16 those. That's going to take longer than the date
17 that's established of October 1, 2015.

18 Ann, do you want to add anything?

19 MS. GUILD: I think this is also the bill
20 that seemed to give the subcommittee some sort of
21 role in --

22 MS. AVERY: Oh, yeah. That was an
23 amendment.

24 MS. GUILD: And it was in the amendment,

1 which is also up on Tuesday. But to have the
2 subcommittee have a role in making recommendations --
3 nonbinding recommendations, but on permit decisions,
4 which would be different from long term care than any
5 other provider.

6 MR. SHEETS: I think that might be in the
7 statute now. Sorry, Chuck Sheets speaking.

8 I think the statute now has at least some
9 obligation for the subcommittee to advise on
10 projects. And when you say the word "project" in
11 this context, I assume it means applications. So I
12 think that particular item you were just talking
13 about, Ann, is just an expansion on that -- what is
14 already in the statute.

15 MS. AVERY: And I guess I am clear that this
16 is not a legislative proposal or statute change that
17 came from the Long Term Care Subcommittee, this
18 subcommittee. This is strictly HCCI?

19 MR. SHEETS: Right. I mean, at least that's
20 my impression. I don't know how much discussion
21 between HCCI and the other associations has been had.

22 Amanda, you don't know?

23 MS. GINTHER: I am not aware. I mean, they
24 are aware of our various legislative agendas. And I

1 don't think we've gotten any indication that they
2 oppose it, but I don't think we've gotten any
3 indication that they support it.

4 MS. GUILD: Chuck, I am looking at the bill.
5 And it's page 8, line 24 of the amendment. And it's
6 underlined.

7 MR. SHEETS: We're already on different
8 pages.

9 MS. GUILD: Okay.

10 MR. SHEETS: Page 8, line 24. Okay, I got
11 it.

12 MS. GUILD: Of the amendment.

13 MR. SHEETS: I agree. I mean, it's an
14 expansion on that.

15 MS. GUILD: Correct.

16 MR. SHEETS: There's no doubt it's new
17 language.

18 I think, overall, and I know that you're
19 going to get into what the workgroup has talked about
20 already. And I got to make sure I get my layers
21 straight here.

22 When you were saying earlier, Courtney, that
23 the board is going to oppose, you meant the board;
24 whereas, Mr. Waxman would say the mother board,

1 correct?

2 MS. AVERY: Right.

3 MR. SHEETS: So obviously, we would love to
4 sit down and work with you with regard to the
5 deadline if that's the only issue, but it sounds like
6 there might be other issues other than the deadline
7 in terms of what the bill does.

8 MS. AVERY: Well, the whole concept of the
9 bed need formula and then we are in possession of the
10 white paper. And we'll be discussing that later.
11 What are the problems with it? Just to say that we
12 need to go ahead and revise it or recalculate it or
13 restructure it, details of what it is. Because my
14 understanding is that the paper is not as a
15 reflection of this legislation. It's real confusing.

16 I appreciate the comments that were given to
17 us and we looked at it. And I had Nelson analyze it,
18 and we'll discuss that later. But it's like what are
19 the issues from this standpoint that this legislation
20 wants to correct in the bed need formula? Because
21 again, my understanding is that that's not a
22 reflection of HCCI and why that paper was written.

23 So just some more detail about it. We don't
24 have a complete understanding of what the industry

1 issues are with the current bed need formula, other
2 than that it does not dictate a need for long term
3 care beds.

4 MR. SHEETS: I think the workgroup -- and
5 again, I haven't been at the workgroup, so I am only
6 going by what's been represented to me. I think the
7 workgroup is making progress, but I think there are
8 some basic issues that need some more time to work
9 out.

10 MS. AVERY: Yes, I agree.

11 MR. SHEETS: And with the legislative
12 session heating up and everything that's going on
13 with rates and etc., in an ideal world, I know HCCI
14 would like some more time to try and work through
15 those issues.

16 But putting that aside, I think that many in
17 the industry believe that if the bed need formula was
18 reworked a little more specific to long term care for
19 long term care, you know, that there might be less of
20 a need for the buy/sell or move/sell or transfer/sell
21 or whatever --

22 MS. AVERY: Well, the current one, they say
23 there is no need for it, because there is no need for
24 beds.

1 MR. SHEETS: Right. And I think, for
2 instance, the 90 percent occupancy factor -- and I
3 know Mr. Foley's talked about that. There's been
4 many people in the subcommittee over the couple of
5 years that I have been attending on and off that have
6 spoke about problems with the bed need formula and
7 how it needs to be more specific for long term care.

8 And that, you know, I think what I am saying
9 is that I think the goal of the legislation would be
10 to try to get there with the bed need formula. And
11 the only reason the committee is being messed with in
12 the legislation is that I think HCCI feels that the
13 three associations should play a bigger role in
14 determining what the appropriate bed need formula
15 would be to reflect what is really needed out there.

16 MS. AVERY: And that's another thing that
17 was confusing to me. But let me get clarification
18 real quick.

19 For the separate formula for long term care,
20 so we would have two different formulas? One for
21 other health care facilities and long term care
22 industry wants its own?

23 MR. SHEETS: Well, as you probably know,
24 there are different aspects of formulas. For

1 instance, the 90 percent occupancy I talked about,
2 depending on what program you're talking about --

3 MS. AVERY: Different utilization rates?

4 MR. SHEETS: Correct.

5 MS. AVERY: Okay.

6 MR. SHEETS: And Mr. Foley, you live this
7 stuff, so maybe you want to --

8 MR. FOLEY: Just for point of
9 clarification -- I am Charles Foley by the way -- the
10 bed need formula, the methodology itself, is in fact
11 long term care specific.

12 MS. AVERY: Yeah, that was --

13 MR. FOLEY: It does not take in any other
14 categories of service. Not any hospitals or assisted
15 living.

16 MS. AVERY: Right.

17 MR. FOLEY: Just related to long term care
18 only. I just want to make that as a point of
19 clarification.

20 MS. AVERY: And then the other issue was the
21 organizations, which I stated in my conversation with
22 Donna last week, it's very confusing to me -- and
23 maybe for everyone else -- who represents whom at
24 what point. So sometimes we hear people say, "Well,

1 I am putting on my such-and-such hat, and now I am
2 putting on my other hat." So in our eyes, when this
3 subcommittee was created, no one looked at that. It
4 was just like, okay, we'll make it a mirror of
5 something else that was out there, because these were
6 the leaders in the industry. And people were kind of
7 confused as to why they were at the table, and some
8 left because of that confusion.

9 And in my eyes, I thought that we had
10 covered all the organizations. Because somebody at
11 one point is represented. Either HCCI, IHCA, or
12 LeadingAge, right? So at some point, all that just
13 kind of overlaps. So I am not understanding why
14 that's an issue.

15 MR. SHEETS: Well, I think the associations
16 just feel that -- well, I shouldn't say that. I
17 think HCCI believes -- and I don't want to speak for
18 any other association. And if I do, I apologize. I
19 think HCCI believes that those three associations
20 should be the majority of the committee. Not just
21 ancillary people hearing it. So they believe that
22 working with your staff, you know, that should
23 constitute a majority -- the vast majority of the
24 committee.

1 MS. AVERY: Okay.

2 CHAIRMAN WAXMAN: Any other comments?

3 MS. AVERY: I just basically wanted the
4 subcommittee to know that, at this point, the board
5 was not supporting the legislation as it's currently
6 written.

7 MR. PHILLIPPE: Could I ask a question?

8 Why does --

9 CHAIRMAN WAXMAN: Tim, go ahead.

10 MR. PHILLIPPE: Why does your association
11 representing think that the three associations
12 representing just the provider as part of the
13 community should be the majority? Tim Phillippe.

14 MR. SHEETS: Well, Tim, I haven't discussed
15 that issue specifically. But I have a pretty good
16 idea, I think, that the concept of regulating your
17 own industry is pretty common. The hospitals play a
18 large role in regulating their industry.

19 The concept is what is really needed if
20 you're an industry owner already and operator, you're
21 not going to want new buildings unless they're really
22 needed. So it's almost a common goal with what the
23 board's purposes are. Because obviously, they don't
24 want too many empty beds, because that means they're

1 not making money. So they have a common goal. And
2 their thought is that they, between the three
3 associations, would know the best way to calculate a
4 formula to make it work, in a nutshell.

5 MR. FOLEY: Experts in the industry, in
6 other words.

7 CHAIRMAN WAXMAN: I have a question from
8 here.

9 MR. WILL: Just a brief comment. This is
10 Greg Will.

11 It's also an idea reflected in the bill that
12 the industry associations should compose a majority
13 on the committee. The committee like as virtually
14 constituted a number of years ago when people put the
15 thought into designing it had membership from AARP,
16 on Quality Research Group, a number of groups that
17 represented the seniors, people with disabilities,
18 health advocates and others. And I think that was
19 designed because the idea was that in advising the
20 HFSRB on long term care issues that those voices were
21 quite important to have in the mix.

22 Speaking just for myself, I kind of
23 miss having those folks around, because the
24 composition has shifted away from that over the

1 years. And I think, in a way, when we don't have
2 those voices of, you know, consumers who this
3 industry serves and other people in the public
4 debate, when we don't have them in the mix here,
5 we're the lesser for it.

6 MS. AVERY: Well, I so appreciate that, and
7 that's a very important point to make. But do know
8 when those people drop off the committee, so to say,
9 we reach out to staff to say can you send someone
10 else, because we would like their representation and
11 your input. And that never occurred.

12 As you recall, we've had a number of
13 vacancies for a while. And staff brought that issue
14 up to the subcommittee and asked for recommendations
15 for people to serve on the subcommittee. But that's
16 a great point, and something --

17 MR. WILL: Understood, Courtney. I kind of
18 missed that in terms of --

19 MS. AVERY: No. I had forgotten about that.

20 But we did at one point say we need someone
21 from finance, we need someone with an academic
22 background. So once that membership started to
23 decline and we no longer had that type of
24 representation, we had a discussion about it. But

1 that was a great point that I had totally forgotten
2 about. Thank you.

3 MS. GINTHER: And also, Greg, we do
4 absolutely represent our members who are nursing home
5 providers. But I think Mr. Bell would probably agree
6 with me that we also advocate for nursing home
7 residents. So we're not just here from a business
8 perspective as a pure dollars and cents. We work
9 really hard in every forum, including the capital, to
10 make sure that there is a regulatory and business
11 environment that supports our residents having the
12 best possible quality of care and quality of life.

13 CHAIRMAN WAXMAN: Any other comments?

14 MR. PHILLIPPE: Could I make an observation?

15 CHAIRMAN WAXMAN: Sure.

16 MR. PHILLIPPE: It looks like in the
17 beginning we had a number of maybe we call advocates
18 -- consumer advocates, as you said. We have fewer,
19 very few now. And then we also had state employees
20 who were actually voting members of the committee.
21 That was changed. And so the subcommittee already is
22 fairly dominated by industry it looks like to me,
23 when I look around the rooms.

24 MS. AVERY: Yes.

1 CHAIRMAN WAXMAN: I tend to agree with you,
2 because even though there are people here that may
3 not be employed by the associations, they're
4 representing the associations, as well as being
5 providers. So I think that the associations are and
6 have been well represented at this meeting since day
7 one.

8 What has changed is some of the advocate
9 groups and some of the community groups who felt that
10 they didn't belong or didn't understand the whole
11 creation of the subcommittee in the beginning and
12 what's been added are more industry experts, if you
13 will, or practitioners to the committee.

14 Courtney.

15 MS. AVERY: Yes.

16 CHAIRMAN WAXMAN: Is your hand up?

17 MS. AVERY: No. We're having trouble --
18 we're trying to fix the blinds so you won't have the
19 glare. Sorry.

20 MR. SHEETS: Mr. Waxman, Chuck Sheets again.

21 I think -- I don't think that the -- there
22 is another fact that we're kind of missing, and that
23 is that the associations have sort of changed
24 structure over the years. And I think the goal of

1 the legislation with regard to that membership is to
2 make sure that each association has an equal voice on
3 the subcommittee. So that may be something that
4 you're not aware of.

5 CHAIRMAN WAXMAN: But it sounds like your
6 association has done this without talking with the
7 other two associations.

8 MR. SHEETS: And your point?

9 CHAIRMAN WAXMAN: Well, if you're talking
10 about having equal representation from all three
11 associations, it seems to me that the legislation
12 should have been written with the involvement of all
13 three associations.

14 MR. SHEETS: Well, as you probably know,
15 legislation is a fluid process. And we certainly are
16 anticipating amendments to the bill. And you know,
17 we're already talking about timeframes and what would
18 be more palatable to the board. It's just a first
19 volley to get something out there for discussion
20 purposes. So you know, obviously, this isn't the
21 finished product I guess is what I am trying to say.

22 MS. GUILD: What is your intention for
23 committee tomorrow?

24 MR. SHEETS: I think that depends on what

1 comes out of here today.

2 MS. AVERY: I don't know if we structured
3 the discussion for feedback from the subcommittee on
4 the legislation or proposed changes. But they can
5 empower staff to work with HCCI on this and give us
6 parameters on what to look for or ask for.

7 But I didn't -- I don't think we prepared
8 people to come today to make recommendations for
9 that. But if people are feeling like we can, then
10 it's up to the subcommittee.

11 MR. FOLEY: Mr. Waxman, Charles Foley.

12 Given the importance of this, Courtney,
13 maybe it would be a good idea if I may suggest to
14 those points in that bill that you brought up in
15 terms of what it is actually calling for that you
16 might want to bring up each one of those points
17 individually and just get the subcommittee comments,
18 which may help you, as well as the association, in
19 terms of moving forward tomorrow.

20 CHAIRMAN WAXMAN: Judy.

21 MS. AMIANO: That would seem to put the
22 needs of the HCCI in front of the needs of the
23 subcommittee and the agenda of the subcommittee
24 candidly.

1 CHAIRMAN WAXMAN: I agree with you. I
2 totally agree with you.

3 MR. SHEETS: Mr. Waxman, I agree with that.

4 I would ask -- though I think Courtney had a
5 great suggestion -- if the subcommittee is so
6 inclined, they could grant the staff authority to,
7 you know, work with us and try to come up with some
8 compromise.

9 CHAIRMAN WAXMAN: Well, I think that's one
10 way to go. I guess I am having trouble
11 visualizing -- and that might be the wrong word --
12 the fact that, you know, HCCI has been working on
13 this and you are representing them in a very positive
14 way, but we don't have the powers of LeadingAge or
15 IHCA to get the input from that level that you have
16 gotten from your organization. Now, we have
17 representatives from the organizations, that's true.
18 But we don't have like the executive directors where
19 you have put together this proposal solely from
20 HCCI's whole executive team.

21 Am I making myself clear?

22 MR. SHEETS: Yes, I think I understand that.

23 But I mean, obviously, if we're working with
24 staff, I mean, we would certainly want to work with

1 the other associations, as I mentioned earlier. But
2 I understand your point. I think staff would want to
3 get input from the other associations. That would
4 just be a guess.

5 CHAIRMAN WAXMAN: Well, that's my point is
6 that to ask us to have input into something for
7 tomorrow without having the opportunity to include
8 all those other people seems impossible to me. And
9 to be fair about it.

10 MS. AMIANO: This is Judy. I would just
11 add, we had an ad hoc committee meeting with all
12 representatives of each association and membership
13 less than two weeks ago, and this was never
14 mentioned.

15 So that's a little bit disconcerting that
16 we're trying to work together to come to some
17 recommendation, and then to have something filed that
18 wants to be addressed tomorrow seems a bit
19 unreasonable. I am not talking about the content of
20 it necessarily, it's just the process.

21 MR. GAFFNER: This is Alan Gaffner. If I
22 might respond to that, Judy.

23 When there was difficulty at the workgroup
24 to even have the bed need formula, which a number of

1 us believe is very much related to the buy/sell
2 program we discussed, I think looking back to say why
3 wasn't this talked about a week ago when that doesn't
4 fall within that is criticism that perhaps is
5 unjustified. I don't know as that would have been
6 the setting for that to be brought up.

7 But I believe that the structures of the
8 three associations have changed. I believe when I
9 had the privilege to join the subcommittee, I don't
10 believe there were any other HCCI representatives on
11 it. I think there's one now. I think there are dual
12 representatives of other associations.

13 The starting point and what's been proposed
14 I think opens the door for really good exchange
15 between the planning board staff, the subcommittee,
16 and the associations. I think that dialogue starting
17 and moving forward has merit. And I believe -- I
18 know I am interested in that and I would think we all
19 would be as it relates to the changing structures of
20 how long term care is delivered or grouped in the
21 state.

22 CHAIRMAN WAXMAN: I don't think anyone
23 disagrees with you, Alan. I think the problem that
24 we're having is the fact that this is now on the

1 table with a need for some action tomorrow and none
2 of us were prepared to even be aware of that.

3 MR. FOLEY: If I may.

4 What do we expect tomorrow to happen at the
5 committee level, Ann, any idea?

6 MS. GUILD: I would defer to Chuck. It's
7 posted.

8 MR. SHEETS: Amanda, is there a deadline
9 coming up?

10 MS. GUILD: Yes. The committee deadline is
11 the 27th.

12 MS. GINTHER: The end of this week is the
13 deadline for bills to get out of their committee of
14 origin.

15 MS. AVERY: Human Services only meets
16 tomorrow?

17 MS. GINTHER: Well, Representative Gabel
18 told folks to -- is that Gabel's committee, yes. She
19 did, last week, tell people to expect to set aside
20 two four-hour time blocks this week. So while
21 they're only posted for tomorrow, they plan to meet a
22 second time.

23 I do believe there is a deadline today for
24 amendments, committee amendments that is to be filed.

1 I think there is an opportunity to work towards a
2 floor amendment.

3 One last thing that I want to say is to echo
4 what Alan said that, Mr. Chairman and Judy, we
5 discussed this bill with both provider associations
6 weeks ago. I was a part of a meeting that we sat
7 down with the VP of government affairs with Illinois
8 Health Care Association. I had a conversation in the
9 hallway at least two to three weeks ago with Kirk
10 Riva, the VP of government relations for LeadingAge.
11 And we absolutely did not get any negative feedback.
12 They never -- I don't want to speak for them. They
13 didn't specifically say they support it. But this
14 isn't being dropped in other associations' laps at
15 the last minute. They were fully aware of these
16 bills and that they were HCCI's initiative.

17 MR. SPEAKS: I want to speak up here. This
18 is Jason Speaks. I am with LivingAge. I am not Kirk
19 Riva. And you can see me now that I am not the ray
20 of sunlight.

21 Our association changed its name, but it
22 never changed its structure. So we're the same
23 association, same membership. We do have good
24 representation on this committee, so we enjoy that as

1 well, so we have no issue with that structure of the
2 committee. We think we have solid representation.

3 But we defer to our members on this group on
4 this issue. But It sounds like, I know time is of
5 the essence, but I don't know if there's any
6 opportunity to have discussion with the association
7 on what is going to transpire tomorrow or not. I
8 don't know if that's what you're getting at. We
9 would be open -- we're always open and accessible to
10 that. I know you had conversation with Kirk. I can
11 check with him about any major issues with this. But
12 we tend to defer to our members sitting on the
13 committee, their objections or support.

14 MR. PHILLIPPE: Michael, can I --

15 CHAIRMAN WAXMAN: I think -- go ahead, Tim.

16 MR. PHILLIPPE: I don't really -- I am kind
17 of a neophyte in government operations, at least in
18 Illinois, and except for being on this committee.
19 But it doesn't make any sense to me. It doesn't make
20 any sense to me that we have a forum to talk about
21 these issues. The bill is about these issues that we
22 have a subcommittee for, so we have the forum for it.

23 And doing it -- and I don't think a hall
24 discussion ever counts to something that's major

1 change that we already have a committee working on.
2 So I don't understand the purpose of doing it that
3 way. But the style -- I agree with Judy -- kind of
4 makes me feel -- wish we could actually just have a
5 subcommittee vote and say we're against it, because
6 we don't think the process was correct. It's not
7 collegial, it's not the way we should move forward as
8 an industry.

9 CHAIRMAN WAXMAN: Tim, I was sort of going
10 to echo that hallway conversations are not, you
11 know -- I mean, that's hearsay. And I am not being a
12 lawyer, because I don't even know what that means.
13 But my point is that, you know, we have been kind of
14 put into a position where we're being told that the
15 other two organizations are on board and yet we don't
16 know that as a fact. And we're being asked to make
17 some decisions about that without any knowledge. And
18 that's what is perturbing me.

19 MR. SHEETS: Mr. Waxman, I just want to
20 clarify for the record, if you got that impression,
21 that is not what we said that the other associations
22 are, quote, on board.

23 CHAIRMAN WAXMAN: I am sorry. I thought I
24 heard that.

1 MR. SHEETS: No.

2 What Amanda was saying is that she discussed
3 the bill with various government representatives from
4 those two associations.

5 CHAIRMAN WAXMAN: In the hallway.

6 MR. SHEETS: Mr. Waxman, with all due
7 respect, if you had any concept of how legislation is
8 done here in Springfield, you would really be
9 surprised about how much is done in the hallway. I
10 don't mean to be disrespectful. I am just saying
11 this is the process. We have a bill deadline coming
12 up. They want to get something out of committee.
13 That doesn't mean that they're not open to addressing
14 everybody's concerns and having a consensus built.
15 They're just saying that they want to get it out of
16 committee before the deadline.

17 MS. AVERY: And I think, Mr. Waxman, what we
18 traditionally do as the board is that last year when
19 we had legislation that would affect all industry
20 that's involved and under the jurisdiction of the
21 board, before that even reached LRB, we had
22 conversations and conference calls.

23 So I think that's what you're looking for
24 that's missing. Not to say that's the right way to

1 do it and the way they did it was the wrong way. And
2 I agree, I would have liked to have had a
3 conversation about this bill before we saw it on the
4 Internet. I would have liked that someone from the
5 agency picked up the phone and said, "Hey, we're
6 going to make an amendment to the statute, and this
7 is what it is." And my suggestion would have been to
8 convene that conference call with the long term care
9 subcommittee and representatives from all three
10 organizations.

11 So I think what is missing is that all
12 people involved that this would affect were not at
13 the table at the same time.

14 Not to minimize --

15 CHAIRMAN WAXMAN: I totally agree with you.

16 MS. AVERY: -- the way that it was done.
17 I'm not doing that.

18 But that, to me, would have been a more
19 comfortable way of doing it. And the board would
20 have had some more insight and suggestions and
21 probably would not be in a position to oppose
22 something that's going to affect the long term care
23 industry.

24 CHAIRMAN WAXMAN: I agree with you.

1 Cece.

2 MS. CREDILLE: This is Cece Credille, IHCA
3 representative.

4 I was aware. I have spoken to folks in our
5 organization. Matt Hartman is the person that folks
6 from HCCI met with. He's our vice president of -- I
7 am not sure what his title is. Policy --

8 MR. FOLEY: Public policy.

9 MS. CREDILLE: Public policy. Thank you,
10 Chuck.

11 So that conversation did happen. So I was
12 aware of that walking into the meeting today.

13 MR. GAFFNER: This Alan Gaffner.

14 Courtney left I believe, didn't she? I was
15 going to say, it sounds as if Courtney is interested
16 in having a dialogue. And if it's helpful to have a
17 motion for that to be done with planning board staff,
18 I am happy to get that on the table. Then these
19 deadlines that are associated with perhaps two
20 opportunities for committee hearing this week, those
21 discussions can function within that timeframe.

22 Amanda, did you say there were two
23 opportunities for the bill to be heard in committee?

24 MS. GINTHER: Well, there's two

1 opportunities to amend the bill. So it could be a
2 committee amendment could be filed today and then a
3 floor amendment could be filed. So if it were a
4 floor amendment, we would all have to agree to let it
5 move out of committee tomorrow and then have a floor
6 amendment added before the deadline for bills to get
7 out of their chamber of origin, which is sometime
8 after spring break.

9 MR. GAFFNER: Courtney, you just walked back
10 in. This is Alan.

11 I indicated that I am certainly willing to
12 offer a motion if that is helpful. I believe you
13 said that if staff would have the opportunity to talk
14 with the bill sponsor, as well as -- I can't remember
15 what other thing you said.

16 MS. AVERY: Just to receive feedback and
17 direction from the subcommittee. I have talked with
18 Donna Ginther about the bill and I told her, at this
19 point, it was unlikely the board would be able to
20 support the legislation that is currently written,
21 and for those reasons that I stated earlier.

22 But I think it's up to the subcommittee now
23 whatever you all want us to do as staff. I don't
24 want anyone to think that we're making the decisions

1 for the subcommittee. And the board here is okay
2 with that.

3 CHAIRMAN WAXMAN: I think what I am hearing
4 from some members is that what is really needed is a
5 meeting between all three agencies and the board and
6 the staff. Staff and all three agencies in order,
7 same place, same time, same words. That's what I
8 think I am hearing.

9 Please tell me if I am wrong or if I am
10 right.

11 MS. AVERY: It should come back to the
12 subcommittee.

13 MS. CREDILLE: I think collaboration would
14 be the approach.

15 MS. AVERY: I'm sorry. What did you say
16 Cece or Judy?

17 MS. CREDILLE: I said I think what he's
18 hearing is that collaboration would be the approach.
19 And I am not sure, given that this hits tomorrow,
20 there is time for that to happen right now.

21 MS. AVERY: And again, I am completely aware
22 that this can go forth with or without our support.
23 Totally aware of that.

24 MR. SHEETS: I would just like to clarify

1 one thing, and that is that it's not uncommon for
2 bills or amendments to move out of committee subject
3 to further discussions from the people who oppose at
4 the committee.

5 So you know, again, even though there is a
6 bill deadline or there's a committee deadline
7 tomorrow, that doesn't mean that, you know, it would
8 move out of that committee and then be this bill
9 that's ultimately voted on. I mean, I am sure Ann
10 can address that or Bill Bell, anybody who's had
11 experience with the committees across the street
12 here.

13 So you know, again, what we're looking for
14 is some collaboration. And I realize, hearing
15 everybody's comments, that this may not have been
16 handled in the best possible way. And I apologize
17 for that. It should have maybe been communicated a
18 little better than it was. I don't know the reasons
19 for that as I sit here today, but I will certainly
20 look into it and see what I can come up with.

21 But the goal is to work together, you know,
22 the three associations, the staff, and try to come up
23 with a solid plan to address what, you know, HCCI
24 believes is the underlying problem with the bed need

1 formula.

2 MS. GUILD: Would there be like a commitment
3 that if the bill got out of committee it would be
4 with the understanding that, publicly stated, that it
5 doesn't go beyond second until there's further
6 discussions happen?

7 MR. SHEETS: I leave that up to Amanda. I
8 can't, as I sit here, make that commitment. But
9 before the bill gets out of committee, I can make
10 that commitment.

11 So if somebody is there tomorrow from, you
12 know, IHCA and LeadingAge and from the board, we'll
13 be more than happy --

14 MS. GINTHER: And I think that we would be
15 comfortable with making a commitment to have
16 conversation to hold it on second as long as everyone
17 tries -- genuinely tries to get together. I don't
18 think that without speaking with Pat and Donna that
19 we can agree that there would be an agreed upon
20 amendment to move it beyond second. But I think, as
21 I said, if everyone genuinely tries to get together,
22 we would be happy to hold it on second until we can
23 all talk.

24 MR. SHEETS: And again, I don't know the

1 dynamics yet, but I can tell -- I can tell you that
2 tomorrow, we will have that answer for sure. So
3 before you commit tomorrow in front of the committee,
4 we'll be able to answer that question. That's what I
5 meant to say.

6 MR. PHILLIPPE: Could I ask a question,
7 Mike?

8 CHAIRMAN WAXMAN: Sure.

9 MR. PHILLIPPE: I understand the desire. I
10 want to go back to the purpose and goal behind really
11 the changes. And I understand the desire to have two
12 representatives from each association. That makes
13 sense. And it sounds like there is a desire to have
14 the bed need formula changed.

15 My assumption I make from that is that the
16 bed need formula somehow is -- you think there is a
17 greater need for new buildings, new beds than the bed
18 need formula indicates. The only thing I can assume
19 from that.

20 Any other issue? What is the purpose of
21 these changes?

22 MR. SHEETS: I think what you're asking,
23 Tim, is what is wrong with the bed need formula?

24 MR. PHILLIPPE: Well, first. And then, in

1 general, kind of the subcommittee and all the changes
2 and all that.

3 MR. SHEETS: As far as the bed need formula,
4 I am sure you have heard, as I did, over the meetings
5 how many people have problems with the current bed
6 need formula.

7 I know I mentioned utilization being one of
8 the issues. There's a lot -- the long term care
9 industry is less maintenance now and more acute care,
10 more Medicare driven, you know, shorter stays. The
11 dynamics of long term care, we have all talked about
12 all this. You know, the fluctuations and census are
13 much greater than they used to be when the bed need
14 formula was conceived.

15 I think that's just one issue that, you
16 know, I have personal knowledge of. You know, when
17 you -- if you look at the utilization and the
18 planning area and everybody is between 85 and 90, you
19 know, you're going to get a lot of negative findings
20 from the board because there is a 90 percent
21 utilization goal. And we don't, just looking from
22 the 10,000-foot level, believe that's an accurate way
23 to look at long term care.

24 But I am sure if I let Mr. Foley or Mr.

1 Knierly talk at the moment, they could tell you in
2 much greater detail some of their concerns that they
3 run into with the bed need formula and how it applies
4 now.

5 MS. AVERY: And we kind of had that
6 discussion on the agenda for later. And in some
7 respects to that. But I can add, hopefully, the
8 reason that people are not making that utilization
9 rate is because those beds are not in use. We keep
10 getting back to that. If people will take the beds
11 out of their inventory, I think their utilization
12 rates will meet the standard. If we set it at
13 60 percent, some of them wouldn't meet it.

14 If we just move the utilization rate, that
15 just is not the issue. The issue -- the bigger
16 picture is that we have all these beds that are not
17 in service that are on the inventory that's making it
18 look skewed. We're never going to get an appropriate
19 bed need sell, bed utilization, everybody is not
20 going to be happy until we get that inventory right.

21 MR. SHEETS: And I would agree that that's
22 one approach to that problem. And that may be the
23 approach that wins the day, I don't know.

24 MS. AVERY: Hopefully.

1 MR. SHEETS: But in terms of the other
2 issues. I think the other major issue is the
3 structure of the committee. And I think that you
4 probably know what is at the root of that issue that
5 HCCI has. And that is that they would like equal
6 representation on the committee. Nobody wants it to
7 be made up totally of just provider groups. But they
8 would also, you know, HCCI, they feel they need more
9 representation.

10 MR. PHILLIPPE: Okay.

11 MS. AVERY: So if we looked at the current
12 structure or the industry that's represented on here,
13 who are members of what?

14 MR. SPEARS: We have three, actually.

15 MS. AVERY: HCCI only has one, and that's
16 Alan, right? And we have one vacancy.

17 MR. SHEETS: And you have Mr. Bell and --

18 MR. BELL: Cece.

19 MR. SHEETS: -- Cece.

20 So we have three, two, one in terms of the
21 three associations.

22 But at the time, when it was constituted,
23 there was a different structure.

24 MS. AVERY: There was someone else?

1 MR. SHEETS: At the time it was structured,
2 IHCA and HCCI were together.

3 MS. AVERY: Oh, okay.

4 MR. SHEETS: That's what changed the
5 dynamics.

6 CHAIRMAN WAXMAN: We lost Eli Pick, who
7 really was an HCCI kind of representative.

8 MS. AVERY: Yeah. And I don't think we
9 tracked that like you all are doing. Because again,
10 when people came to us, it was like, oh, I am from
11 this organization, I am from that organization, and
12 we didn't know who was who. And I didn't know the
13 importance -- well, David and Dale didn't know the
14 importance at that time to probably have this
15 representation that we're talking about.

16 So in the discussion, I am wondering, does
17 it really take a legislative change in order for that
18 to reflect? Which we can do easily.

19 MR. FOLEY: Since there is a vacancy.

20 MS. AVERY: And people are going to be
21 rolling off soon. There's going to be changes. We
22 have the staggered turns. So maybe that can take
23 care of that.

24 The other issue with the bed need formula,

1 that was one of the major priorities that the
2 subcommittee established early on and it just kept
3 getting pushed further and further back. So that is
4 on the to-do list or priorities.

5 The rules, I am not sure which rules again.
6 The nursing home rules. I am not sure what HCCI is
7 looking for in terms of that.

8 MR. SHEETS: I think that's probably a long
9 discussion. But I think they're looking for -- you
10 know, they're looking for the bed need formula more
11 than anything else to be reflected in the rules and
12 the changes in the bed need formula or the
13 utilization or however we end up, you know, changing
14 that reflected in the rules.

15 MS. AVERY: So I am going to go out on a
16 limb here and probably have Donna and Pat after my
17 head. But wondering if we should just withdraw this
18 and look at it as a possible rule change or friendly
19 change or some understanding.

20 I am not understanding why we have to have a
21 legislative change to the agenda in order to
22 accomplish these things. I think everybody here is
23 fair and has all of this in the best interest for the
24 subcommittee to work on.

1 But again, the dates and everything are just
2 unreasonable.

3 MR. SHEETS: I agree with you.

4 MS. AVERY: For lack of a better term, it's
5 a bad written -- I don't want to say. It's not a
6 good legislature for the industry, in my opinion, nor
7 for the board.

8 And please scare me, Amanda.

9 MS. GINTHER: You almost said badly written,
10 and I know Donna would have had your head.

11 MR. SHEETS: So let me tell you why the
12 association believes that sometimes legislation is in
13 order. Because as much and as cooperative as you
14 have been, Courtney, you know, a year from now, you
15 may not be here.

16 MS. AVERY: But it's a commitment of --

17 MR. SHEETS: Mr. Waxman's great leadership
18 may not be here.

19 MS. AVERY: But that record will be here.
20 And the board can discuss this and put it on the
21 record.

22 MR. SHEETS: That's the other thing. The
23 whole face of the board --

24 MS. AVERY: Okay. I get that.

1 MR. SHEETS: If we have it in the statute by
2 agreement, then that's the way it has to be.

3 MS. AVERY: Well, I know last year when we
4 kind of bumped heads on the whole bed sell and
5 exchange, or year before last, we agreed to look at
6 it as an evaluation. And we went through with that.
7 And we're still evaluating however many years we have
8 been doing this. So I do get that. It's a way to
9 make sure that it happens.

10 CHAIRMAN WAXMAN: Cece.

11 MS. CREDILLE: I can say that IHCA supports
12 the need to look at and evaluate the current bed need
13 formula and that we need a new bed need formula. I
14 already have that support. And I think Bill can also
15 confirm that as well that IHCA supports the fact that
16 we need to have a new bed need formula in the state.
17 That the current bed need formula is 30-plus years
18 old. And there are a lot of other states who
19 function in a different manner.

20 I think I can appreciate that HCCI, as I
21 think as Chuck just said, probably was looking to
22 move something forward. Because Courtney already
23 stated we have been talking about the need for a bed
24 need formula change for three years. And so perhaps

1 looking to have something by 2016, while that may be
2 difficult, I mean, we just keep talking in circles.

3 And there are --

4 MS. AVERY: Let me clarify. Not the bed
5 need formula. The whole bed sell and exchange. The
6 bed need formula was one of the priorities that was
7 stated early on that never really had an in depth
8 discussion about, because then the bed sell and
9 exchange can up.

10 So we tried that. I think it was like
11 number two or something on the list of priorities
12 that we ranked. We had like four major issues that
13 we needed to discuss. But for some reason, that just
14 kept getting bumped for this other topic. We never
15 really ever discussed it.

16 CHAIRMAN WAXMAN: I think part of the
17 problem is that every time you try to talk about it,
18 other subjects kind of overlap. And there are many
19 things that are intertwined among the concept of a
20 bed need formula, such as the one that you brought up
21 earlier. You know, how do we fix the fact that we
22 really all know that the count is wrong, but how do
23 we get a right count? There are other issues that
24 kind of impact that discussion. And you know, we had

1 to sort it out. That's kind of how I remember.

2 MR. PHILLIPPE: Mr. Chair.

3 CHAIRMAN WAXMAN: Yes, sir.

4 MR. PHILLIPPE: As the person who led the
5 workgroup on the bed need formula many years ago,
6 Claire assisted me with it. We had -- once we delved
7 into it, we didn't go into incredible depth. But it
8 was very complicated in changing the formula to
9 address the issues we sound as so complicated, when
10 the bed transfer idea came up, it seemed like an
11 easier way to solve the problem.

12 MS. AVERY: Thanks.

13 MR. PHILLIPPE: That's how we shifted. Even
14 that workgroup shifted from that, because it seemed
15 like the easier way to kind of address the problem.
16 We delved in -- it's very complicated. I agree with
17 you, Mr. Chair, when you start actually changing the
18 formula and then you try to figure out how does this
19 work? How does that work? It just seems difficult
20 to accomplish what we want when other states were
21 doing it by using the bed transfer method.

22 MS. AVERY: And the other question with the
23 whole idea about the bed need formula, I have never
24 gotten a firm reason what is wrong with it. Why does

1 it need changed? Does it need to be changed in order
2 to reflect the need that's currently not reflected?
3 What is the end result that whoever wants to change
4 it is looking to achieve?

5 We can't even get there unless we know what
6 the issues are with the formula. Is it what is the
7 outcome rather? What do you want from it? Again,
8 the utilization can be fixed if those beds were not
9 reflected in the facilities' inventory.

10 MR. GAFFNER: Courtney, this is Alan.

11 I think one of the focuses for bed need
12 formula revision would be its impact on the potential
13 belief that there are too many beds in Illinois. In
14 that, that would allow for projects to be considered
15 by the planning board based on more accurate
16 determination of beds, so the need to buy or purchase
17 or sell them would not exist.

18 There seems to be a thought that because
19 projects are frequently approved by the planning
20 board that this is perhaps something that is
21 incorrect or the free market needs to intervene as a
22 counterbalancing force.

23 From the HCCI perspective, and I believe
24 some of our discussion at the workgroup, we believe

1 that with the formula being able to more accurately
2 reflect both a realistic census level, perhaps it's
3 not 90 percent. That changes what the state of
4 Illinois -- and I don't mean just planning board
5 staff -- but that changes what the state of Illinois
6 believes are too many beds. Because there's strong
7 support within the long term care community believing
8 that there are not too many beds. I will also say
9 there are those that believe there are too many beds.
10 But there is an equally strong force that believes
11 there are not too many beds.

12 So I think that's the outcome that we're
13 hoping to see or that HCCI would be hoping to see
14 from attention to the bed need formula.

15 CHAIRMAN WAXMAN: Alan, the problem with
16 that concept, in my opinion, is that there are
17 different kinds of beds. And that's also a rub. I
18 mean, in some areas, you may be looking at four homes
19 with empty beds, but the quality of care is so bad
20 that, you know, people don't want to use those homes.

21 On the other hand, you know, down three
22 blocks away, there could be a high acute, subacute
23 nursing home that has a waiting list. So to make a
24 general statement about the need for beds runs into

1 another problem. Like what kind of beds are we
2 talking about? Medicare? Medicaid? Managed care?
3 You know, I mean, that's how we ended up kind of
4 moving away from the bed need formula, because every
5 time we talked about it, all these other issues came
6 up.

7 You know, how do you deal with it? I mean,
8 you know, is there some way that while we're looking
9 at the need -- bed needs, is there some way we can
10 get some of the not-so-good operators to make
11 improvements? You know, is there some way that, you
12 know, we can guarantee that people won't be adding
13 beds if they're not a good -- whatever good quality
14 home means today.

15 So you know, I understand your point. And I
16 understand the need to see changes. But it's so
17 complicated, and we haven't even addressed the issue
18 that how many people are in assisted living
19 facilities that should be in skilled beds.

20 MR. GAFFNER: Absolutely.

21 And let me just say, Mr. Chairman, I agree
22 with you. I think your description of the complexity
23 here is a validation of why direct focus and very
24 concentrated focus on the bed need formula is

1 important.

2 I would just say, when I was talking about
3 beds, I was doing that globally and not breaking out
4 a rehab bed from long term care bed.

5 But yes, I believe -- I think I would just
6 simply say CeCe and I were at one of the IHCA
7 meetings before the two organizations moved apart.
8 There is a real concern among the provider community
9 as to what I will call unlicensed nursing homes.

10 CHAIRMAN WAXMAN: Absolutely.

11 MR. GAFFNER: That affects the bed need
12 formula as well. So I think these issues can all be
13 brought under that umbrella of attention to the bed
14 need formula as we again make another run at it. I
15 respect the work that's been done by previous
16 subcommittees or ad hoc groups. But this is so
17 important that I believe we're compelled to try
18 again.

19 CHAIRMAN WAXMAN: I would like to go back to
20 something Courtney put on the table a while ago in
21 that do we really need legislation to do this or
22 can't we do it with the structure in place and a firm
23 agreement that we would involve equal distribution of
24 all three organizations, since we do have an open

1 chair.

2 MR. GAFFNER: I would agree with what Chuck
3 said, because I have, as part of our responsibilities
4 over the years, been involved in the legislative
5 process. What Amanda was describing -- and Ann would
6 know this from her work as well -- that if a bill
7 moves from committee and is held at a point for
8 second hearing, for instance, there is ample
9 opportunity to revise or amend it in the process.

10 So it's very common. It's not an eleventh
11 hour issue that something is about to be
12 irreconcilable. So I would say, with the timing of
13 legislative deadlines, let that -- my recommendation
14 would be to let that continue to move forward while
15 these informal discussions that you described could
16 be underway.

17 CHAIRMAN WAXMAN: I will freely admit, I
18 know nothing about hallways and legislative
19 processes. Honestly, I don't. And I think that's
20 what is scaring me about this whole process is that
21 people are saying that the sky is blue, and I am
22 looking at it and it's black. Where is the trust
23 that it will be stopped if we want to make changes
24 and oh, whoops, it got out of committee?

1 MR. GAFFNER: I believe that's what Amanda
2 was speaking to in that regard.

3 MR. SHEETS: Let me address that,
4 Mr. Waxman.

5 I think what I am saying is that tomorrow,
6 before the committee meets, that HCCI would be in a
7 position to tell IHCA's legislative representative,
8 LeadingAge's legislative representative, and I am
9 assuming Ann -- although I don't know who the board's
10 representative would be, but someone, Courtney -- you
11 know, whether or not we could agree to move the bill
12 only, and only with an agreement of all three parties
13 or four parties and what is in the bill.

14 I can't make that representation now,
15 because I don't have the authority to do that. Does
16 that make sense? But before the bill moves tomorrow,
17 we would have that authority.

18 So if you agree to discuss it and let it
19 move only with that stipulation, then that would be
20 -- that would control how that goes tomorrow. I
21 mean, then whoever steps up for the subcommittee
22 would not be able to agree to let that bill move
23 unless they had that representation. And usually,
24 when that representation is made, the chairman of the

1 committee will read it right into the record. So
2 it's a pretty concrete agreement if you know what I
3 mean.

4 MS. AVERY: Another thought that I had,
5 which may not be genius. Again, we have the
6 staggered turns. We have four -- three or four state
7 agencies that are represented and counted into the
8 19, we're in the process of doing bylaws changes for
9 membership. What if those ex officios were not
10 counted in the 19 and we slated a certain number of
11 slots or permanent positions on the subcommittee for
12 the three organizations? And then worked with this
13 other stuff as a goal or an agreement to work on and
14 look at.

15 Because I trust and know that, yeah, we can
16 do it that way, but it just seems so cumbersome and
17 so sloppy. And probably not in enough time to get it
18 passed. And there's going to be all this dissent,
19 because I don't see us reaching an agreement on some
20 of this stuff, especially the dates. I am really
21 concerned about those dates. But that can be a work
22 in task force, assignment, or whatever.

23 But if we were to make that bylaws change --
24 and I have not said this to Juan. So I apologize,

1 Juan, if legal counsel doesn't agree with it. But we
2 can take those ex officio numbers or the state agency
3 numbers out of the count of the 19 members. And some
4 of them aren't even interested anymore, because
5 again, it's taking so much -- as we know, the
6 administrations have changed, it's not a priority for
7 their agencies to be represented here, or good use of
8 time for their staff. So I think that can be a
9 viable option of what we would do. And that would
10 free up three or four slots there.

11 CHAIRMAN WAXMAN: Juan, do you want to use
12 some of your 25 words and respond?

13 MR. MORADO: We're addressing the bylaws
14 again today because we had a hiccup last time. Our
15 intention to remove the -- are to make, rather, the
16 state agency members ex officios with no voting
17 rights.

18 MS. MITCHELL: Right. But they're still
19 going to be counted as part of the 19.

20 MR. MORADO: So I am still checking right
21 now to see if it's required that we have them. Some
22 more to follow.

23 CHAIRMAN WAXMAN: Am I seeing someone with
24 their hand up? I was accused once of not recognizing

1 a hand up in Springfield. So I am trying to be real
2 cautious about making sure there's no floating hands
3 in that far corner.

4 MS. AVERY: I don't think she's been here
5 for a while, so you're okay.

6 CHAIRMAN WAXMAN: All right. Thank you.

7 MS. AVERY: You're welcome.

8 CHAIRMAN WAXMAN: Any other comments? I
9 guess we need to figure out what we need to do to
10 draw this discussion to a satisfactory close.

11 Mr. Sheets.

12 MR. SHEETS: Well, again, that's totally up
13 to you, Mr. Chairman.

14 Again, I would ask that -- I would ask that
15 you empower the staff to work with the three
16 associations to try to come to a consensus on
17 legislation to accomplish the things that we
18 discussed today. And that's all I can ask, I guess.

19 MS. AVERY: And again, I totally understand
20 that this can go forth with or without.

21 CHAIRMAN WAXMAN: So do you need a motion?
22 What do we need? Are you looking for a motion from
23 this committee?

24 MR. SHEETS: Well, it's up to Courtney. I

1 mean, I don't know what -- can you work with us
2 without the subcommittee directing you to work with
3 us?

4 MS. AVERY: Yeah. But the subcommittee, I
5 would like --

6 CHAIRMAN WAXMAN: Let me re-address the
7 question.

8 Courtney, do you want a motion?

9 MS. AVERY: I guess. Yes. I mean, it will
10 say, okay, that the subcommittee is in agreement or
11 not in agreement with staff going forth with this,
12 who will be the point person to say whatever staff
13 has suggested or recommended is okay.

14 Because again, my big issues are the dates
15 on here that makes us do things that I know we can't
16 possibly reach. That we will fail. So that reflects
17 on the board. I would like to see those extended a
18 couple years.

19 CHAIRMAN WAXMAN: Chuck.

20 MR. SHEETS: Yes.

21 CHAIRMAN WAXMAN: Chuck, again, in all
22 honesty, I really don't know legislative procedures.
23 Now, you have said that you would try to get HCCI to
24 agree that it would not move out of committee if we

1 agree -- if we agreed to let you take it to committee
2 and process it tomorrow, that you would try to get
3 HCCI to agree that it wouldn't move out of committee
4 without further discussions.

5 MR. SHEETS: Well, not out of committee.

6 CHAIRMAN WAXMAN: What happens if you don't
7 get the agreement from HCCI to allow the process to
8 take place? Then what? It moves without?

9 MR. SHEETS: Here's -- tomorrow, before the
10 bill is called, the committee, you know, the
11 representative would know whether or not there is an
12 agreement. So if there is not an agreement, then the
13 bills would proceed. If it got the votes, it would
14 still proceed out of committee. It may not get the
15 votes. It may not -- it may not proceed out of
16 committee if there is no agreement.

17 MS. AVERY: And we haven't worked actively
18 to kill this. So it probably will get out.

19 MR. SHEETS: Or some other people might work
20 against it later. I don't know.

21 MS. AVERY: That's true.

22 MR. SHEETS: I guess the bottom line is what
23 I was asking for was for you to authorize the staff
24 to work with us on behalf of the committee. And I

1 would hope -- and I think from the representations
2 made by IHCA, that they would work with us also and
3 we hope LeadingAge also, so that we would have some
4 kind of agreement.

5 If we don't have an agreement by the time
6 the bill is called tomorrow, then there will be no
7 representation made that there is an agreement and
8 the bill will not fly out of committee. If HCCI
9 decides to go with it on its own or with whomever
10 they get as an ally, they will have to get the votes.
11 Your staff could oppose the bill coming out of
12 committee.

13 But the concept, if there is an agreement,
14 is that it comes out of committee with the agreement
15 to amend it at a later time and the process with
16 language that's agreeable. So I mean, if you agree,
17 if you instruct the staff to do that, then you have
18 the ultimate, I guess, decisionmaking -- by you, I
19 mean the committee -- to decide whether or not the
20 language that's worked out is sufficient. At a later
21 time.

22 CHAIRMAN WAXMAN: I guess, at this point, I
23 need to hear from other members of this committee as
24 to what they're thinking.

1 John.

2 MR. FLORINA: Just a couple of observations,
3 not withstanding what Mr. Sheets is suggesting for
4 the logistics of trying to come to some kind of
5 agreement.

6 The observations I have made in this
7 discussion that's gone on for quite a while is that
8 most everybody -- at least I haven't heard anybody
9 object to the fact that there's questions about the
10 bed need methodology, whether it's an overhaul or
11 changes to it, there is obviously some question of
12 the basic tenant of this whole process, and that is
13 the bed need methodology works correctly.

14 The other observation is that I haven't
15 heard really anybody disagree with the fact that all
16 three associations or other parties shouldn't be
17 involved in this subcommittee for discussion purposes
18 and moving forward. As a matter of fact, I think the
19 history shows that you have had various groups,
20 including the associations -- whether they were
21 merged or not merged -- that were represented in the
22 past and are still represented today.

23 If there needs to be something more formal
24 to say that there's going to be X number of seats for

1 specific groups, then I am not hearing a problem to
2 that. I am hearing more of a problem of there's a
3 timing issue here with some of the things that may
4 need to be done. And secondly, there is a question
5 of why do we need to do this? But I am not hearing
6 any basic disagreement that everybody should be
7 represented.

8 It's interesting that it all came up as soon
9 as we got to some meaty issues, such as a buy/sell
10 agreement, and then talking about bed need
11 methodology. So everybody is trying to protect their
12 concerns and positions and they at least have the
13 opportunity to make them known.

14 But again, I am not hearing anybody opposed
15 to the concept of why shouldn't you have two members
16 from each association represented.

17 CHAIRMAN WAXMAN: I think there is total
18 agreement that we all believe that all three
19 organizations should be equally represented. I think
20 the issue that we're dealing with or struggling with
21 is the timing of whether or not we can support a bill
22 proposed by one of the three without knowing that the
23 other two have had an opportunity to really judge it
24 or input to it.

1 MR. FLORINA: In response to that, if I can
2 offer. The associations are represented now. Why
3 would they be proposing something that doesn't still
4 give everybody representation? This is just on paper
5 showing it's, as far as having two members from each
6 association. There could be more than two members
7 from each association. I am not sure why there is a
8 big issue with this.

9 Again, it's the timing of some of the things
10 that are in the proposed legislation, but it's also
11 the timing of just getting all the parties to agree
12 to move forward in the direction that I think was set
13 when this committee was first set up. So that's my
14 observation of this.

15 CHAIRMAN WAXMAN: Judy.

16 MS. AMIANO: If I am reading this properly
17 -- and perhaps I am not. What is in this proposed
18 bill does two things that are fundamentally
19 different. Number one, it says only members of the
20 association can be on the subcommittee. And that
21 would probably be problematic, because you do lose
22 the voice of other interested parties. And there is
23 -- I agree with Greg, there's a richness and
24 perspective when you have broader representation.

1 The second thing that is proposed in here is
2 that the subcommittee has a handle on reviewing all
3 projects that move forward and can provide nonbinding
4 recommendations to the board. That's fundamentally
5 different than how things operate today.

6 So when you say everyone's present today,
7 they can vote, this hasn't been run up the flagpole
8 with our membership. So while we're here as
9 representatives, I would be reluctant to vote on
10 something that would have such a significant change
11 in process without checking with, you know, the
12 leadership members of the association.

13 Am I misreading this document?

14 MR. FLORINA: Can I ask you where
15 specifically that portion of this is your
16 understanding?

17 MS. AMIANO: Which part?

18 MR. FLORINA: First off, that there is no
19 other membership besides the three associations. And
20 secondly, that we're supposed -- the subcommittee is
21 supposed to review individual projects.

22 MS. AMIANO: If you go to page 8, line 24,
23 25. It is saying that the subcommittee would have
24 the responsibility for the review of long term care

1 projects and the making of nonbinding recommendations
2 to the board. Now, that's the mother board. This
3 committee would take on the role of reviewing any
4 applicant that went in front of the CON board, board
5 project.

6 The second piece of where I'm getting, if
7 you go to page 9, line 21. It's talking about the
8 chairman of the board -- and that's the chairman of
9 the board, of the mother board, is how I am reading
10 this -- shall ensure the subcommittee includes two
11 members recommended from each of the -- then it goes
12 on to elected subcommittee chair. And it goes on to
13 say the other members will be representatives of the
14 Department of Public Health, Department of Health and
15 Family Services, and Human Services shall be
16 nonvoting members. But it doesn't talk about any
17 way, shape, or form about the membership on the
18 committee.

19 So I am reading that that the current
20 composition would be changed to include only six
21 members, which would be two members of each
22 association, and then plus the staff members.

23 Am I incorrect?

24 CHAIRMAN WAXMAN: That's how I read it too.

1 MR. FLORINA: It says the subcommittee
2 includes two members of the --

3 MS. AMIANO: Let's ask HCCI who drafted
4 this.

5 MR. FLORINA: Excludes others.

6 MS. AMIANO: Asking for clarification.

7 MR. SHEETS: I think that the intent was
8 that there would be some other members. But that's
9 not what it says, you're correct.

10 So I think that we would have to tweak that
11 to include some other membership. I don't think HCCI
12 has a problem with that.

13 MS. AMIANO: I guess I would reiterate. I
14 would feel very uncomfortable voting on anything that
15 would exclude -- these changes to me, I couldn't
16 support them at the thirteenth hour before just going
17 in tomorrow.

18 CHAIRMAN WAXMAN: I agree.

19 MS. AMIANO: For those reasons.

20 CHAIRMAN WAXMAN: The way it's written now
21 is that all of us who have worked for three years
22 will be gone.

23 MS. AVERY: Is there any way that we can ask
24 for the withdrawal from this from the powers of the

1 HCCI. I think again, the intent in the legislation
2 is just not getting to what -- the way it's written
3 is not getting to what I am hearing from Donna is the
4 intent of the legislation. And in our analysis of
5 it, that was an issue for us also, especially with
6 dictating who the subcommittee chairs should be and
7 the terms and all that.

8 So we can still do this without, and be on
9 friendly turf without a legislative proposal. We can
10 still accomplish what they're wanting to accomplish
11 without this legislation, which seems to just have a
12 big divide within the subcommittee also.

13 I would probably have to state, that at this
14 point, I would recommend that we call people on the
15 subcommittee and ask for a no vote on the
16 legislation.

17 MR. SHEETS: And I will be more than happy
18 to take that --

19 CHAIRMAN WAXMAN: Make that change --

20 MS. AVERY: I am sorry.

21 CHAIRMAN WAXMAN: I can't see people.

22 MS. MITCHELL: And I know there's concerns
23 about making that agreement and not being binding,
24 but one way to do that is to make it formal in our

1 bylaws, the voting membership and all that.

2 MS. AVERY: There is a way to do it to
3 incorporate most of this with that.

4 Now, there may be some issues -- again, I am
5 not sure where the whole recommendation on
6 applications, what the issues are. I mean, I think
7 the board does fairly well in being fair. There's
8 only been one application that was not approved that
9 came before the board, at least in the last four
10 years that I know it. It may be longer.

11 MS. AMIANO: It's five years.

12 MS. AVERY: I am not sure where that's
13 coming from. It's just unclear to me.

14 MR. SHEETS: I can take that back to HCCI.
15 I would be more than happy to take it back.

16 MS. AMIANO: I just don't have a role in
17 reviewing --

18 MR. CASPER: Bill Casper. I have to leave
19 in about two minutes. I just wanted to weigh in. I
20 think it's a topic that I had noted in here also that
21 hasn't really been discussed. But again, I think it
22 changes the entire function of this subcommittee if
23 it's got to opine on every long term care application
24 to the board. I don't -- and I think it would be

1 beyond the capability of all the members as we
2 discussed the board to make those recommendations.

3 I think there would be too many conflicts of
4 interest. There would be people representing an
5 organization of which the applicant was a member,
6 whether they could vote as they could vote -- again,
7 it's a very conflicted -- and I think setting the
8 agenda for the subcommittee legislatively with a
9 schedule for it is not necessarily the appropriate
10 way to do that. I just think there are too many
11 issues here.

12 I think, you know, I checked with -- a
13 little bit with LeadingAge. They're not necessarily
14 opposed to this. They're watching it. But I think
15 there are too many issues here for us to -- I
16 wouldn't be opposed to working to see if something
17 could be agreed upon in the next couple of weeks
18 through the legislative process, but I think there
19 are too many issues contained in this to come to some
20 really solid consensus on it in the timeframe
21 allowed.

22 MR. FOLEY: This is Charles Foley.

23 Bill, I have to agree with you 100 percent.
24 Thank you for those comments.

1 CHAIRMAN WAXMAN: I guess this discussion
2 then kind of going to kind of end as where it is.

3 Bill, is there any chance you can hang
4 around a few minutes? We need to have a vote on the
5 bylaw changes, and your vote is necessary.

6 MR. CASPER: Okay.

7 CHAIRMAN WAXMAN: So if that is all right
8 with everybody else, then I am going to move to the
9 bylaw issues so that we can get --

10 MS. AVERY: I will send out an e-mail when
11 Chuck gets back and Amanda gets back to us. I will
12 send out an e-mail and let you all know.

13 CHAIRMAN WAXMAN: I think the bottom line --
14 Chuck, I think the bottom line is that we all want to
15 work together. We want to work together as a uniform
16 front, as a group, because we all have the same goals
17 in mind. But this just wasn't presented correctly.
18 And there's some major issues that we have all
19 discussed in this piece of legislation, including
20 asking us to vote ourselves out of office, off the
21 committee, which I think was inappropriate.

22 MR. SHEETS: I thought you would think that
23 would be a positive thing.

24 CHAIRMAN WAXMAN: Well, I would like to

1 think that all of us who have been here from day one
2 have done some really good things. And to be felt
3 like we're totally unappreciated is not looking good
4 to me right now.

5 I know you will do well with taking it back
6 with the information you have. But the bottom line
7 is that we all have the residents in mind and we all
8 want to work together as three organizations and the
9 subcommittee and the board to get resolved what
10 necessarily has to be fixed. And we have to figure
11 out whether or not it takes legislation or just some
12 changes to our subcommittee to make that happen.

13 Chuck, please.

14 MR. SHEETS: I thank you very much.

15 And I will take all these concerns to them
16 and I will get back to Courtney and let you all know
17 what is going on tomorrow, okay.

18 CHAIRMAN WAXMAN: Thank you.

19 John.

20 MR. FLORINA: May I ask Mr. Sheets one
21 question?

22 CHAIRMAN WAXMAN: You have to ask Mr.
23 Sheets.

24 MR. FLORINA: Mr. Sheets, if you can

1 respond, please.

2 Was it the intention of HCCI to say that
3 this subcommittee needed to review individual
4 projects?

5 MR. SHEETS: Well, there's -- actually,
6 there is language in the statute now that talks about
7 the subcommittee assisting the board with projects.
8 So it was discussed. And I believe that the thought
9 process was that that should be flushed out and that
10 the subcommittee should advise the board on different
11 projects that come up.

12 So again, I hear your concerns about the
13 conflict of interest that was mentioned and some of
14 the other really good issues that were brought up.
15 And I will bring those back to HCCI.

16 CHAIRMAN WAXMAN: Thank you.

17 MR. MORADO: I am still trying to find where
18 it says that in the statute. It says you should --
19 the subcommittee should be developing and
20 recommending rules. It says you guys should be
21 reviewing and commenting on policies and procedures,
22 studying new approaches, evaluate and make
23 recommendations regarding the buy/sell exchange.
24 Let's see. Review comments and review on the

1 criteria procedures. But nothing on the specific
2 projects.

3 MR. SHEETS: Well, I will definitely get
4 back to you.

5 CHAIRMAN WAXMAN: That being said, again,
6 everybody thank you for some really -- some very
7 heartfelt comments on a very difficult issue and
8 participation.

9 Juan, are you doing the -- who's doing the
10 --

11 MR. MORADO: Jeannie.

12 CHAIRMAN WAXMAN: Jeannie. Does everybody
13 know Jeannie?

14 MS. MITCHELL: Hello all.

15 Last time, we did take a vote on the bylaws,
16 but what happened is the bylaws, as it stands
17 currently, which is last week, so those didn't pass.
18 We need 12 yes votes for an amendment to take place.
19 And we only had ten members vote if I remember
20 correctly last time. So we didn't change -- we
21 didn't pass the new bylaws.

22 So we need to take another vote today. In
23 the interest of time, I am not going to go through
24 this. It is a little different than last time, but

1 the only thing that is different -- I mean, I added a
2 few hyphens. There's nothing other than that. There
3 aren't any --

4 CHAIRMAN WAXMAN: I think this is a perfect
5 example of "Trust me, I am a lawyer."

6 MR. PHILLIPPE: I have heard that before.
7 No offense.

8 MS. MITCHELL: If you would like me to go
9 through line-by-line, we can discuss the changes in
10 more detail.

11 But so we need to take a vote and it needs
12 12 yes votes for this to pass.

13 CHAIRMAN WAXMAN: Does anyone have any
14 questions before we vote?

15 MR. MORADO: I just wanted to add one other
16 thing. Included in this vote at this time, we'll
17 become ex officio members, those members, those state
18 employees can vote for this amendment. They will be
19 losing their right to though.

20 MS. MITCHELL: Right. Everybody can vote.

21 MR. BELL: Other than the few hyphens, it's
22 the same document --

23 MR. PHILLIPPE: Could I ask a question?

24 MS. MITCHELL: Yes.

1 MR. PHILLIPPE: Just to clarify. So at this
2 point, the agency representatives can vote?

3 MS. MITCHELL: Yes.

4 MR. PHILLIPPE: And then this would also
5 give us an opportunity to actually revisit this issue
6 and keep them as voting members?

7 MS. MITCHELL: If this does not -- if we
8 don't -- yes, it would.

9 MS. CREDILLE: I am sorry. Can somebody
10 look at the last minutes or something? I thought
11 that even the state folks didn't vote at the last
12 meeting. That we decided when we discussed it and
13 approved it. Am I crazy? You did vote at the last
14 meeting?

15 MS. BURMAN: For this motion. It voted for
16 the motion.

17 MS. CREDILLE: Okay. I am sorry.

18 But Frank Urso indicated that in most other
19 committees like this, the state agency individuals
20 were nonvoting. That this was unusual. I don't
21 think I made this up.

22 MS. BURMAN: To make the change that would
23 make them nonvoting members, it's going to require
24 their vote.

1 MS. CREDILLE: That would require their
2 vote. But I thought Frank's point was on most other
3 committees, the state agency individuals were
4 nonvoting.

5 MS. BURMAN: Ex officio.

6 MR. MORADO: Mother board.

7 MS. CREDILLE: Even on the mother board,
8 that's the case.

9 So the fact that this came up is not
10 unusual?

11 MR. BELL: That's what will happen with this
12 vote. They will become nonvoting members.

13 MS. BURMAN: It's not mandatory to handle it
14 that way.

15 MS. CREDILLE: No, it's not mandatory. But
16 most other committees function the way that this is
17 on paper.

18 MS. MITCHELL: I do want to make clear,
19 there is some discussion about this. I don't know if
20 you want to table this for later, because everybody
21 would need to vote yes for this to pass. If there is
22 one or more no votes, this does not pass.

23 MR. PHILLIPPE: Mr. Chair.

24 CHAIRMAN WAXMAN: Yes.

1 MR. PHILLIPPE: Just in light of the last
2 discussion, I am not inclined to vote yes on this if
3 you need all yeses.

4 MS. AVERY: So should we table it?

5 MR. PHILLIPPE: So at least in concerns to
6 the clause about the voting, the agency reps voting,
7 I would prefer we put that off and vote on the rest
8 of it.

9 MS. AVERY: Is there anything that's urgent
10 right now?

11 MS. MITCHELL: No. This can wait until
12 another meeting. We can lay it on the table to next
13 time we meet if that's what everybody wishes to do.

14 MS. AMIANO: Can I just ask a question?
15 Tim, what is making you uncomfortable?

16 MR. PHILLIPPE: It's kind of in the same
17 venue of when we talk about consumers. It's feeling
18 like the committee, there's some opinion of moving
19 the committee to the point subcommittee so there's
20 kind of just driven by the industry provider
21 perspective. And I think the perspective needs to be
22 much bigger than that.

23 MR. FOLEY: Tim, I think -- Charles Foley --
24 I think one of the rationales on doing it this way,

1 with the state employees, they may be here today and
2 gone tomorrow. And but their position on the
3 committee being represented by that specific state
4 agency will always send somebody here, but it may not
5 be that same individual who may or may not have the
6 same thoughts.

7 MR. BELL: I understand except I just like
8 to go from experience, practically speaking. They
9 have actually been more consistent than some of the
10 other members of the committee.

11 MR. FOLEY: I don't disagree with you, Tim.
12 You're absolutely correct. I agree with that. And I
13 also might have some concerns with that.

14 MS. CREDILLE: But Tim, they would have a
15 perpetual seat on the subcommittee. They're just a
16 nonvoting.

17 MR. FOLEY: But their vote is very
18 important.

19 MS. AVERY: Because the number of votes
20 needed to pass will decrease. Their input is more
21 important.

22 MR. FOLEY: The input is very important,
23 you're correct.

24 CHAIRMAN WAXMAN: So am I hearing then that

1 we want to table this motion to the next meeting?

2 MR. FOLEY: Yes.

3 MS. AVERY: I hear three people, I think.

4 Paul, table?

5 MR. CORPSTEIN: Sure, yes.

6 MR. MORADO: Let's take a vote. If it's not
7 going to pass, it's not going to pass.

8 CHAIRMAN WAXMAN: Then the suggestion is to
9 actually do a vote to see whether we have 12 votes or
10 not. And then we can decide. Or do I need a motion
11 to table?

12 MR. MORADO: You can do either.

13 CHAIRMAN WAXMAN: What do you prefer?

14 MR. FOLEY: I make a motion that we table
15 this subject item.

16 MS. AVERY: If we take the vote and it
17 fails, we just have to go back to the drawing board
18 or do we go back to the original bylaws? We'll go
19 back to the original bylaws. So table will be
20 better.

21 MR. PHILLIPPE: I second.

22 CHAIRMAN WAXMAN: Are you seconding a motion
23 to table?

24 MR. PHILLIPPE: Yes.

1 CHAIRMAN WAXMAN: Okay.

2 Judy.

3 MS. AMIANO: Is it too late for discussion?
4 Is it possible, Juan, to approve everything except
5 that one section so that we can get something moving
6 forward?

7 MR. MORADO: That's what I was looking at.
8 It looks like if you have page 1, if we want to
9 approve this without touching ex officio members, we
10 would take out the changes in Section 1-2. Then
11 moving on to the document, on page 3, there is
12 nothing there. But on page 5, there's some -- in
13 Section 6-1, there is the H that's been crossed out
14 and now says 6, that would change to reflect that the
15 members -- the ex officios could still vote. But
16 effectively, all the other changes are still --

17 MS. AMIANO: It's over here on page 4.

18 MR. MORADO: Five too.

19 MS. AVERY: Juan, would it be cleaner just
20 to table it and go back to scratch or get input? And
21 then that way, we only have one document that we have
22 to keep track of and approve.

23 MR. MORADO: I mean --

24 MS. AVERY: Is it cleaner?

1 MR. MORADO: I think it could go either way.
2 There's a lot of changes in here that don't effect --
3 have anything to do with the ex officio that we can
4 move forward with. It's just if these members are
5 comfortable with amending it on the fly, if you will,
6 and not seeing the finished product in front of them.

7 If you are, then we can. If you're not,
8 then we should table.

9 CHAIRMAN WAXMAN: Tim, you raised the issue.
10 Would you be comfortable with approving the
11 document without the ex officio part in it?

12 MR. PHILLIPPE: My only concern is it's a
13 little messy. Unless, is there something in here
14 that's important that we need to go ahead and
15 approve?

16 MR. FOLEY: Take out my motion and just make
17 it that table the issue and the bylaws at this point
18 in time.

19 CHAIRMAN WAXMAN: I thought that was the
20 motion. The pending motion is to table the whole
21 issue.

22 So Mr. Foley, are you making that motion?

23 MR. FOLEY: Yes.

24 CHAIRMAN WAXMAN: Do we have a second?

1 MR. PHILLIPPE: Yes.

2 CHAIRMAN WAXMAN: And you have that
3 information for the transcript?

4 COURT REPORTER: Yes.

5 CHAIRMAN WAXMAN: All in favor?

6 (Chorus of ayes.)

7 CHAIRMAN WAXMAN: Any opposed?

8 (No response.)

9 CHAIRMAN WAXMAN: Motion is tabled to next
10 meeting.

11 Bill, I am sorry.

12 MS. AVERY: So the direction now is to put
13 the voting -- the ex officio back into a voting
14 capacity?

15 MS. MITCHELL: They are in a voting
16 capacity.

17 CHAIRMAN WAXMAN: What I think we can do is
18 we'll have two versions prepared for next time. One
19 with them in and one with them out. That way we have
20 two clean versions and you guys can discuss how you
21 want to go forward.

22 At this point, are you guys doing a lunch?
23 Kind of -- do you have a process for lunch there?

24 MS. AVERY: Yeah, I think.

1 CHAIRMAN WAXMAN: Last time, I got beat up
2 because I didn't give the court reporter a chance to
3 go potty and eat lunch, so I don't want to be accused
4 of that.

5 So can we take a two-minute break -- no, I'm
6 sorry. Can we take -- reconvene at 12:30 and eat.
7 Those not finished eating can eat during the rest of
8 the meeting.

9 Does that work for you guys?

10 MS. AVERY: That works.

11 CHAIRMAN WAXMAN: 12:30, 12:35, whatever we
12 need.

13 (Lunch break taken from 12:15 to 12:35.)

14 CHAIRMAN WAXMAN: We're going to jump to the
15 HUD presentation.

16 Would you like to introduce yourself?

17 MR. BOKIOS: Thank you. My name is Ted
18 Bokios. I work at an accounting firm in the Chicago
19 area, Frost, Ruttenberg and Rothblatt, otherwise
20 known as FR&R or Frost. I have been working there
21 for about 20 years, since 1995. Worked with Betsy
22 for all that time. And we're heavily involved with
23 long term care facilities and nursing homes.

24 And as part of that, we work with a lot of

1 HUD audits on those facilities. In the HUD audits,
2 to kind of give you an idea of the HUD programs that
3 are available with the nursing homes, normally, when
4 you think of HUD, you think of something like a
5 Section 8 or a low-income housing. With the nursing
6 homes, we have a section called Section 232, which
7 essentially gives the -- HUD will actually ensure the
8 mortgage on the nursing home.

9 So what does that mean? What that means is
10 that the owners don't have to have a personal
11 guarantee on the loans. So that is, basically, one
12 of the main avenues of why you see a lot of companies
13 going with a HUD loan. In addition to that, you get
14 favorable interest rates and you also can extend the
15 amortization up to 35 or 40 years. So you see a lot
16 of facilities in the last couple of years going into
17 getting these HUD mortgages.

18 Now, the HUD mortgages, a lot of times
19 people will call them a HUD mortgage. Financially,
20 you still have a private mortgage, it's just that
21 HUD, they ensure it. And because they ensure the
22 mortgage and they're taking on this risk, what they
23 do is, at these closings, which can be very
24 extensive, the closing process on a HUD-ensured

1 mortgage can take months, it could take sometimes for
2 some facilities years.

3 What winds up happening is that HUD
4 basically says, okay, if we're going to take on the
5 risk, we're going to make you sign this regulatory
6 agreement. And this regulatory agreement is
7 basically a list of all these compliance portions
8 facilities have to maintain. And I will go through
9 those in a little bit.

10 Now, what happens is most structures of
11 nursing homes you basically have -- in a lot of
12 cases, you have a building company which owns the
13 building, then you have an operating company which
14 leases and basically runs the operations. So HUD
15 knows that. And they know a lot of the risk is with
16 the operators. So they make both the building
17 company sign a regulatory agreement and the operator
18 sign the regulatory agreement. Then what happens is
19 they require an audit on the building company.

20 So where my perspective comes in over
21 15 years of dealing with this is I am actually the
22 audit side. When I usually get involved, the loan
23 has already closed and we're involved a lot with the
24 mortgage company to get the information and we're

1 involved, because every HUD loan has HUD assigns a
2 HUD project manager they call it. And so that person
3 basically oversees it.

4 So when we file -- every year, we have to do
5 an audit, and we file online what they call a re-app
6 report. What happens is, basically, a HUD audit
7 isn't like a normal HUD audit when you think of them.
8 When you think of an audit, most people think of an
9 IRS audit. But when you think of a financial
10 statement audit, that's just on the financial.

11 A HUD audit also includes a compliance audit
12 section. So you can have this building company that
13 has 12 rent deposits coming in, 12 mortgage payments
14 going out, and the actual audit report is 38 pages.
15 Because we basically have to say, okay, they signed
16 this compliance -- they filed these regulatory
17 agreements, and basically, here are the compliance
18 functions.

19 So now getting into kind of the detail --
20 and this gets into the whole look at licensed beds.
21 What HUD says, basically, is that we want to make
22 sure you're maintaining the assets. As part of the
23 assets, it includes not only the building and the
24 maintenance of the building, but it also includes the

1 assets of the operator, such as the accounts
2 receivable. So HUD has a first lien security
3 interest on all the assets of the operator and of the
4 building company.

5 Now, what they include as assets are what
6 they call permits and approvals. I am going to read
7 some, they say, basically, borrower shall at all
8 times to maintain in full force and effect all
9 appropriate certificates of needs, bed authority,
10 provider agreements, licenses, and permits and
11 approvals.

12 So basically, what they're saying, anything
13 that you need to maintain, essentially, to maintain
14 as a health care facility, you have to maintain that
15 in full effect. It goes on and they say without
16 prior written consent of HUD, none of the permits and
17 approvals -- which is basically everything I just
18 spoke of -- shall be conveyed, assigned, encumbered,
19 transferred, or alienated from the health care
20 facility or the project nor shall they be
21 relinquished to any licensing or certification
22 authority.

23 So that's basically -- and they put that
24 both -- and because they know that you're working

1 with a borrower and an operator, they put that in
2 both the borrower's regulatory agreement and the
3 operator's regulatory agreement.

4 MS. CREDILLE: Can I ask you a question?

5 MR. BOKIOS: Sure.

6 MS. CREDILLE: Wasn't there language in the
7 beginning that says without prior consent of HUD?

8 MR. BOKIOS: Yes, you can get -- so without
9 prior consent.

10 So the key is HUD wants -- before you make
11 any changes. So for example, HUD has rules. A
12 closing document can be in excess of 500 pages. So
13 basically, they basically want to know. So they will
14 have rules saying that you can't increase the number
15 of beds, you can't decrease the number of beds, you
16 can't do a major building addition, you can't
17 subtract from the building. Everything has to go
18 through HUD and through the project managers.

19 So is it possible to change the number of
20 licensed beds? Because they will actually, in the
21 regulatory agreement, actually put in there the
22 number of licensed beds. And they will say here's
23 the beds that we're starting with, and we don't want
24 to see, basically, a decrease unless you get

1 authorization from us.

2 Now, when we do the audit, we go through and
3 we look to see if there's a licensed bed goes down.
4 Just to give you a little background on some other
5 compliance things we're looking at. Obviously, are
6 they following the lease? Are they maintaining the
7 building? Are their permits up to date? You know,
8 things such as changes in control are things we look
9 at, such as changes in ownership.

10 You can't enter into a sublease with the
11 operators. You know, and because of the operator,
12 everything on the operator is also part of the first
13 lien. You know, if the operator has a receivable and
14 they want a line of credit, they essentially have to
15 get an intercedier (phonetic) agreement from HUD
16 which will basically allow -- it gives the permission
17 to the operator to actually go to a private bank to
18 get a line of credit.

19 So that essentially is, in a nutshell, what
20 is in there. To kind of give you a little bit of
21 background too. Like I said, where my perspective
22 comes in audit, where we're actually auditing, the
23 financial statements on the building company, which
24 isn't really that difficult. But it's also to the

1 compliance. And what HUD is always looking for is,
2 basically, you know, they want the assets maintained.
3 So they want to make sure it's useful project. So
4 they look for did the licensed beds go down? Did the
5 owners loan money to other types of entities? Things
6 of that nature.

7 There are two other perspectives though that
8 I would recommend are ones definitely worth pursuing.
9 The HUD perspective and the lender perspective.
10 Normally, when we get involved, like I said, the HUD
11 is already -- the loan has already closed. It was a
12 process of a couple of months to over a year, and
13 then we get the documents and then we're just
14 maintaining compliance to see if they're compliant
15 with the documents.

16 Now, the two things that kind of come to my
17 attention is that when there is a major change, like
18 for example, if you have more -- like I was saying
19 when you go HUD, they call it a TPA, transfer of
20 physical assets. And that's a major involved
21 process. There's fees in there that could be one or
22 more percent to the actual loan balance. What
23 happens is if you have a change of control, even if
24 you have a HUD mortgage, you have to go through

1 another TPA. They have different levels though.
2 TPA, modified TPA which is something reduced, or its
3 basically you just you let HUD know that something
4 changed.

5 MS. AMIANO: I know you guys practice all
6 across the country. What do you do with this in
7 other states that there are HUD mortgages on licensed
8 beds and they're in a buy/sell transfer state?

9 MR. BOKIOS: You know, most of ours are
10 concentrated in Illinois. We might have a few
11 outside. But I haven't seen the situation where we
12 have had the actual number of beds go down.

13 MS. AMIANO: Do you guys practice in other
14 states?

15 MR. BOKIOS: Mostly our healthcare. With
16 our health care practice, we do consulting in other
17 states. But a lot of the HUDs that we focused on
18 have been -- are primarily in Illinois. And then we
19 also have a couple that are out, but those have not
20 been engaged -- we haven't had that issue come up.

21 MS. AMIANO: It would be helpful to hear a
22 perspective from states that are dealing with the HUD
23 issue.

24 CHAIRMAN WAXMAN: Agree.

1 MR. BOKIOS: Two things today I will add
2 really quickly is that, so the real thing is that
3 when you get a HUD loan, basically, they go through a
4 whole process to see what the amount would be, which
5 is based, I know, on a type of fair value
6 calculation. And that's something the lenders are
7 heavily involved in.

8 And that's where basically another
9 perspective is talking to someone who's had
10 experience in these buy/sells and others or also how
11 the lenders would treat it. Because if you had it
12 where you had so many beds and then you're giving up
13 10 or 20 percent, and then how does that affect it?

14 And also, too, it's talking to HUD to see
15 how would they treat it. Would they treat it as if
16 they're just issuing a note to the file saying we
17 approve this change? Or are we treating as if it's
18 some type of physical transfer of assets?

19 That's something, after this meeting, I can
20 follow up and we can talk with different people who I
21 know in different industry groups that can basically
22 follow up. If you're interested in those
23 perspectives, I can follow up to, you know, bring
24 more information on that.

1 MS. AMIANO: That would be great. This
2 happens in so many states. There has to be others
3 who deal with this ahead of us. This is really
4 helpful information, but that extra perspective, I
5 think from --

6 MS. CREDILLE: It could just be other loans,
7 forget HUD loans. Just period, loans. So when you
8 look at other states. It's anybody who has a loan.

9 And back to the buy/sell piece, you
10 voluntarily would participate. So talk to your loan
11 folks, whether it's HUD or some other lender. If
12 they weren't supportive, then you wouldn't be part of
13 the buy/sell.

14 MR. FOLEY: Ted? Is that --

15 MR. BOKIOS: Yes.

16 MR. FOLEY: -- his name, Ted?

17 Charles Foley here. I think another
18 question would be also coming from really at least
19 some idea from HUD is if they would allow through
20 this buy/sell concept, if they will allow the seller
21 to personally keep his funds or would those funds
22 have to be used to reduce the debt?

23 MR. BOKIOS: Those are all questions that
24 definitely -- because normally, what happens is from

1 a HUD -- and these are all things like I was saying,
2 afterwards, we can follow up. I know people at HUD,
3 and we can follow up with them and set up meetings.

4 But normally, what happens is anything
5 that's a project -- what happens is project funds are
6 limited. You can only distribute project funds if
7 what they have -- they have a concept called surplus
8 cash. Essentially, what happens is that if you sell
9 something that's related to the project, it's
10 considered a project fund and you cannot distribute
11 it unless it's something that basically is it meets
12 the qualification of the surplus cash requirements.

13 And we have this situation all the time
14 where someone, you know, they have -- they bring in
15 \$50,000 and we tell them they can't distribute it
16 because the surplus cash, you don't have enough to
17 cover your surplus cash requirements.

18 But normally, what happens is when they have
19 a large -- the main issue there isn't so much the
20 surplus cash. If you're selling something and you're
21 bringing in -- I'm just using an example -- half a
22 million dollars, you're generally getting half
23 surplus cash. You may not be able to distribute all
24 of it, but you can usually distribute a large

1 portion.

2 The main issue is that you have this
3 regulatory agreement that says you have to maintain
4 the assets. And now -- and you can't sell, sublease
5 -- you can't even do a sublease of the assets. So
6 for example, if you were to sell something, you would
7 need prior approval of HUD. And that's kind of like
8 that's really the main crux of it.

9 Once the approval is there, then for me, it
10 comes in with is it something they would give
11 approval or would they say, okay, we gave you a loan
12 based on 120 beds, now you have 90. That's a
13 material change in the agreement. We have to go
14 through a whole new type of process. Either a
15 modified TPA -- or when I say TPA, I mean transfer
16 physical assets or an actual transfer of physical
17 assets.

18 MR. FOLEY: Ted, another question, if I may.

19 I think it might be helpful, if it is
20 possible, to have somebody from HUD from this local
21 region, you know, to appear at this subcommittee
22 level to give us their perspective on this whole
23 process. Because this is very, very important,
24 because we're hearing a lot of, you know, maybes,

1 ifs, and buts, and what have you. We're getting
2 different kinds of feedbacks. And since the local
3 office is one that would approve everything in this
4 state, I think it would be nice if we can have
5 somebody from a local office to appear here, if at
6 all possible.

7 Would that -- maybe agree with that?

8 CHAIRMAN WAXMAN: That's a good idea, Chuck.

9 MR. BOKIOS: And I work with a lot of
10 different project managers. So I can actually -- if
11 you would like, after the meeting, we can follow up
12 and we can get in touch with a couple of them and go
13 through the chain of command to see who they would
14 recommend to come out here.

15 MR. FLORINA: Quick question on the same
16 line.

17 Would HUD look at the number of beds if they
18 were sold or transferred differently based upon
19 volume? Meaning, is one bed that's transferred or
20 sold considered a material change in the assets or
21 does it have to be something larger than one bed?

22 MR. BOKIOS: That's the main -- that gets
23 into the whole -- that's a question that I couldn't
24 answer. That's the one thing that came up is if,

1 basically, how would HUD treat it if they did approve
2 it. And would they treat it as just basically
3 issuing a letter saying, yes, we are aware of that,
4 go ahead and we understand it. Or would they treat
5 it as a material change that would require a
6 modification because they gave a loan based on let's
7 say 100 beds, and now you only have 80, and now, the
8 estimated cash for value goes down related to the
9 loan, the loan value.

10 MS. CREDILLE: What is interesting is the
11 loans are 45 to 40 years. Do you have some that are
12 old?

13 MR. BOKIOS: No. Actually, what happens is
14 a lot of the HUDs have basically declined in the last
15 five years just because interest rates have dropped
16 tremendously. So a lot of people were able to
17 refinance. So you have people who had HUD loans of
18 six percent or eight percent in the early 2000s, they
19 were able to refinance somewhere between three and
20 four percent in the last couple of years.

21 MR. FLORINA: They signed a regulatory
22 agreement?

23 MR. BOKIOS: Yes, they have to sign a new
24 agreement.

1 MS. CREDILLE: Did most people sign the
2 regulatory agreement with their licensed beds or
3 their operating beds? Or do you even know?

4 MR. BOKIOS: No. It would be -- from what I
5 seen, it would be on the licensed beds.

6 MR. FLORINA: Do you see a difference in how
7 HUD handles it versus how the actual lender would
8 handle it? I mean, the lender wouldn't agree if HUD
9 would allow you to sell? The lender would say you're
10 not allowed to sell; HUD would allow you to sell?

11 MR. BOKIOS: The lenders that deal with HUD
12 loans, they're very specific and they're very
13 approved by HUD. Because the actual documentation
14 required to go through a HUD loan is volume -- like a
15 lot of the HUD closing books are in excess of
16 500 pages. So you have certain specific lenders who
17 basically handle a large number of the transactions.

18 And so what happens is the lenders, when
19 they're putting together their packages, they will
20 actually work with an operator or a building company
21 to say -- so sometimes if someone wants to go HUD, it
22 starts years before. Because they will start out and
23 say, okay, if you want to go and get a HUD loan,
24 here's how you have to clean up your books and

1 records. Take a year or two and then come back to us
2 and then we'll do that.

3 The lenders are always based on following
4 the HUD protocols. And then some of them are more
5 effective at basically dotting the I's and crossing
6 the T's and make it go smoother. But they're all
7 basically following the same rules.

8 MR. FLORINA: But the lender could act
9 differently than HUD? If HUD approves it, the lender
10 doesn't have to.

11 MR. BOKIOS: No. If HUD approves it, then
12 generally because HUD is guaranteeing the loan. So
13 basically, HUD is the -- basically, I would -- I
14 wouldn't know for sure, but I would think once HUD
15 approves it, the lenders would be heavily involved in
16 that approval process.

17 CHAIRMAN WAXMAN: Are there any questions
18 from TV land?

19 MS. GUILD: I have actually two.

20 CHAIRMAN WAXMAN: Okay.

21 MS. GUILD: First, how long does this
22 process take if you already have your HUD loan and
23 you want to make a change in the number of licensed
24 beds? Is that -- first, is it likely to get

1 approved? And is this a year-long process? A
2 six-month process?

3 MR. BOKIOS: That's a question that I
4 couldn't answer. And that gets into following up and
5 getting the HUD perspective and bringing in someone
6 from HUD. What it comes down to is how they would
7 actually treat it. Would they treat it as something
8 that's a small change that, basically, they write a
9 letter saying go ahead and we understand. You gave
10 us written notification, you're making the change, we
11 approve of that notification, go ahead.

12 Or is it something that they're going to
13 come in and basically say, no, this is a large
14 material change to the original documentations on how
15 we gave you the loan, so we're going to have to go
16 through some type of modified process. And if you
17 get to a modified process or an actual new loan, that
18 process can take a year or more.

19 But to answer that question, we would have
20 to follow up with someone from HUD and bring them out
21 here to speak with you.

22 MS. AMIANO: What would be the cost to --

23 MS. GUILD: Go ahead, Judy.

24 MS. AMIANO: Go ahead. I'm sorry. No, no.

1 Go ahead, Ann.

2 MS. GUILD: The second question would be if
3 there were a change in state law -- and I am not
4 saying this is going to happen. I am just trying to
5 figure out if the state mandates that every long term
6 care facility in the state changed their bed count by
7 some percent or whatever or reduced their excess
8 beds, what would HUD do because there is a state
9 mandate to require it?

10 MR. BOKIOS: I think at that point what
11 would happen is -- I think that HUD would probably
12 have to talk -- probably the people from New York or
13 Washington at HUD would basically then have to issue
14 a directive. That would basically have to -- that
15 would go against what is in the regulatory agreement
16 saying -- because even here, it says here, and I am
17 just to restate it, it says without prior written
18 consent of HUD, basically, none of the permits or
19 permits shall be -- and then it says that whole
20 thing. It says nor shall they be relinquished to any
21 licensing or certification authority.

22 So once you have a conflict from that, you
23 have to basically get a clarification from them.
24 That's something like a HUD project manager would not

1 be able -- they wouldn't even touch it. I can tell
2 you that. They would basically just move it up the
3 chain of command and say, okay, we need to gag it.

4 And the other thing too is like all the --
5 everyone who does an audit, there is a lot of
6 certifications that we have to do too in terms of
7 CPA, CPE. And we deal with associations that deal
8 with Washington and New York. We would go straight
9 to them and say here's basically what Illinois is
10 doing. And essentially, now they would go basically
11 straight to New York and Washington where basically
12 the HUD head offices are, and basically say, okay,
13 they have to issue some type of directive or
14 clarification to make sure that everyone is in
15 compliance.

16 MS. GUILD: Thank you.

17 CHAIRMAN WAXMAN: Judy.

18 MS. AMIANO: I was going to ask a very
19 similar question to Ann. But to build upon that.

20 What would be the cost to a provider? Let's
21 say HUD says it's okay, but we have to rewrite the
22 documentation.

23 So what added layer -- what burden would
24 that put on the provider, if any, as it relates to

1 HUD?

2 MR. BOKIOS: Normally, what ends up
3 happening is -- so there's three layers that I am
4 talking about. One is just they give you the
5 notification, it's done. There's probably really not
6 much there. Maybe you're going to have an attorney
7 draft a document that goes to HUD with backup
8 documentation.

9 If you're talking though about full TPA,
10 then you start talking about half a percent of the
11 loan balance or more. If you're talking about a
12 modified -- I haven't actually seen the modified TPA,
13 because usually it goes to a full TPA -- then you're
14 still talking of fees in probably the tens of
15 thousands.

16 CHAIRMAN WAXMAN: Are you going to be able
17 to follow up with --

18 MR. BOKIOS: Yes. Should I follow up
19 with -- yeah, I can shoot you an e-mail and you
20 can let me know who --

21 CHAIRMAN WAXMAN: Send it to Courtney or to
22 Claire. Send it to Claire.

23 MR. BOKIOS: Yes, I can definitely follow
24 up.

1 CHAIRMAN WAXMAN: What we're interested in
2 is whether you have contact in states that have
3 buy/sell arrangements and what the impact has been to
4 HUD financing when a facility has bought or sold
5 beds.

6 MS. CREDILLE: Or transfer.

7 CHAIRMAN WAXMAN: Or transfer.

8 MS. AMIANO: And I think Chuck raised a good
9 point that maybe also have someone from HUD come in.
10 But I wouldn't recommend a local office, because they
11 have no experience within the state of Illinois.
12 Somebody who has done this before for HUD.

13 MR. BOKIOS: What normally happens though is
14 because even the HUD project managers, when you're
15 dealing with -- and in Illinois, a lot of times, the
16 project managers can be based in California or
17 Seattle. They can be all over. So a lot of times,
18 my guess is to bring someone out, you would have a
19 point person in Chicago. But then they quickly move
20 it up the food chain.

21 Yes, I can definitely follow up to find
22 those in states with the buy/sell and then we can
23 talk about someone with HUD. One thing I can
24 recommend too is even get a lender perspective to see

1 how those three items I can follow up with.

2 CHAIRMAN WAXMAN: That would be great.

3 MS. AMIANO: Although each lender tends to
4 be unique. A perspective is helpful.

5 CHAIRMAN WAXMAN: Greatly appreciate it.

6 John.

7 MR. FLORINA: Put in perspective, do you
8 have any idea what percentage of long term care
9 mortgages are HUD-insured in the state?

10 MR. BOKIOS: In the state, I am not -- that,
11 I wouldn't know. I know the last time I looked at
12 the numbers in 2010, I think there were 120 232 loans
13 in the state.

14 Now, I would think there are a lot more just
15 because it's so advantageous to get a HUD loan at
16 three to four percent interest in a 35 to 40-year
17 without a personal guarantee.

18 MS. CREDILLE: Do you count long term care
19 as assisted living?

20 MR. BOKIOS: When I ran the number before,
21 the Section 232 included all of those. I didn't
22 differentiate between the two. It could be a lot
23 more. Like I said, that was five years ago.

24 MR. PHILLIPPE: Oh, no. It's really grown

1 in five years.

2 MR. FOLEY: Financing and everything.

3 MR. PHILLIPPE: Rates were so low.

4 MR. FOLEY: Can I ask an unrelated question,
5 if I may?

6 Ted, with your experience as a CPA and do
7 you get involved in doing cost reports and stuff of
8 that nature also for long term care facilities?

9 MR. BOKIOS: When you say "costs", you mean
10 the Medicaid cost reports?

11 MR. FOLEY: Yes.

12 MR. BOKIOS: I don't personally work on the
13 cost reports. We have a health care department. But
14 our firm does a large number of the cost reports,
15 yes.

16 MR. FOLEY: And I guess what we're
17 interested in also, if at all possible, is either
18 someone from your organization or even somebody from
19 the state that could come in and to explain the
20 entire Medicaid follow-your-dollar, so to speak. You
21 know, we had a lot of discussions here that every
22 time the board approves a project, it does increase,
23 you know, Medicaid. Does that do anything with the
24 rates or how our rates increase or decrease by

1 geographic area?

2 Just I think if we had somebody in here that
3 could speak about public aid also in their rate
4 structure, what goes into a rate structure between
5 the capital rate, the nursing rate, and the support
6 rate, what all that means. You know, the whole bit.
7 I think that might be somewhat --

8 MS. AVERY: That's a conference. A day-long
9 conference.

10 MR. FOLEY: I think it should be done in
11 Bermuda then.

12 So I guess the bottom line, what I am trying
13 to say is what does a Medicaid bed really cost
14 Illinois?

15 CHAIRMAN WAXMAN: Chuck, did you read IHCA's
16 newsletter yesterday?

17 MR. FOLEY: No, I guess I didn't as of yet.

18 CHAIRMAN WAXMAN: Some of that information
19 is sitting in that newsletter. It talks about the
20 average rate, talks about the average reimbursement
21 being about 72 or 74 percent of cost. It's in that.
22 You may get what you're looking for in the IHCA
23 newsletter that came out yesterday.

24 MR. FOLEY: I guess I had not seen that yet.

1 MR. GAFFNER: This is Alan.

2 Charles, are you looking for the existing
3 Medicaid cost numbers or a cost to a bed that's
4 occupied versus a bed that's not occupied?

5 MR. FOLEY: Yes, both. A bed that's
6 occupied versus a bed that is not occupied. I am
7 just trying to get a handle on this whole concept of
8 what does a Medicaid bed really and truly cost.

9 MR. KNIERY: If I may. This is John Kniery.
10 We have had several people ask us. We have
11 brought this up trying to get feedback from different
12 clients. And a lot of their responses are, you know,
13 what's an empty bed cost the state? Who cares if
14 there is an empty bed? I guess we're trying to get a
15 handle on some of that. Now, there's planning
16 implications, absolutely. But we're trying to get, I
17 guess, for our own edification, a handle on that.

18 MR. FOLEY: Did you get all that, Ted?

19 CHAIRMAN WAXMAN: You know, Steve is a
20 member of the committee. He probably knows some of
21 that stuff.

22 MR. BOKIOS: He's heavily involved in doing
23 the --

24 CHAIRMAN WAXMAN: Medicaid stuff.

1 MR. BOKIOS: -- Medicaid stuff. And he
2 looks at the rates all the time, especially with the
3 capital reports. So he would be a great asset and he
4 would be the one --

5 CHAIRMAN WAXMAN: He'll be at the next
6 meeting, Chuck.

7 MR. KNIERY: He's a tad busy right now.

8 CHAIRMAN WAXMAN: I know that Judy has a
9 time problem. So are there any other questions?
10 Otherwise, I would like to move on.

11 MS. AMIANO: I would like to thank you for
12 coming this morning.

13 CHAIRMAN WAXMAN: Yeah. My next comment
14 too.

15 Thank you for coming and for covering all
16 that material. If you stay in contact with Claire,
17 that would be great.

18 Yes, Alan.

19 MR. GAFFNER: Mr. Chairman, could we ask
20 Steve if he could, at our next meeting, talk about
21 costs relative to an unused bed on the system and try
22 to quantify that?

23 CHAIRMAN WAXMAN: We can ask, sure.
24 Absolutely.

1 MR. GAFFNER: Thank you.

2 CHAIRMAN WAXMAN: Any other questions?

3 (No response.)

4 CHAIRMAN WAXMAN: Then I am going to let
5 Judy take over.

6 MS. AMIANO: So I was asked to report on the
7 ad hoc workgroup. And we have had an opportunity
8 since our last meeting to meet twice. And just as a
9 refresher, this was picking up on the work of the
10 former ad hoc committee which was before Christmas
11 sometime. Really trying to take a deep dive into how
12 can we maybe kick start the thinking around the bed
13 buy/sell program.

14 So the newly constituted ad hoc group was
15 Alan, Cece, and myself, and then a representative
16 from each of our respective associations. And then
17 Claire sat in as staff on those two meetings. So
18 that was the structure.

19 So I am happy to report that we have nine
20 items that we have some consensus around. Now, these
21 are not giant, big items, but there are nine items.
22 That's better than one or two. So let me just kind
23 of go through what those nine items are that we have
24 been able to have some general consensus around.

1 I think we all agreed that the verbiage
2 perhaps should be switched to instead of buy/sell,
3 but buy/sell transfer.

4 MS. AVERY: Judy, did you get the handout?
5 Is there a handout?

6 MS. AMIANO: No.

7 MS. AVERY: We're going to need that.

8 MS. AMIANO: I'll be happy to send you some
9 notes relative to these nine items. How's that?

10 MS. AVERY: Okay.

11 MS. AMIANO: So we generally agreed to the
12 verbiage change or to make a recommendation to change
13 the verbiage to buy/sell transfer with the notion
14 that a company that had multiple facilities could
15 transfer within. And so that seemed to be reasonable
16 and all three associations agreed to that.

17 We also agreed -- and this predominately has
18 to do with LeadingAge -- that if we went into the
19 buy/sell transfer and we were under a moratorium,
20 that that also meant that the exemptions that are
21 currently in place would go away.

22 So right now, in the statute, there are
23 exemptions for religious and for CCRC. And so we all
24 sort of agreed that going into the state of a

1 moratorium, and a moratorium can only be associated
2 with a buy/sell transfer. But if we were going into
3 that state, that the moratorium really meant that
4 there were no exceptions for anyone or any one group.
5 We generally all agreed to that.

6 We all agreed that the bed need formula
7 needs to be addressed. I think we heard much
8 commentary around that topic today. I will tell you
9 that there was disagreement in the group. HCCI and
10 IHCA felt we couldn't move forward at all with
11 buy/sell transfer until the bed need formula was
12 fixed. LeadingAge came from a perspective of we
13 think we can probably work out what those mechanics
14 might look like, acknowledging that the bed need
15 formula needs to be fixed along the way.

16 So a little bit of different thought process
17 in the terms of the timing or sequencing of that.
18 But we all generally agree that the bed need formula
19 has some issues that need to be addressed. I think
20 that horse is pretty well laying on its side right
21 now, so we don't need to go there.

22 CHAIRMAN WAXMAN: It's a good picture, isn't
23 it?

24 MS. AMIANO: We had rather robust meetings.

1 There was a general agreement that we needed
2 to consider geography when we were talking about
3 buy/sell and transfer. There was significant
4 disagreement around what that looked like, but we all
5 agreed to the language of geography should have some
6 concept. So whether geography is throughout the
7 state, within an HSA, within a county, within
8 quadrants of the state is yet to be determined. But
9 really, the work of the group moving forward should
10 be to consider what makes sense as it relates to
11 geography.

12 Everyone agreed that the program should be
13 implemented statewide rather than on a trial basis in
14 a certain geography or however it might be defined so
15 that when we move forward with this, it should be
16 statewide and open to everyone. Let's test it,
17 because we felt that it's taken several years to get
18 to this point that if we went through a trial
19 process, that would likely be another five or six
20 years, and this might not ever happen if we don't
21 just take the dive and try it.

22 We all agreed that the beds aren't owned by
23 the purchaser until approved by the CON board. So
24 the CON board would continue to have a role in

1 authorizing that buy/sell transfer. So everybody
2 still owns their bed until that would be approved by
3 the CON board.

4 Everyone agreed that there should be a
5 standard contract that all buyers and sellers use.
6 Hopefully, there's no attorneys who are offended by
7 that. But we felt that, you know, it would make the
8 process and the implementation quite easier if we
9 could have a standard buy/sell contract that the
10 transaction could run by.

11 We all agreed that a buyer has 18 months to
12 start construction on any new project; otherwise,
13 they would risk losing the beds. That's pretty
14 common to what is in place today, so it's not a major
15 change.

16 And then we all agreed that any funds raised
17 through the buy/sell are really the responsibility of
18 the buyer and the seller, and that the state should
19 have no role in monitoring the use of those funds. I
20 will pause there because people might have questions
21 around that.

22 So those were really the nine elements that
23 we came up with. I think I could add a tenth one I
24 think rather safely. And that was that the concept

1 of moratorium -- although HCCI disagreed with this.
2 The concept of moratorium, at least IHCA and
3 LeadingAge felt was important to the implementation
4 of this program.

5 Absent a moratorium, how do you force people
6 to start using the buy/sell? Because if there was
7 still a mechanism to go to the CON board and say this
8 is my project and it's unique and it's why I should
9 have that, if that opportunity was still there, then
10 we could never really kick start or have people
11 decide to go through buy/sell. So why would you pay
12 for something that you could get for free if you went
13 to the CON board? So there is still a little bit of
14 disagreement around that particular notion.

15 But that's really the gist of our robust and
16 hearty conversation. I will leave it to Alan and
17 Cece to add to that.

18 CHAIRMAN WAXMAN: Judy, on item nine,
19 because there's discussion at times in this group
20 that we were thinking that some of the money raised
21 should be used to put back into the facility. But
22 you guys didn't go down that road.

23 MS. AMIANO: Oh, yes, we went down that
24 road.

1 So when you think about the free market and
2 the transaction between a buyer and a seller, you
3 really have to ask you what -- and we all generally
4 agreed that we would like to see the money be
5 reinvested back into the community. But if I am a
6 private owner and I have owned this asset for all
7 these years and I sell something and I get money for
8 it, what role does the state really have in telling
9 me how I have to spend my money. So that felt a
10 little bit uncomfortable in terms of the role of
11 government, you know, and that kind of thing. So we
12 all really pretty agreed that while it's a nice
13 thought and we would love to see reinvestment,
14 there's really -- we didn't believe the state had a
15 role in monitoring that.

16 I will say that the other area that we
17 agreed upon -- although we didn't agree on the
18 number. This has to do with access to beds. We all
19 generally agreed that for facilities that would
20 trigger over 100 beds, that we wanted to ensure that
21 there is access for public aid.

22 And so anything that would trigger over 100
23 beds, the original concept was that at least
24 20 percent or 20 beds had to be reserved or certified

1 for public aid. HCCI I think came back with
2 50 percent, then came down to 45. And the other two
3 associations could not agree to the 45. So we all
4 agree that access to public aid is important. That's
5 one of the original founding principles of this
6 group, if you remember, was to provide access for
7 individuals throughout the state.

8 So I think the concern is that under 100
9 beds, it would be impossible in today's world to
10 build and be able to service your debt on what the
11 state of Illinois pays in public aid. But we felt
12 that once you get to this kind of critical mass of
13 100 that it became a more doable thing.

14 MR. FLORINA: Was that percentage of the
15 beds that were sold or bought or percentage of the
16 total beds that would be in the facility?

17 MS. AMIANO: So it would be -- how we looked
18 at it, which again, is open to -- again, we all agree
19 we wanted access. How we looked at it, if it
20 triggered over 100 -- 100 is the magic word. We just
21 kind of drew a line in the sand and said 100. If
22 it's 100, then 20 of those beds have to be. If you
23 have 70 beds and you buy 20, you're still at 90, so
24 you're under. If you would trigger over the 100,

1 then that triggers you to be at the 20 percent.

2 MR. FLORINA: Based on a total number of
3 beds?

4 MS. AMIANO: Total number of beds.

5 MR. FLORINA: Once it's constituted with the
6 buy with the existing --

7 MS. AMIANO: Again, subject to conversation
8 and negotiation. But that's conceptually what we had
9 thrown out. And I will say, and Alan can speak, that
10 HCCI would disagree with that. But we had generally
11 just agreed that that would make sense.

12 MR. FLORINA: A 90-bed facility that adds 10
13 beds through purchase could essentially have 20 beds
14 Medicaid or even 45 before they had none?

15 MS. AMIANO: Correct.

16 MR. FLORINA: It's all negotiation.

17 MS. AMIANO: It's kind of one of those how
18 do you -- where is the line? There has to be
19 someplace that it makes sense. And I was thinking
20 about it more from if you're having people build new,
21 you know, how can you service that debt? You have to
22 generate enough revenue to do it. And you can't make
23 it on Medicaid.

24 CHAIRMAN WAXMAN: If I remember the stats in

1 the newsletter -- and again, I am sorry. I'm
2 probably misquoting. That the average across the
3 country was about 76 percent of cost reimbursed by
4 Medicaid. And Illinois was into the 60s, like
5 66 percent.

6 MS. CREDILLE: It feels about right.

7 MR. KNIERY: I think it's the other way
8 around. I think you got your percentages flipped.
9 Nationwide was higher and Illinois -- I'm sorry.
10 Nationwide was lower and Illinois was higher.

11 CHAIRMAN WAXMAN: Huh-uh. I thought
12 Illinois was lower than the average across the
13 country.

14 MS. AMIANO: We rank about number 40 --

15 CHAIRMAN WAXMAN: We're 49th in
16 reimbursement. It blew me away to find out who
17 number 50 was.

18 MR. KNIERY: South Dakota.

19 CHAIRMAN WAXMAN: It's South Dakota.

20 MS. AMIANO: I will close out by saying our
21 group did not set another meeting date, because we
22 wanted to report in and see if this is valuable or
23 not. Get some direction from the subcommittee,
24 because our discussions were not meant to be

1 exclusionary. They were meant to be how can we move
2 the ball forward. So we have not set a future date
3 for meeting. And that would be at the discretion of
4 the subcommittee.

5 CHAIRMAN WAXMAN: My thought -- and I guess
6 I will put it out there first, is that if Courtney's
7 plan or the plan that Courtney put on the table early
8 on was to get all three groups and staff to meet
9 together, that may take the need away for your group
10 to meet, unless you guys think you're doing
11 differently than what that conversation would be.

12 MS. AVERY: I think it's different.

13 MR. PHILLIPPE: Different.

14 CHAIRMAN WAXMAN: It's different?

15 MS. AVERY: Yes.

16 CHAIRMAN WAXMAN: I am sorry.

17 MS. AVERY: Yes, I do.

18 I don't -- I am still not clear what the
19 input on the three associations and all that in this
20 workgroup, because it's hard to get a sense of it
21 through the note version of it, because we don't have
22 a court reporter there.

23 So I would leave it separate. And I will go
24 back on record to say that that meeting should be

1 open from now on, because we don't get materials to
2 look at. We need something to go on. I am more of a
3 visual person. Those nine steps are gone for me
4 already. I will wait for the minutes though.

5 But I think it would be totally separate,
6 because maybe they're at the table. I am hearing
7 something from Kirk Riva, I'm hearing stuff from Pat.
8 I'm hearing stuff from Donna. What you hear here is
9 totally different than what Judy is presenting. To
10 me, it's not making progress and we have to come up
11 with a different way of how to do this. So if we mix
12 it in with the legislation and all that, it will get
13 even more cumbersome.

14 MS. AMIANO: Courtney, I would like to
15 respond. I mean, Claire, as your staff member, was
16 at every meeting. I don't think you're hearing any
17 challenges by Alan or Cece. So what I am presenting
18 to you is our consensus items --

19 MS. AVERY: I understand.

20 MS. AMIANO: -- at least our approach to
21 that.

22 MS. AVERY: I understand that.

23 CHAIRMAN WAXMAN: I guess the question then
24 goes back to you guys. On the surface, I would say

1 you guys should meet again. But what do you think
2 about the three of you in terms of how you think
3 you're making progress and the process?

4 I mean, I think the makeup makes sense to
5 me. The three of you make sense to me in terms of
6 the topic being discussed.

7 But you know, I am only one opinion. What
8 do the rest of you think?

9 John, you had your hand up.

10 MR. FLORINA: I wasn't getting into the
11 follow up. I had a couple more questions about the
12 details of the program.

13 CHAIRMAN WAXMAN: I was going to have a quiz
14 on the nine points, but Courtney already lost them.

15 MS. AMIANO: We were told that our meeting
16 notes were internal, because we're not a formal
17 committee. So these notes are for frame of reference
18 for us. They're not meant to be, gosh, we have them
19 and we're not going to share them. We were told we
20 can't. We're not trying to be difficult in that
21 regard.

22 MR. FLORINA: Was there a consensus on
23 giving up a percentage of your beds if you sold some?
24 And what about the 10 percent, 20-bed rule?

1 MS. AMIANO: That would be as part of the
2 moratorium. That would go away as well.

3 Again, where we're at odds and where we
4 would need help of the group is some folks don't want
5 to move forward until the bed formula issue is
6 addressed. Other folks feel that we can probably
7 work through the steps of what it might look like to
8 implement the buy/sell knowing that it needs to be
9 fixed along the way. So we need a little bit of help
10 of how do we get past that loggerhead would be, I
11 guess, a safe way to say it.

12 MR. WILL: I have two questions. And
13 they're kind of along the lines of getting the stuff
14 that you all shared rather than to follow up.

15 One of them I am going to ask -- maybe my
16 top two out of this. Hopefully to help clarify and
17 move forward. And I am going to ask a question about
18 the bed need formula. And you know, recognizing that
19 it's elsewhere on the agenda. But for the purposes
20 of the discussion that you all three had. Was there
21 a sense, sometimes we distinguish between, you know,
22 kind of the formula and the inputs, the bed counts
23 that go in? But when you're saying there is a
24 problem with the formula that needs to be addressed,

1 are you saying it's with the math, not the input?

2 What is the discussion within your group of that?

3 The second question, the access stuff. I
4 mean, should I let you guys address that one and then
5 get --

6 MS. AMIANO: Probably, because it's a big
7 one.

8 MR. WILL: Okay.

9 MS. AMIANO: I think we all struggle with
10 the formula might be okay, but the inputs are wrong.
11 But it still comes back to the definitional purposes
12 of the formula rely on what we know today. So you're
13 right, I think it's hard to distinguish. And I don't
14 want to take words out of my colleague's mouth here.
15 But it's the phantom bed issue. That's the real
16 issue.

17 Do you get at that by changing the
18 definitions that go into the formula or is the basic
19 formula wrong? I don't know the answer to that
20 question. But it's a foundational question.

21 So I don't know, Alan or CeCe, if you want
22 to add.

23 MS. CREDILLE: We have had discussions as
24 IHCA related to the formula in that other states'

1 formulas vary widely, and there's multiple formulas
2 out there. But Illinois applies the formula to a
3 service area as opposed to the whole state of
4 Illinois, which can impact access, which has impacted
5 beds by geography in the state of Illinois already.

6 So there are people have more access to
7 beds, for example, in Cook County because of the way
8 the formula is applied as opposed to downstate
9 Illinois. And folks in downstate Illinois or other
10 areas outside of Cook County have the same rate and
11 access.

12 So there are different ways of looking at
13 the bed need formula. On top of the discussion of,
14 quote, unquote, the beds, the phantom beds, however
15 you want to look at it.

16 MS. AMIANO: I think where I came from is
17 that, over five years, there's only been one project
18 that's been denied. So at the end of the day, does
19 the formula really matter? I mean, does it really
20 matter? And does it matter as you go into the
21 buy/sell?

22 So we spend a lot of time consummating over
23 this. But if the formula was so important, why was
24 only one project in five years not approved? So it's

1 an element. It's not the sole reason why the CON
2 board would approve a project. They look at multiple
3 things. And that's evidenced by what has happened
4 over the last five years.

5 So projects that are providing innovation --
6 although some people would disagree with what that
7 innovation looks like. So whether it's innovation or
8 they're arguing access, whatever they're arguing,
9 people have been very successful at getting their
10 projects approved. So is it that important is where
11 I would land.

12 MR. GAFFNER: This is Alan.

13 Basically, where HCCI comes from that
14 perspective is that the formula, separate and apart
15 from project approval, is important as it relates to
16 utilization, accuracy of target census. Because the
17 state used that in its determination of that there is
18 this problem of too many beds to start with. And
19 that's what I mentioned earlier, that there's two
20 issues with that.

21 Number one, are there too many beds? But
22 then secondly, regardless of if there are or not, is
23 that really a problem because of likely amenable
24 costs on the system. And because of all these

1 factors, that's why it was helpful to have Ted here
2 with his HUD presentation. And the next level of
3 information will be very useful.

4 But the number of projects that were
5 approved would be appropriate because, as Judy points
6 out or as Claire has said, the planning board uses
7 not only a bed need formula in determining that, but
8 a number of things that allow them to make an
9 appropriate determination of where it is.

10 But at least from our perspective, much of
11 this -- or some of. Won't quantify. But it seems to
12 me from where I watching on the sidelines, a lot of
13 the emphasis to discuss buy/sell was because of this
14 belief that there are excess beds. So we were trying
15 to solve excess beds with buy/sell without revision
16 to the bed need formula to help determine that, you
17 don't know if they're excess beds. So you're trying
18 to implement a solution when we have the total
19 rationale to get to that point.

20 CHAIRMAN WAXMAN: Claire.

21 MS. BURMAN: There is a misunderstanding
22 about what a buy/sell program would do. It would not
23 solve the problem of excess beds. It would improve
24 the distribution so as to place unneeded beds to

1 places where they were needed. It would not do
2 anything to lessen the count of beds in the state.
3 It was never meant to do that.

4 MR. GAFFNER: I understand what you're
5 saying. We are looking at a different iteration.
6 But certainly, that first proposal and some states
7 that we have looked at did have a clawback where some
8 beds were going to be taken if you entered into a
9 buy/sell transaction. And that -- and hence the idea
10 of the moratorium is there to add some teeth to chew
11 up or get beds out of the system.

12 So I understand what you're saying, Claire,
13 but there seems to be some relationship there.

14 MS. BURMAN: This subcommittee has spent a
15 lot of time repeatedly stating -- the members had
16 stated that there are too many beds. It's not just
17 one voice. Just many things that point to that as
18 being a fact, whether you agree with the numbers or
19 not.

20 MR. GAFFNER: I understand that. But I
21 don't think what has been well-quantified, if that
22 really is a problem. I don't think we have seen harm
23 from that. And some of that may be subjective.

24 MS. BURMAN: Within what the board handles,

1 yes, that does have an impact. Because as we saw
2 when hospital beds were having the similar problem,
3 many, many ghost beds, they, after discussions,
4 agreed that it was not helping their cause if a
5 facility wanted to come in and add beds to their
6 facility, but they were in a planning area where
7 there were already too many beds. And most of the
8 excess beds were ghost beds. The hospitals made up
9 their minds that well, we better give up these ghost
10 beds, otherwise, no one is going to be able to move
11 ahead and add beds when they really need them.

12 That was the decision that the hospitals
13 made on their part. It's different in the long term
14 care facilities, because operational, they're
15 different.

16 MR. GAFFNER: Absolutely.

17 MS. BURMAN: That's why we can't ask or hope
18 to get an easy answer by asking that question would
19 you be willing to give up your beds. At this point
20 in time, we don't have any special words that we can
21 bring forth that would convince long term care
22 facilities to do something like that, because it's
23 complicated.

24 The formula itself has basic components,

1 okay. It's old as the hills, but it hasn't been
2 changed because it has all the necessary things you
3 need to consider if you're going to make a
4 projection. You have a defined geographic area. You
5 have a projected population, whatever age group you
6 want to use, we do that. Okay, you have the use
7 rate, which is key, that tells you how many beds
8 you're actually filling in that space of time, okay.
9 That's the key. It doesn't matter where else they're
10 going, the ones that you aren't getting. You got to
11 know how many you need. Not how many fish got away.
12 You look at the use rate. And then you apply the
13 target utilization, which is very similar, if not
14 identical, to most of the other states.

15 And then the problem -- we spent months.
16 Tim's workgroup spent months on this whole bed need
17 issue. The fault is in the data and it's the end
18 piece in the formula where you subtract the number of
19 existing beds. If that number includes all the dead
20 beds, of course the number is not going to be right.

21 MR. GAFFNER: I would simply say, as Judy
22 appropriately describes our meetings, it's been
23 healthy to have the level of disagreement that we
24 have. But certainly, on this issue, I think as Cece

1 has already alluded to, and Judy summarized, HCCI and
2 IHCA believe that the formula is a very important
3 area to be addressed prior to the ability to
4 constitute a buy/sell program.

5 And I am not trying to get into the bed need
6 formula, but since you raised it, I will just point
7 out, as was presented by some of the conclusions in
8 the draft white paper, when the utilization data is
9 not compatible with the projection year data or past
10 history, it doesn't allow for good data to be in the
11 planning arena for decisions to be made. And so the
12 ability for that to be compatible, for it to be
13 relevant, for it to be related to appropriate
14 projections.

15 And I will be the first to say that I think
16 staff has a large task to try to use limited
17 resources to either buy data or staff to present it.
18 And I think our effort is trying to say how can we be
19 helpful in getting more resources for that to be
20 done. But even though LeadingAge differs as to what
21 should be in place before buy/sell discussions were
22 held, there was no disagreement from any of the three
23 long term care associations that the formula needs
24 attention.

1 MS. BURMAN: I believe they were talking
2 about the data part of it. Not the formula.

3 MR. GAFFNER: By that, I am referencing
4 everything from either the elements of the quotation
5 or the data.

6 Again, I think as we said at the ad hoc work
7 committee meeting -- not trying to speak for the work
8 that Laurel and Associates and Foley and Associates
9 did -- that the issues are more associated with data
10 than the actual formula. But as we know, if the data
11 into a good formula is not timely or relevant, you're
12 going to get bad results at the other end.

13 MS. BURMAN: It ends up being mixed message.
14 Say it's the data that goes into the formula that
15 needs work. If you think that the formula is,
16 basically, okay --

17 MR. GAFFNER: If it's a matter of semantics,
18 I will sure sit here and go on record.

19 MS. BURMAN: It can be very confusing. It
20 can be very confusing.

21 MR. GAFFNER: We tend to reference it in
22 terms of that's where we, as providers, have to live.
23 What happens in approval or denial rises and falls
24 many times on a bed need formula. So I don't think

1 we're trying to send mixed messages. And if we need
2 to clarify that, please do. But I think the need for
3 there to be focus on that has really been made
4 clearly not only at this level and at these two
5 workgroup meetings.

6 CHAIRMAN WAXMAN: Chuck, hold on a second.

7 Alan, I have a question for you.

8 MR. GAFFNER: Sure.

9 CHAIRMAN WAXMAN: Is HCCI's position that we
10 are not over-bedded or is it that we are over-bedded,
11 but it doesn't matter to the way the industry works?

12 MR. GAFFNER: I don't know it's either of
13 those two, Mr. Chairman. It's that the bed need
14 formula needs to have greater accuracy to aid in
15 planning decisions.

16 What I said earlier, let me go back to that.
17 When I said that there are those in the provider
18 community that believe there are not too many beds --

19 CHAIRMAN WAXMAN: That's what I was drawing
20 to.

21 MR. GAFFNER: I was at that point not
22 representing HCCI position. But what I hear as I
23 talk to colleagues who are both HCCI members or
24 members of other associations.

1 So and that's a fair question to ask. I was
2 talking more globally there than an HCCI association
3 position.

4 CHAIRMAN WAXMAN: Chuck.

5 MS. AMIANO: He had a second part.

6 CHAIRMAN WAXMAN: I'm sorry.

7 MR. WILL: It's in a completely different
8 direction than the access question.

9 May I ask?

10 CHAIRMAN WAXMAN: Yes. That's good too,
11 because we recognized you about three hours ago.

12 MR. WILL: I didn't want to cut it off if
13 others have questions on bed need, although I have a
14 feeling we could go right back to it. We love that
15 as a topic.

16 CHAIRMAN WAXMAN: Playing the lottery with
17 your feelings?

18 MR. WILL: Also, this question, it may be
19 that it is very short, it might be that the answer to
20 it is no. Although I would hope there would be some
21 kind of thoughts or initial -- which is about -- so
22 about the access for public aid.

23 This -- first of all, let me say that at
24 least in my mind, it's harder for me to wrap my head

1 around this piece than about the piece that you spoke
2 to. But was there any discussion of possible
3 provisions related to access on the seller's side?
4 You know, what you all talked about was on the buyer
5 side. If it's over 100 beds. You know, which would
6 be like a place to put a trigger in terms of how the
7 financing works then that there would be need to be,
8 you know, a certain amount that could be, you know,
9 residents on Medicaid.

10 And I think in our initial discussion,
11 there's some discussion about the possible impact on,
12 you know, the sale of beds that were in Medicaid
13 programs and how they would shift and stuff. So I am
14 wondering even though it might be harder to get at,
15 was there any discussion or initial thinking on ways
16 to look at access on the seller's side?

17 MS. AMIANO: Let me make sure I understand
18 the question.

19 So are you talking about requiring all
20 providers to have a certain threshold or are you
21 talking about if you go to sell or transfer a bed,
22 then the seller would also take on additional
23 requirement? I just want to make sure I understand
24 the question.

1 MR. WILL: The question would be construed
2 broadly as in something that accounts for potential
3 impact on Medicaid access of beds being sold out of,
4 you know, either a particular facility or a
5 particular geography. You know, probably the most
6 likely way that that would come is the requirement on
7 the seller, but then that's kind of --

8 MS. CREDILLE: We did talk about when you
9 sell a bed, you sell a bed, and you're not selling a
10 Medicaid bed or a Medicare bed. You're just selling
11 a bed.

12 MS. AMIANO: Let me answer from a little
13 broader. If there were a moratorium in place, you
14 got the same number of beds in the state, there might
15 be some very minor fluctuations in the overall
16 certification. Not licensure, because a licensed bed
17 is a licensed bed. So we're talking the overlay here
18 of the certification, whether that's public aid or
19 Medicare.

20 Most -- I mean, we all operate many
21 facilities. All of our facilities have far more than
22 20 percent certification of Medicaid. All of ours.
23 I am speaking for all of us. But that doesn't mean
24 every bed is occupied by Medicaid residents. When

1 you're selling that, the requirement on the seller,
2 we didn't really think from that perspective. We
3 just said how do we maintain that there's public aid
4 access if we said no growth. We're going to transfer
5 them throughout the state.

6 So by putting that kind of artificial line
7 in the sand of 100, most all facilities are in that
8 range, because to operate them to make sense, you
9 have got to have a certain core number. I guess I
10 wouldn't see you would have a big loss of
11 certification over time. Because if anybody is over
12 100 and if they don't have any certification, we're
13 going to make them have 20 percent of all the beds,
14 not just the ones they transfer. Anything over 100.
15 If you now have a 200-bed facility, you must have a
16 certification on at least 40 beds.

17 Does that make sense?

18 MR. WILL: I will have to play with some
19 math. My concern is what you all did with, you know,
20 the buyer side. But then it does get down to a level
21 of specific provisions on buyer.

22 What I am concerned about is a large, you
23 know, kind of broad strokes. If, you know, all the
24 beds -- and yet they are just licensed beds, you

1 still have a kind of one-for-one drop in Medicaid
2 program certifications and those in the facilities.
3 And you know, what you went over is the method that I
4 feel like I am going to have to play with is you do
5 have a positive impact on access at the facility
6 level with the buyer. And part of what I was imaging
7 was what if it was kind of an aggregate over kind of
8 geography shift, you know, a lot of beds sold from
9 one place to another.

10 MS. AMIANO: Do you know how to do the math
11 on that? It's an interesting question. But our
12 intent was if you think about it, it's 20 percent
13 better than it is today. Today there are zero
14 requirements on if you build a new facility that you
15 are required to have public aid.

16 Does it make your project pass easier?
17 Sure. There's no requirements. So right now, we
18 have a 20 percent improvement from where we're at
19 today. So you know, I think we were looking at and
20 trying to acknowledge --

21 MS. CREDILLE: Really looking at access to
22 make sure there's still beds and beds to serve the --
23 because we thought --

24 MS. AMIANO: Those in need. They're moving

1 them to a geography that has a need for beds. Most
2 everybody's at least at that scale. So you're going
3 to be adding another 20 beds for public aid into that
4 marketplace, you know.

5 MR. GAFFNER: One issue we also did talk
6 about was a timeframe for the beds to remain Medicaid
7 certified. If there wasn't some effort to purchase
8 beds and then maybe quickly decertified them where
9 they would then only be occupied by private pay
10 residents. That was not resolved with any timeframe.
11 But it was discussed in the context of that Medicaid
12 topic.

13 CHAIRMAN WAXMAN: Thank you guys.

14 Chuck, do you remember what you wanted to
15 say?

16 MR. FOLEY: I think so.

17 First of all, I would really like to thank
18 the ad hoc committee for the work they did put into
19 this. It sounds like you did discuss, as Judy
20 pointed out, nine or ten different points.

21 However, I guess I came into this meeting
22 with the expectation that something more would come
23 out of this ad hoc committee. And that would be
24 finally, finally, finally faced with building or

1 discussing something in specific in terms of getting
2 this buy/sell concept off the ground.

3 As everyone here knows, it's been repeated
4 several times, we have been discussing this for
5 several, several years. I think since 1927, you
6 know, it seems like. But I guess the point I am
7 trying to make is, gosh, I think we have really and
8 truly spent a lot of time with this. I hate to see
9 us spend anymore time on this buy/sell concept.

10 You heard today that we need to get a better
11 handle on this methodology issue. And I am not going
12 to speak on the methodology. But I guess I just
13 believe that we have -- and I said this before,
14 several other more important issues to discuss. For
15 instance, as pointed out earlier in terms of
16 legislation, we do have some issues that really and
17 truly needs to be worked out. And I like to see this
18 committee really and truly involved in that.

19 I would like to put this bed sell concept to
20 bed and maybe wake it up sometime in the future after
21 such time when we have a better handle on what is
22 truly out there. Do we really and truly have a
23 problem? I am hearing questions who cares if we have
24 empty beds. I know I think we have to wait to hear

1 back from HUD and see what they have to say. I think
2 we have a lot of unknowns out there. I guess, what
3 I'm just suggesting is, gosh, let's put this whole
4 thing to bed for the time being and maybe we could
5 resurrect it a year or two years down the road when
6 we have got some additional time to spend on it.

7 CHAIRMAN WAXMAN: Can't you multitask,
8 Chuck? Can't you do several things at the same time?

9 MR. FOLEY: Excuse me. I am having a donut
10 right now because I am nervous.

11 MR. PHILLIPPE: He's multitasking.

12 MS. AMIANO: We did have a prior board
13 motion, and I think rather unanimous approval, that
14 the work of this committee was to implement -- not
15 think about, implement -- a buy/sell transfer
16 program. That is the work of this subcommittee. Not
17 the ad hoc group, the subcommittee.

18 Am I incorrect in that statement?

19 CHAIRMAN WAXMAN: I do not think so.

20 MS. AMIANO: So I would not be in favor of
21 saying, well, let's not think about that one thing
22 that we're charged to do the next two years.

23 I think we have to figure out as a group,
24 how do we continue to have an open dialogue and move

1 this forward. We did only have two meetings. They
2 were not easy meetings, I will tell you that. But I
3 think that there is mutual respect for how do we get
4 to an end place that's comfortable. We obviously
5 need to work in this broader group with all of us and
6 say what things make sense and what doesn't make
7 sense and how do we keep moving it forward. To keep
8 going backwards in time does not feel comfortable
9 from where I'm sitting.

10 MR. FOLEY: That is what we have been doing.

11 CHAIRMAN WAXMAN: I agree with you.

12 Please, other people, speak up. But my
13 thought is either do you think that another
14 subcommittee of the three of you would move us closer
15 or do you want to make the agenda for our next
16 committee -- subcommittee meeting that issue?

17 MS. AMIANO: I said our group needs help.
18 We're only charged with what this committee asked us
19 to do. We're at a loggerhead on this bed formula
20 issue. Is it critical before we can talk about
21 buy/sell we have to resolve it first or can it be
22 part of the discussion? That's where we're at.
23 That's really the biggest obstacle, I think, at this
24 point in time.

1 Because I mean, if you think about it, we
2 have pretty much consensus on nine or ten other
3 points. So we have made some good progress given
4 that and given where we started. It's really getting
5 down to are the inputs bad on the formula? What does
6 that look like? How do we get there? Tim's group
7 worked a long time on that. Couldn't get anywhere.
8 How can we think about that differently this time
9 around so that we can have success?

10 CHAIRMAN WAXMAN: I guess the other question
11 is can we move forward with the understanding that we
12 will never know or can never know how many licensed
13 beds are unoccupied? Because that really is the crux
14 of why the input is bad, I believe. The input that
15 we're using is wrong because we're counting
16 unoccupied beds, because people don't want to give up
17 the count of licensed beds.

18 So the question is can we move forward
19 knowing that we don't have that one piece of
20 information and develop a program under those
21 circumstances?

22 MS. AMIANO: Maybe that's the agenda item
23 moving forward. Because I think you have an argument
24 of does it really matter all the way to we can't do

1 anything until this is fixed. So there has to be
2 some common ground in between that makes sense for
3 all the parties. I think that's kind of what is
4 stumbling everything else up.

5 So if we implement -- if all things being
6 equal, nothing else changed, and we said tomorrow
7 moratorium goes in place and now you have to buy or
8 sell in order to get a bid, that's just the way it is
9 going to be. We could wave that magic wand, and
10 boom, it happens. We could have a time period of two
11 years to evaluate that and then say, you know what,
12 these are elements that don't work. Let's fix it on
13 the back end. That's an opportunity as well.

14 It's really just a philosophical issue of if
15 we went into a moratorium state and if we went into
16 the buy/sell maybe we see what happens. And the
17 other states are much more -- they just say, here's
18 the moratorium, and you have no opportunity to do
19 anything, period. I don't think any of us is
20 recommending that.

21 I think the HUD discussion was a really
22 helpful one, because this whole idea of clawback and
23 the idea of can the state take them back has such
24 far-reaching implications, we need to be considerate

1 of those things.

2 CHAIRMAN WAXMAN: Alan, you look like you
3 want to say something.

4 MR. GAFFNER: Thank you, Mr. Chairman.

5 I was going to say that, certainly, there's
6 some huge issues that separate the group. With that,
7 I am pleased that there has been some consensus. But
8 I would not quite be as eager, as Judy put it, to try
9 a program, have a moratorium that would sunset and
10 see what happens. At least I can't today, because I
11 know from the part of HCCI, the moratorium is of
12 great, great concern. The Medicaid utilization
13 number has great, great concerns.

14 I don't want us to lose sight that both HCCI
15 and IHCA see the formula as being very, very
16 important to next steps regarding that buy/sell. And
17 I think that's significant. I mean, that was
18 certainly a big part of the discussion at both
19 meetings we had with all three associations in
20 agreement about the need for that to be addressed.
21 It was at the last meeting when HCCI and IHCA, as
22 Judy very accurately reported, indicated that we
23 believe that needed to have attention before further
24 discussions took place.

1 Is that fair, Cece?

2 MS. CREDILLE: That's it. That's accurate.

3 CHAIRMAN WAXMAN: But I guess to get back to
4 what Claire, I think, is saying, is it the formula
5 that needs adjusting or is it the accuracy of the
6 input that needs adjusting?

7 MS. CREDILLE: IHCA would say formula and
8 beds. But we're concerned about the formula part.

9 MR. CORPSTEIN: I am sorry. I don't mean to
10 interrupt your train of thought there. I just have a
11 comment and a question.

12 A couple of months ago, I did some research
13 on my own to try come up with how many access beds
14 there were in the state of Illinois. Stats that I
15 provided came within a couple percent of what the
16 planning board is representing as the number of
17 excess beds in the state.

18 And my question is, you're saying buy/sell
19 transfer. I don't think I know the definition --
20 your definition of transfer and how will this relate
21 to new facilities? The transfer part.

22 MS. CREDILLE: We did not -- we didn't go
23 into detail on that. But there are other states that
24 have -- some states operate just transfer. Some do

1 buy/sell. And some states do all three.

2 But there would be the ability to transfer.

3 But again, we didn't go into any details, but we all
4 agreed that within some geography, some kind of
5 control, that beds could be transferred.

6 MR. CORPSTEIN: Amongst who?

7 MS. CREDILLE: Owner.

8 MR. CORPSTEIN: An owner of several
9 facilities may transfer among themselves, is that
10 what you're stating?

11 MS. CREDILLE: Yes. For example, Ohio does
12 that now. And they have though only specific time
13 frames that that can occur. And they have geography
14 associated with that. So I can only use that as an
15 example that I know that that has occurred. There
16 are other states that that has occurred as well.

17 MR. CORPSTEIN: And the transfer of beds
18 could be used to build a new facility or was that the
19 part that you didn't touch?

20 MS. CREDILLE: Potentially. But we did not
21 go any further.

22 MR. CORPSTEIN: Okay. Thank you.

23 MS. CREDILLE: It is in other states. In
24 other states, some can new facility and some is add

1 on to existing facility. So it exists in other
2 states both ways.

3 MR. GAFFNER: Cece is correct. We did not
4 put a detail or structured criteria with that. It
5 was mentioned at our last meetings that some states
6 before, they had moved to a buy/sell concept that had
7 started it with a transfer. And so that is how it
8 ended up becoming part of the consideration.

9 It doesn't mean that that has been fully
10 analyzed, because that has implications to a
11 non-multi-facility owner. He can't transfer. He has
12 two facilities within 20 miles from himself, the
13 ability to transfer may be meaningless.

14 That is just a quick surface comment that
15 could be problematic for the provider community
16 regarding transfers. It was one of the consensus
17 items that came into being, because it does allow
18 beds to go to other places, but in a different market
19 format.

20 CHAIRMAN WAXMAN: Does that answer your
21 question?

22 MR. CORPSTEIN: It does.

23 Like I said, I was afraid that I had missed
24 the definition of it and what exactly was meant. It

1 just seemed like it was -- it went over really quick.

2 So that's all I am trying to understand.

3 CHAIRMAN WAXMAN: Tim.

4 MR. PHILLIPPE: Kind of a related question.

5 Just making an observation, the people who
6 are on the workgroup working on it represent
7 organizations with a lot of facilities in the state.
8 But we also do have a number of -- a lot of
9 facilities that are solo locations in the state. And
10 I assume, at some point, we have to talk about the
11 competitive advantage that a transfer program would
12 give to multisite operations.

13 MR. GAFFNER: And Tim, you're correct. And
14 I would add, we really haven't talked about that.
15 But you know, I would agree with what Courtney said
16 in that I believe that the meeting should be open to
17 others. And I believe it very important that there
18 be some compiled summary of each of those ad hoc
19 workgroups that go out in between to the full
20 subcommittee.

21 And I will say that as one who was too close
22 to the forest to see the trees. Because was I not
23 likely on the committee, and it really dawned on me
24 over the past few days, if I came today and there was

1 nothing to prep me to discuss or to share from an
2 informed perspective, because I knew absolutely
3 nothing that had taken place. There was that number
4 determination for the ad hoc committee, so it did not
5 trigger the Open Meetings Act.

6 But I am just speaking for myself, but I
7 believe and would agree with Courtney that if there
8 are future ad hoc workgroup meetings, that they
9 should be open. And if there are future meetings
10 that there should be a record that could be shared
11 with the full subcommittee following that assembly.

12 CHAIRMAN WAXMAN: Go ahead, Tim.

13 MR. PHILLIPPE: I'd just make an
14 observation.

15 I understand the idea for the concern about
16 the open meetings. Most of us would agree, I assume,
17 that having a written summary is actually helpful for
18 the meeting for all of us.

19 But I can tell you in terms of having the
20 open meeting to talk about this issue, just observed
21 based on the past. Claire will remember. We had a
22 workgroup that was working on the bed need formula.
23 And it was then the subcommittee chair I think
24 assigned us the idea of working on bed transfer.

1 Then we actually had conference calls with bigger
2 attendance than the subcommittee had two or three
3 times when we realized we couldn't get anything done
4 with 15 people in a conference call for one hour.
5 That's when we decided to move this back to the
6 subcommittee discussion, because the interest was so
7 great, we couldn't get anything done on a conference
8 call.

9 CHAIRMAN WAXMAN: Absolutely true.

10 MS. CREDILLE: Well, and we kept repeating
11 it. I shared with the subcommittee we couldn't get
12 anything done, because we had 25 people on a
13 conference call.

14 CHAIRMAN WAXMAN: That's true.

15 So then the solution is to bring it back to
16 the committee as a whole. So I mean, maybe that's
17 where this has to now end up at as the agenda for
18 next meeting.

19 MS. CREDILLE: So Judy is going to put the
20 nine points, the list. And if that's what we want to
21 discuss or half of them at the next meeting since it
22 appears that no one wants another ad hoc workgroup.

23 CHAIRMAN WAXMAN: Do you? I mean, again, my
24 question is to you guys, because you are, you know,

1 you're doing it.

2 Is there progress to be made with this ad
3 hoc workgroup meeting or does it need to come back to
4 the big group?

5 MR. GAFFNER: And I am trying to be
6 thoughtful in how I answer that, Mr. Chairman. Your
7 question is very appropriate.

8 It's difficult for me to answer in the sense
9 that, you know, certainly we' will participate if the
10 ad hoc group meets again. I just don't want us to
11 lose sight of the importance of some attention to the
12 bed need formula, whether that comes back to the full
13 subcommittee for its joint discussion on buy/sell or
14 whether it's at the workgroup.

15 CHAIRMAN WAXMAN: You know, again, I think
16 what we all agree upon is that we do want to move the
17 issue forward and come up with recommendations to
18 take to the mother board on buy/sell transfer.

19 So the question is how can we make that
20 happen so that we're handing them a product that we
21 are satisfied with and/or proud of so that they can
22 discuss it with or without our input and understand
23 the rationale of how we have done it?

24 So do we bring it back to the whole group

1 and that becomes the agenda for next week -- or next
2 meeting, whenever that is?

3 MR. GAFFNER: If it does come back before
4 this group, and Cece can weigh in for IHCA, it
5 doesn't change our concern that if a bigger group is
6 looking at it, I still think that there is attention
7 to the bed need formula that has to occur before this
8 larger group can have an informed discussion.

9 What do you think?

10 MS. CREDILLE: Same.

11 CHAIRMAN WAXMAN: So you're suggesting that
12 the two items on our next agenda would be a
13 discussion on the buy/sell formula, and then we can
14 reach some conclusion hopefully on that issue and
15 then move into the conclusion of this issue?

16 MS. CREDILLE: You mean bed need formula?

17 CHAIRMAN WAXMAN: Yeah, did I say that
18 wrong?

19 MS. CREDILLE: Fix the minutes, please.

20 MR. GAFFNER: And I don't have any
21 prediction as to the time that would be needed to
22 look at the various components CeCe is mentioning,
23 the formula, as well as inputs. I was summarizing
24 the white paper that tended to be a professional

1 group's focus on inputs as being more problematic
2 than the formula. But I am not trying to say that I
3 have the answer nor do I believe anyone has put forth
4 an answer, other than I hope -- I can be hopeful --
5 that even as the full subcommittee might look at
6 buy/sell that it have some expanded focus on
7 improving, revising, making more relevant, making
8 more useful the bed need formula.

9 CHAIRMAN WAXMAN: I will go back to the
10 question I asked you earlier or throughout.

11 How can we make the bed formula any better
12 when we all agree that we're missing the key
13 component of how many unoccupied beds are there?

14 MR. GAFFNER: I would respectfully say that
15 that's not the tipping point here. I think that in
16 our discussions, we cited, you know, more global
17 issues than just that being the one piece that is
18 stopping relevant discussion.

19 Is that a fair assessment?

20 MS. CREDILLE: Right.

21 CHAIRMAN WAXMAN: Can you highlight your
22 other points then quickly? Can you highlight the
23 other points?

24 MR. GAFFNER: Sure. I will likely be

1 repeating some what I said earlier.

2 But looking at appropriateness of target
3 utilization and census levels. The utilization data
4 matching the data that's been put forth for years
5 projected from the past. So that there's
6 corresponding use data within those facilities at the
7 same time it's supposed to match those kinds of
8 population numbers.

9 Those are just a couple of the things that I
10 am trying to be specific with. But again, I have to
11 credit the analysis that Laurel and Associates and
12 Foley and Associates provided. And I just want the
13 full subcommittee to know this has been referenced as
14 draft white paper. That is not a request made by
15 HCCI.

16 As I explained to the ad hoc workgroup that
17 after our first meeting in January, we spent quite a
18 bit of time on bed need formula. As I left, I
19 mentioned to one of the ad hoc members I think it
20 would be helpful if we had just a white paper
21 analysis. I know some professionals that I am going
22 to ask to provide that. I then asked Charles Foley
23 and John Kniery if they would do that.

24 This was not an association request. This

1 was a single request by me. That's how that document
2 came to the life. It is one opinion and only can
3 speak to that. But I thought it got us at least
4 looking at some things that are relevant to why we
5 were saying that it needed some attention.

6 CHAIRMAN WAXMAN: Chuck, what made you write
7 the paper?

8 MS. AVERY: Well, we have it on the agenda.

9 MR. BELL: I think it's something we have
10 been dealing with all along.

11 MR. CORPSTEIN: You got the big point there.

12 MR. FOLEY: I'm sorry, Mr. Chairman.
13 What was your question again?

14 CHAIRMAN WAXMAN: What made you write the
15 paper?

16 MR. FOLEY: Well, again, it was at the
17 request of Mr. Gaffner. And since this has always
18 been an issue for the last several years, we had a
19 lot of questions about the bed need and bed need
20 methodology. So we just decided just to go back once
21 again and take another look at it and see what we
22 felt. And this is just our own personal opinion.

23 And when it was written, it was written like
24 now and is just a draft. It is not final by any

1 means, because I was asking for input from Nelson
2 here and Courtney and other staff, Mike and other
3 staff people, because I didn't want this to be really
4 our paper from Foley and Associates or Laurel
5 Research, but a collective.

6 And it was just initiated, putting our
7 thoughts down on paper just to give us someplace to
8 start. I got in front of me 14,247 pages of
9 discussions that we had on bed sell. And about half
10 of those pages talks about the bed need or the
11 methodology. And still yet today, nothing is being
12 done.

13 So any way, Mr. Chairman, I better shut up.
14 That's the reason why I did it.

15 CHAIRMAN WAXMAN: I guess my -- I kind of
16 assumed that you were going to take up the issue of
17 the white paper. But what are you -- and go ahead
18 and might as well start the discussion, Bill.

19 MR. BELL: My name was just kind of thrown
20 on that knowing that this was going to be an issue.
21 And I guess my suggestion would be is we have got
22 this draft white paper. I know that our association
23 has looked at some of our out-of-state or multistate
24 members and are asking them to look at this issue

1 from their perspective, from Illinois' perspective,
2 and give us their opinions.

3 That maybe what we need to do is set some
4 type of date that if anyone has any comments,
5 suggestions, guidance, whatever, on the bed buy -- or
6 I mean on the bed formula, that they submit it by a
7 certain date to the staff, the staff accumulate that,
8 get that out for review so that when we come to the
9 next meeting, we can have a full discussion of that.
10 And then after we have that discussion, if it's
11 something that we can come to some agreement on or
12 then maybe we take that and give it back to the ad
13 hoc committee to start and work with on the bed sell
14 transfer program.

15 And one of the other things I was thinking
16 about on the ad hoc committee is we brought up the
17 issue about these single providers. Well, to keep us
18 under the Open Meetings Act, we can only have three
19 members of the board -- or of the subcommittee on
20 that. But that doesn't mean we couldn't add another
21 -- we have added an additional representative from
22 each association. What we could ask is that maybe
23 the associations ask a member who has got just one
24 facility to be on that ad hoc committee to get their

1 point of view and that might help round out the
2 discussion.

3 But I think if we set up some type of date
4 and ask everybody to pull whatever information they
5 have got together, get it to the staff so that they
6 have got time to accumulate it and get it out to the
7 rest of the subcommittee to look at prior to the next
8 meeting, then we go from there and see what happens.
9 That's just a suggestion I have.

10 CHAIRMAN WAXMAN: I like that suggestion.

11 Courtney, do we have a date for the next
12 meeting?

13 MS. AVERY: No. You haven't set one yet.

14 CHAIRMAN WAXMAN: Okay. How about Thursday?

15 MS. CREDILLE: Tomorrow, we have a committee
16 meeting.

17 CHAIRMAN WAXMAN: I want to have time to do
18 something.

19 We have been meeting, what, every other
20 month? So the other month would be May.

21 MS. AVERY: I know at one point you all
22 agreed that during the winter months, and to increase
23 the participation, we would do it via conference
24 call -- I mean video. If I recall correctly, you

1 wanted to go back to in-person once the weather
2 changed.

3 Is that still what you want to do?

4 MR. FOLEY: Yes.

5 CHAIRMAN WAXMAN: I mean, you know my
6 personal opinion. But I am fine with whatever it
7 takes to get the most number of people to participate
8 is fine with me.

9 MS. AVERY: This seems to work. Okay.
10 Video.

11 CHAIRMAN WAXMAN: If we have to do a
12 conference call and I leave at 3:00 in the morning to
13 get downtown, that's fine.

14 MS. AVERY: Take the train.

15 MR. BELL: The only concern I have,
16 depending upon when the next meeting will be is I
17 don't know how many of us will be involved at the end
18 of session. So if there is some concern that maybe
19 your time is going to get eaten up by that and not
20 have time to fully review and understand the issues
21 to be able to come to the next meeting and have a
22 hopeful fruitful and maybe an ending discussion on
23 this.

24 MR. PHILLIPPE: Is that most of May? When

1 is that?

2 MS. AVERY: End of May.

3 MR. BELL: Supposed to go home the end of
4 May. If they go into June, it's going to be all
5 budget issues, it's not going to be legislation.

6 MR. PHILLIPPE: So should we just look for a
7 date early June?

8 MR. BELL: That might be better option,
9 early to mid-June somewhere.

10 CHAIRMAN WAXMAN: Today is Tuesday.

11 MS. CREDILLE: So the week of June 2nd?

12 CHAIRMAN WAXMAN: Do you want to do
13 June 2nd?

14 MS. GUILD: That's the board meeting.

15 MS. CREDILLE: I cannot do -- the week of
16 June 9th -- or 8th or 9th, there's multiple other
17 meetings and IHCA meetings. I can't be here for
18 that. Then we're into the week of June 15th, the
19 16th is a Tuesday.

20 CHAIRMAN WAXMAN: Does the 16th work?

21 MS. AVERY: Yes.

22 MR. PHILLIPPE: Okay.

23 CHAIRMAN WAXMAN: Okay. So we'll do
24 videoconferencing on the 16th?

1 MS. AVERY: Okay.

2 CHAIRMAN WAXMAN: Starting at 10:30?

3 That wasn't a statement, it was a question.

4 MS. CREDILLE: Tuesday, June 16th.

5 MS. AVERY: We started at 10:30 because of
6 the conflict in the rooms. We'll look at either
7 10:00 or 10:30 and verify as soon as possible.

8 CHAIRMAN WAXMAN: Okay. And it will be a
9 videoconference.

10 MR. FLORINA: Can you participate by phone
11 if you can't be there in person?

12 CHAIRMAN WAXMAN: Yes. Just call Courtney.

13 MS. CREDILLE: There's been a request. John
14 has a board meeting on the 16th.

15 Can we do Wednesday the 17th?

16 MS. AVERY: Sure.

17 MR. GAFFNER: I would support that. I would
18 like to have John around the table.

19 MS. AVERY: The 17th at 10:00 or 10:30, and
20 we'll get it out as soon as possible.

21 CHAIRMAN WAXMAN: Thank you.

22 MS. CREDILLE: So now having said that, Bill
23 made a suggestion that we have some dates that we
24 have feedback back to someone. I am not sure who.

1 MS. AVERY: Well, first of all, is the paper
2 circulated to all members of the subcommittee?

3 CHAIRMAN WAXMAN: I guess that's step number
4 one is to get the paper to all. If it's a repeat,
5 then it's a repeat. But at least make sure everybody
6 has a copy of it.

7 MR. BELL: If anybody else has anything that
8 they want to add to it or provide.

9 MR. PHILLIPPE: I have a question or a
10 request.

11 CHAIRMAN WAXMAN: Yes, sir.

12 MR. PHILLIPPE: Really, if we go way back,
13 we chose -- we focused on bed buy. My head is
14 spinning really because we really are kind of in
15 retro mode here.

16 We focused on bed buying, selling, and
17 transfer if we do that, because in lieu of a bed
18 formula, okay. So if you actually -- every
19 discussion we have ever had about that it would be in
20 lieu, and then with the idea of not using the bed
21 need formula anymore. That you would actually be
22 using that method to move beds around more in a free
23 market instead of that one policy feature.

24 Now, if somebody really wants to do both,

1 it's kind of a new concept that's never been
2 discussed before. And I don't even know how you
3 actually do both. So I would like the person -- the
4 people who feel the most strongly about spending a
5 lot of time on bed need formula to come with really a
6 paper ahead of time explaining why that is so
7 important to them. Because otherwise, it feels like
8 it's just a delaying tactic that's wasting our time.

9 CHAIRMAN WAXMAN: You know, Tim, I was
10 actually going to ask Alan and Cece to do exactly
11 that.

12 MR. PHILLIPPE: Great.

13 CHAIRMAN WAXMAN: To draft a little paper,
14 if you don't mind, as to what parts of the formula
15 you think need to be adjusted. Because in my mind, I
16 can't get past the concept -- and again, like I said,
17 I don't understand how they pass laws in this state.
18 I also can't get past the concept that what is
19 messing everything up is the number of unoccupied
20 beds.

21 So if you don't mind taking a few minutes
22 and drafting, you know, a one-page document about
23 what you think is wrong with the formula, I would
24 really appreciate that.

1 MS. CREDILLE: I think it's back to
2 providing -- we're not necessarily going to be on the
3 same page. It's providing feedback regarding the bed
4 need formula, it's back to that. I can tell you that
5 Tim related to how did this come about. There was
6 discussion in the first workgroup and then the second
7 workgroup.

8 If you look at the current bed need in the
9 state of Illinois, it's pretty limited with today's
10 bed need formula. And if you move to buy/sell, then
11 there is not a lot of bed need. And so then we got
12 into discussion of, well, if you move into buy/sell,
13 it sort of all went downhill. And if you're going to
14 buy/sell, but there is no bed need, there was
15 discussion, well, then you shouldn't buy/sell because
16 if there is no bed need, then you can't buy/sell.
17 Then we moved into transfer.

18 I mean, it's really how this all played out.
19 Because in the state of Illinois right now, on paper,
20 there is very limited bed need. There's pockets of
21 small need. But overall, there isn't.

22 MR. PHILLIPPE: So that would be helpful.
23 That's helpful. Maybe something before the meeting,
24 if you can put -- you said you would be summarizing

1 the workgroup. Because really, the concept from way
2 back, years ago and throughout, is that the bed buy
3 and sell replaces the bed need formula. You don't
4 actually do both at the same time. And so if people
5 are wanting to do both, it would be useful to know
6 why they think that's useful.

7 MS. GUILD: Or you could choose one or the
8 other once the group has both choices in front of
9 them. What a bed seller looks like, what a bed need
10 looks --

11 MR. PHILLIPPE: Thank you.

12 CHAIRMAN WAXMAN: John.

13 MR. FLORINA: I have a question. Without
14 belaboring my concerns about the bed need, could we
15 get some definitions so we're all working from the
16 same understanding of what the terms are? We talked
17 about a bed need methodology. And I am assuming that
18 comprised of both a formula and data, okay.

19 But it's being used interchangeably. And I
20 am not sure if we're talking about the same things,
21 that's the first point. Maybe it's in the statute
22 that explains it. Before being more remedial here to
23 make sure we're all on the same page, I would like to
24 make sure we're talking about that. There were some

1 questions that came up earlier. You want to change
2 the formula. Tell me why you want to change the
3 formula. Well, maybe the formula is correct. Maybe
4 it's the other aspects of it that's not, okay.

5 The other thing is unoccupied beds. Now,
6 typically that means you have a bed that's licensed
7 that nobody's in it that's unoccupied. We also
8 have referred to dead beds, which are beds that are
9 no longer set up for use that are not being used,
10 they're technically also unoccupied. So we need to
11 be clear --

12 CHAIRMAN WAXMAN: They're licensed beds.

13 MR. FLORINA: Right. They're unoccupied,
14 but they're not set up. So technically, they're not
15 in use. You can't use them.

16 CHAIRMAN WAXMAN: And I agree with you
17 conceptionally. But in my mind, it doesn't matter,
18 because they're still being counted in the bed need
19 formula.

20 MR. FLORINA: It does matter. Paul referred
21 to it, and rightly so. He's got data that says
22 whatever is being reported on the state level you've
23 been able to confirm is being pretty accurate for the
24 federal reporting. That's all great. But you've got

1 to define unoccupied beds to get to what your
2 occupancy rate is.

3 Are you talking licensed versus those set up
4 or licensed versus those that actually have patients
5 in them? So we need to be on the same page to be
6 able to have a good discussion and not be getting
7 caught up in the definitions. That's just a
8 suggestion.

9 CHAIRMAN WAXMAN: I am fine. But in my
10 mind, if a bed is unoccupied and set up or unoccupied
11 and in the closet, it's still impacting the bed need
12 formula, because it's being counted as a licensed
13 bed.

14 MR. FLORINA: And that all may be true. I'm
15 just saying if we don't identify the different
16 categories, we might not be having the right
17 discussion.

18 CHAIRMAN WAXMAN: Courtney.

19 MS. AVERY: Yes.

20 CHAIRMAN WAXMAN: Back a long time ago,
21 hospitals had the same issue.

22 How did it get corrected in the hospitals?

23 MS. AVERY: The way Claire described
24 earlier. It was voluntary. And they saw that it was

1 stifling others to be built. I don't know if there
2 was some lobbying or some convincing to do so, but it
3 was a relatively easy process.

4 MS. GUILD: Because of me.

5 MS. AVERY: Because of Ann.

6 CHAIRMAN WAXMAN: Ann, can you --

7 MR. FOLEY: Ann, would you give us a recap?

8 MS. GUILD: It will never work with us guys.

9 MS. AVERY: Because of those issues that you
10 heard earlier that we have been hearing from the
11 industry before. And again -- I think that there is
12 this perception out there that these beds are worth a
13 lot of money; whereas hospitals, they have a totally
14 different incentive for what they did. They don't
15 need to keep beds for revenue and all that. Well,
16 they do, but it's a larger --

17 CHAIRMAN WAXMAN: I agree. All right.

18 So what I think we have agreed to -- and
19 again, please correct me -- is Courtney, you're kind
20 of going to stay with the HCCI legislative stuff --

21 MS. AVERY: And I have an update that for
22 some reason all three associations are now in support
23 of this bill. They slipped in support. IHCA and
24 LeadingAge. So we're still going to possibly give

1 oral testimony and opposition rather than just
2 slipping it.

3 MR. PHILLIPPE: He's just saying we didn't
4 support it.

5 MR. DART: I am saying it's an original bill
6 --

7 MS. AVERY: Are you saying it's the
8 amendment and the bill?

9 MS. GUILD: I don't know.

10 MR. DART: The amendments can be brought
11 before the committee tomorrow.

12 MS. AVERY: Right. The full bill, from my
13 understanding, was the amendment is what is going to
14 committee tomorrow.

15 MR. DART: I think his slip of support was
16 filed with original as introduced. But I mean --

17 MS. AVERY: So our strategy from the board
18 is to give more than just the slip of opposition.
19 We'll give oral testimony in opposition of it.

20 CHAIRMAN WAXMAN: Okay.

21 John.

22 MR. FLORINA: Another suggestion. I didn't
23 want to go back to this. But on the amendment that
24 you have, technically, I saw there was two things

1 that were incorrect in the language. I don't know if
2 you want to argue that because you're dealing with
3 the bigger picture.

4 When you're talking about the three
5 associations in the state, it doesn't define who
6 those are. So I mean, does that change day-to-day,
7 week-to-week, every year?

8 MS. AVERY: I have no clue. I don't know
9 how you all decide which one you're going on, what is
10 the criteria. I have asked these questions from day
11 one.

12 MR. FLORINA: That's my point. The bill
13 just says three associations. There might be others.

14 There is also the part where it appears that
15 the intention is to rotate the chairman of this
16 subcommittee so that every third year one of those
17 so-called three associations has a chairman, you
18 know, represented or nominated. It doesn't say that.
19 It just says that the association will make the
20 recommendation, which means you could have the same
21 two every other year being the chairs.

22 MS. AVERY: Or the board chair may not
23 select any of them.

24 MR. FLORINA: I am just letting you know. I

1 think the language has some errors in it.

2 MS. AVERY: There's a lot of errors.

3 MS. CREDILLE: The people who wrote the bill
4 -- you are.

5 CHAIRMAN WAXMAN: I'm sorry. I missed what
6 CeCe said.

7 MS. AVERY: So it's on you now to amend
8 this.

9 MR. GAFFNER: I have got very broad
10 shoulders.

11 Courtney, we can laugh. I didn't write the
12 bill, Courtney. But I also go back to what we said
13 earlier that having been at it a while, I think some
14 of us have around both tables. Just because it's in
15 committee tomorrow, even if it moves from committee
16 tomorrow, there is still ample opportunity for
17 associations and staff to have a meeting of the minds
18 or revise or have a consensus. So I don't sit here
19 with knots in my stomach seeing that this is going to
20 be become a highly contentious area.

21 MS. AVERY: Well, having to deal with them
22 in the past, I have knots in my stomach.

23 MS. BURMAN: I thought somebody else was
24 going to get thrown under the bus.

1 CHAIRMAN WAXMAN: Will you underline that in
2 the transcript, please?

3 MS. AVERY: And going on the Internet.

4 MR. GAFFNER: I would just say -- and I
5 don't know about who the program referred to. But I
6 would say I thought Chuck Sheets, early on, had said
7 when someone raised the issue of deadlines being
8 unreasonable or unworkable that I thought he said
9 that there could be discussion about that.

10 MS. AVERY: He did.

11 But again, from our standpoint -- and I will
12 say my standpoint and my advice to the chair -- is
13 that we can do this different other than this piece
14 of legislation that's being proposed with a lot of
15 components which we would totally, totally oppose.

16 MS. GUILD: And actually, Jason may be
17 right. They could have filed those slips last week.
18 We didn't pay attention when we found out the bill
19 wasn't going to be called. We ignored the bill. So
20 it is possible those are --

21 MS. AVERY: From last week's?

22 MS. GUILD: Yes.

23 MS. AVERY: I will wait to hear from Chuck
24 or I'll reach out to him. I know he had committee at

1 1:00. So I will go back to sending an e-mail to
2 everyone.

3 CHAIRMAN WAXMAN: And again, my concern is
4 that Chuck can say whatever he wants in terms of
5 taking messages back, but if he doesn't get the
6 powers at HCCI to agree, we got nothing.

7 MS. AVERY: True.

8 CHAIRMAN WAXMAN: So we'll leave that in
9 your hands.

10 We have a date of our next meeting. We have
11 to discuss -- everybody will get a copy of the draft
12 of the white copy. And anyone else that wants to put
13 together some information, John made a request for
14 staff to send out definitions for those parts of the
15 formula, which I think is a great one. And either
16 Alan, or Alan and Cece, if you guys have a chance to
17 get together and talk about --

18 MS. CREDILLE: No. Really, HCCI can write
19 what their deal is. IHCA can write what their deal
20 is.

21 CHAIRMAN WAXMAN: If that makes more sense
22 to you.

23 MS. CREDILLE: I think it's just simpler to
24 say this is where we are and this is the issue, this

1 is where you are, and puts two perspective to the
2 table.

3 CHAIRMAN WAXMAN: I am fine with that if
4 you're willing.

5 MR. GAFFNER: We'll get that for you,
6 Mr. Chairman.

7 CHAIRMAN WAXMAN: Anything else?

8 (No response.)

9 CHAIRMAN WAXMAN: Any other -- anything else
10 anybody wants to bring up under other business?

11 Yes, sir.

12 MR. GAFFNER: I really appreciated what you
13 said earlier about the assisted living situation and
14 how those beds are used. I would like for us to get
15 that on our agenda.

16 MS. CREDILLE: Really? Are you --

17 MR. CORPSTEIN: We don't have any
18 jurisdiction over that, Alan.

19 MS. CREDILLE: It's just outside the scope
20 and we have stayed away from that for forever because
21 of that.

22 CHAIRMAN WAXMAN: Yes, we have no
23 jurisdiction on that. We say at every meeting that
24 we need to have jurisdiction.

1 MS. CREDILLE: We know it's an impact, but.

2 MR. FOLEY: Why don't we talk about it?

3 CHAIRMAN WAXMAN: I find it sad to walk into
4 an assisted living building and see so many people
5 needing skilled services and they're in the wrong
6 place.

7 MR. FLORINA: The state -- isn't that
8 population that shows up in the data is in the
9 methodology? People over age 75, 65?

10 CHAIRMAN WAXMAN: That's a Claire question.

11 MR. GAFFNER: It's my understanding it is,
12 John. At least when I have asked about that, you
13 know, some weeks ago. After I looked at data and
14 people who massage it. But not staff, but others
15 that deal with that.

16 MR. FOLEY: All occupancy rates dictate that
17 people are going somewhere, John. So obviously,
18 they're going to assisted living, supportive living
19 and other non-licensed facilities. They're staying
20 at home with home health care. So there's all those
21 other alternatives today that are available that were
22 not available yesterday. The occupancy rates in the
23 state of Illinois reflects that, which is part of the
24 methodology also. So you know, I think --

1 CHAIRMAN WAXMAN: Any other comments?

2 MR. FOLEY: I think it's a valid question
3 and valid concern about bringing up assisted living
4 and supportive living. We're not saying we're going
5 to do anything with it, because obviously, it does
6 take legislative change. But I think it's a point of
7 discussion that maybe we might want to make some
8 changes legislatively later on.

9 CHAIRMAN WAXMAN: I think that's one of
10 those issues that we have to take to the mother board
11 and ask them to propose the change of where they fall
12 in terms of this committee, if I understand it
13 correctly. That's a recommendation we can make, yes.

14 MS. AVERY: It is something the industry
15 will have to do. I don't see the board really taking
16 on the initiative to bring it under the umbrella of
17 the CON, because it will look like, as usual, that
18 we're just trying to widen our span and grab and grab
19 and increase our budget.

20 MS. GUILD: And that fight already happened
21 years ago. And the side that thought it shouldn't be
22 part of CON won.

23 MS. AVERY: Yes.

24 MR. FOLEY: But if the association wants

1 it --

2 MR. FLORINA: Obviously, things have
3 changed.

4 MR. FOLEY: -- it can come back.

5 MS. AVERY: I agree, John.

6 MR. FLORINA: My comment was aimed more at
7 we're using the methodology, we're using data. And
8 those people in those age groups are going somewhere.
9 If we're closing our eyes to the fact that it's the
10 very same patients that would have been in the
11 nursing home in the past that are now going
12 elsewhere, but we're counting them as possible
13 admissions and creating a bed need based on it,
14 aren't we overstating the need?

15 MR. GAFFNER: Correct. Absolutely. I agree
16 with that, John. I think that's spot on.

17 MR. FOLEY: You hit it correctly, John.

18 MS. GUILD: That's part of the bed need
19 discussion.

20 MR. FOLEY: I will make a motion to adjourn.

21 CHAIRMAN WAXMAN: It's in that same gray
22 hole as how many unoccupied beds there are. We know
23 it's a major concern, it's a major issue, but how do
24 we get our hands around it.

1 Yes, I will entertain a motion to adjourn.

2 MR. FOLEY: So moved.

3 CHAIRMAN WAXMAN: Second. Is there a
4 second?

5 MR. RAIKES: Second.

6 CHAIRMAN WAXMAN: All in favor.

7 (Chorus of ayes.)

8 CHAIRMAN WAXMAN: Any opposed?

9 (No response.)

10 CHAIRMAN WAXMAN: I thank you all.

11 (End Time: 2:34 p.m.)

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CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Angela C. Turner
IL CSR #084-004122

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