

ORIGINAL

STATE OF ILLINOIS

**HEALTH FACILITIES AND SERVICES REVIEW BOARD
LONG TERM CARE ADVISORY SUBCOMMITTEE
APPLICATION WORK GROUP MEETING**

TELECONFERENCE

DECEMBER 20, 2012

NATIONWIDE SCHEDULING

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STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD
LONG TERM CARE ADVISORY SUBCOMMITTEE
APPLICATION WORK GROUP MEETING
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761
217-782-3516

MEETING OF THE APPLICATION WORK GROUP

The meeting of the Application Work Group was held by teleconference on December 20, 2012, scheduled to begin at 10:00 a.m.

1 MEMBERS PRESENT:

2 Michael Scavotto

3 Eli Pick

4 Cecilia Credille

5

6

7 ALSO PRESENT

8 Courtney Avery - Board Administrator

9 Frank Urso - HFSRB Legal Counsel

10 Claire Burman - HFSRB Staff

11 George Roate - IDPH Staff

12 Michael Constantino - IDPH Staff

13 Charles Foley

14 John Kniery

15

16

17 Court Reporter:

Jennifer L. Crowe, CSR

18 Illinois CSR #084-003786

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AGENDA

CALL TO ORDER

1. Attendance
2. Approval of Agenda
3. Proposed Application Changes Discussion
4. Other Business
5. Next Meeting
6. Adjournment

1 (Start time 10:07 a.m.)

2 MR. SCAVOTTO: This is Mike Scavotto,
3 S-C-A-V-O-T-T-O.

4 MR. PICK: This is Eli Pick.

5 MR. SCAVOTTO: CeCe, do we have you?

6 MS. CREDILLE: Yes.

7 MR. SCAVOTTO: Okay.

8 MR. ROATE: George Roate, IDPH.

9 MR. SCAVOTTO: All right.

10 MS. BURMAN: Claire Burman, board staff.

11 MR. SCAVOTTO: Do we have Courtney?

12 UNIDENTIFIED: Courtney is running late.
13 She will join us in about 15 minutes.

14 MR. SCAVOTTO: Do we have Mike
15 Constantino?

16 MR. ROATE: Mike will be on shortly. He
17 is finishing up another phone conference.

18 MR. SCAVOTTO: Okay. Is Frank going to
19 join us today? He is not.

20 Okay. All right. Eli, CeCe, any issues if we
21 dive right in and get going?

22 MR. PICK: No.

23 MS. CREDILLE: No.

24 MR. SCAVOTTO: So this is Mike Scavotto,

1 and we have been through attendance. We need to
2 approve the agenda so it is --

3 MR. PICK: This is Eli Pick. I will move
4 to accept the agenda.

5 MS. CREDILLE: I will second. CeCe.

6 MR. SCAVOTTO: Okay. Anybody opposed?
7 No. So we are good on the agenda.

8 Did someone just join us?

9 MR. URSO: This is Frank Urso, Mike.

10 MR. SCAVOTTO: Oh, Frank, we were just
11 talking about you.

12 MR. URSO: Oh, God.

13 MR. SCAVOTTO: All right. We will be
14 getting to you in a minute, my man.

15 All right. So Frank, we are at number 3. We
16 have had attendance, and we have approved the agenda.
17 We are getting onto the proposed application change
18 discussion. We were going to start at 1125.600 after
19 we do some follow-up from the previous two calls,
20 okay?

21 And to keep things rolling, the first
22 follow-up item that I have from call number one is
23 with, is with George, and this might have bled over to
24 call number two, George, but you were going to draft

1 some language revising the alternative section on
2 1125.330.

3 MR. ROATE: This is George, and looking at
4 the alternative, the alternative section of the rule,
5 1125.330, what I was -- I guess what I was suggesting
6 was the alternatives themselves, the alternative
7 section is, is defined as part of the application in
8 the rules, and until we -- until the rules are changed
9 it does need to be included.

10 In looking at what we have so far it is
11 divided into three sections; 1125.330 (A), (B) and
12 (C). In an effort, I don't want to say streamline it
13 but just make it more user-friendly perhaps that
14 section, 1125.330, just omitting Section A and leaving
15 B and C in place.

16 B and C basically give a -- well, A is more, I
17 guess, asks for multiple options. B and C would make
18 it more practical in terms of if there is only one or
19 two options that applicants consider, it would make it
20 more user-friendly. So in hindsight or I guess say in
21 a nutshell, if we can just take a look at 1125.330 and
22 just omit A and leave B and C in place, I think that
23 would be a viable option. But once again, this is one
24 that's open for discussion.

1 MR. SCAVOTTO: Okay. So for the record --
2 and people may not have 330 in front of them -- A is
3 proposing a project of greater or lesser scope and
4 cost, B would be pursuing a joint venture, developing
5 alternative settings to meet all or a portion of the
6 project's intended purposes, and C would be utilizing
7 other health care resources that are available to the
8 population.

9 MR. ROATE: This is George again. Mike, I
10 think what you have quoted is you've quoted the
11 subsections of A, and that was the section I was
12 saying to possibly omit because A is divided into
13 Subsections 1, 2, 3 and 4 if you look at the rules,
14 and what it does is just that section, A, I think it
15 -- I guess I say it leaves me, the applicant, with the
16 impression that they have to furnish three plus
17 alternatives.

18 MR. SCAVOTTO: George, this is a good
19 discussion because this is not clear in the
20 application because I'm -- if you look at 330
21 alternatives, there is a Section 1, a Section 2 and a
22 Section 3.

23 MR. ROATE: Okay,

24 MR. SCAVOTTO: A, B and C and D citations

1 are under 1, which is to identify all of the
2 alternatives to the proposed project. So I can see
3 where I might be getting off the path.

4 MR. ROATE: I'm going to go ahead, and I'm
5 opening up the rules on the web site as we speak.
6 This is George again. I apologize. And I could be --
7 okay. Yeah, if you go out to the actual web site they
8 have -- the subsections of 1125.330 are delineated
9 with A, B and C.

10 Now, A has four subsections and they are
11 numbered and that is the sections -- when I am
12 referring to Section A in what you repeated, Mike, or
13 read back was the section that I was proposing maybe
14 omitting just because, once again, it is that first
15 section that I believe leads an applicant to believe
16 that they have to provide three plus alternatives
17 where some of these projects your alternatives may be
18 somewhat limited.

19 MS. BURMAN: This is Claire. Can I just
20 interject for a minute?

21 MR. SCAVOTTO: Okay.

22 MS. BURMAN: If you look at Subsection A,
23 what it says is alternative options shall be addressed
24 period and then says examples of alternative options

1 include. So those are just examples 1 through 4.

2 MR. SCAVOTTO: Okay. In the application
3 it says alternative options must include.

4 MR. PICK: Yes. This is Eli. It is
5 underlined.

6 MR. SCAVOTTO: So George, let's get this
7 off that center. Give us a -- give me a
8 recommendation in writing as to exactly what you are
9 talking about. That way we are not going back and
10 forth between what is in the ap and what is in the
11 rule.

12 MR. ROATE: Okay.

13 MR. SCAVOTTO: All right. Now, even if we
14 have to repeat, repeat a section that looks very
15 obvious, so much the better. I mean, at least we are
16 -- we will be dealing from the same deck, and we won't
17 be confused. So we will follow this up the next time
18 around.

19 So any questions about what needs to be done?

20 MR. FOLEY: Mike, this is Charles Foley.

21 MR. SCAVOTTO: Yep.

22 MR. FOLEY: Can we make this also
23 consistent between the rules and the application form?

24 MR. SCAVOTTO: Well, that's what I'm

1 trying to get George to do.

2 MR. FOLEY: That's what I thought. That's
3 what I thought.

4 MR. ROATE: I apologize. I didn't bring
5 the actual application into it, but I will make sure
6 everything is on the same keel.

7 MR. SCAVOTTO: Yeah. No harm, no foul.
8 We just want to get this moving. So when this
9 conference summary comes back to you it will say
10 George to draft, and that will hopefully -- George,
11 just give us the way you want to see it, and that way
12 -- and make it consistent with the rules so we know
13 what we're talking about, okay?

14 MR. ROATE: Yes, sir.

15 MR. SCAVOTTO: All right. Frank?

16 MR. URSO: Yes.

17 MR. SCAVOTTO: On 1125.540 there was a
18 follow-up issue for you on whether or not we were
19 going to make a distinction between patient referral
20 and patient origin.

21 MR. URSO: You said 1125.540?

22 MR. SCAVOTTO: Yeah. That was a follow-up
23 from, I think, the first conference call. There was,
24 I think -- my recollection -- and not going back over

1 this, I'm just coming from memory, my recollection is
2 that the rules, the rule says that you provide patient
3 origin data. The application says referrals. Prior
4 to this discussion in conference call one we had quite
5 a, quite a lengthy discussion about the difficulty of
6 getting referral information.

7 So it just struck me again why are we looking
8 at referrals again in 540? Well, we are not. We are
9 looking at patient origin which is quite a bit
10 different. So we kicked that one to you to get back
11 to us on, and we will leave that in your court.

12 So will you get back to us on that?

13 MR. URSO: Yeah. Let me -- yeah, let me
14 take a closer look at it, okay?

15 MR. SCAVOTTO: Right.

16 MR. URSO: 1125.540?

17 MR. SCAVOTTO: Yeah. There is a section
18 there that talks about patient referrals. I think if
19 you check it with the rule, I think you will see that
20 the rule says it should be patient origin.

21 MR. URSO: All right.

22 MR. SCAVOTTO: It is really different
23 data.

24 MS. BURMAN: Yeah. This is Claire. In

1 the 540, which is for the establishment of general
2 long-term care, Subsection D they are talking about
3 letters from referral sources, so whoever your
4 referral sources are. But then as part of that, the
5 total number of prospective residents that they would
6 be including in their letter would be identified by
7 zip code of residence. So it is actually both.

8 MR. PICK: Yeah. This is Eli. On page 21
9 of the application it refers to both referrals,
10 patient origin by zip code and the categories of
11 examples of sources of referrals; physicians,
12 hospitals, discharge planners, social workers, excuse
13 me.

14 MS. BURMAN: And the rule says and others
15 besides the ones that --

16 MR. PICK: And others, yeah, that's
17 correct.

18 MS. BURMAN: This is Claire. Whoever you
19 would be getting referrals from is the point, so --

20 MR. PICK: This is Eli again. It is a
21 24-month period after project completion is what the
22 time frame is being requested for as far as volume.

23 MS. BURMAN: Right. This is Claire.

24 MR. URSO: This is Frank again. So, I

1 mean, Eli, you referred to page 21 of the application
2 during this discussion.

3 MR. PICK: Yes.

4 MR. URSO: Page 21, according to the
5 application that I had, deals with 1125.720.

6 MR. PICK: Oh.

7 MR. URSO: I thought we were dealing with
8 1125.540.

9 MR. PICK: This is Eli. Yeah, looking at
10 the July 2012 edition. Is that the same?

11 MR. URSO: Okay. Well, maybe that's my
12 problem because I have the June 2012 edition.

13 MR. PICK: Well, Frank, you have got to
14 keep up.

15 MR. URSO: I need a new edition here. I
16 need to talk to my paperboy to get the right delivery.
17 Okay. Sorry about that.

18 We are talking about 1125.540, and you are
19 saying there is a difference between the application
20 when you compare to the current rules?

21 MR. PICK: Right.

22 MR. URSO: I will take a look.

23 MR. SCAVOTTO: It is asking for referral
24 information, and my recollection of the rule is that

1 it asks for origin information.

2 MR. URSO: Well -- this is Frank Urso --
3 I'm looking at 1125.540, and it talks about a number
4 of things including historical referrals, projected
5 referrals, and then it goes on to talk about projected
6 service demand based upon rapid population growth, but
7 it does talk about historical referrals and projected
8 referrals, and that was, I think, what Claire was
9 alluding to a few minutes ago. So that is what is in
10 the rule 1125.540.

11 MS. BURMAN: This is Claire again. In
12 Subsection C of that section, 540, it says
13 documentation of the referrals shall include
14 resident/patient origin by zip code, name and
15 specialty of referring physician or identification of
16 another referral source and name and location of the
17 recipient long-term care facility. So --

18 MR. PICK: Claire, this is Eli. Is that
19 the rule or application?

20 MS. BURMAN: That's the rule. The rule
21 trumps the application.

22 MR. PICK: Well, this is Eli. The
23 application is verbatim and includes what you just
24 read.

1 MS. BURMAN: Okay. Okay. So actually
2 patient origin is part of the referral information.

3 MR. URSO: That's what I read, too. This
4 is Frank Urso.

5 MR. SCAVOTTO: All right. Frank, would
6 you look at that and clarify?

7 MR. URSO: Yes, I will.

8 MR. SCAVOTTO: Okay. Great. Thanks.

9 Okay. We have some follow-up items from
10 conference call number two. One of those items was
11 1125.560 which concerned variances to computed bed
12 need, and the follow-up issue was that Mike
13 Constantino was to send out data on how many variances
14 have occurred. He did that. He did a whole lot more
15 than that. He provided all sorts of information since
16 2007. By my count there have been three variances.

17 Now, I'm not going to suggest that that
18 dismisses everything, but at least we have gotten the
19 information, and we can get it assembled and do some
20 more analysis now that we have a basis to understand
21 what we're talking about.

22 MR. PICK: This is Eli. In regards to the
23 Constantino spreadsheet that he sent out, I mean, I
24 thought that was extremely informative.

1 MR. SCAVOTTO: It was.

2 MR. PICK: It shows us historic patterns.

3 MR. SCAVOTTO: Yeah.

4 MR. PICK: And I would suggest that it be
5 shared with the entire sub, I mean, subcommittee
6 because I think it provides us some insight. It is
7 hard to get a sense of scope when we're talking about,
8 you know, the CON's that are being issued versus the
9 continuum of care or retirement communities. That
10 document gives us some perspective as to how many we
11 are talking about, and it is nowhere near the volume I
12 thought based on our prior discussions.

13 MR. SCAVOTTO: Yeah. Regarding variances?

14 MR. PICK: Yes.

15 MR. SCAVOTTO: Yeah, I would agree. Yeah.
16 And if my memory is correct something like, there were
17 like -- the biggest number was change in ownership.

18 MR. PICK: Yes.

19 MR. SCAVOTTO: Nonetheless that's
20 something that we will pick up later. I certainly
21 have no objection to sharing this information with the
22 full group.

23 MR. PICK: Good.

24 MR. SCAVOTTO: None whatsoever. On 570,

1 service accessibility, we had an assignment to
2 Courtney, Claire and legal. I guess that's you,
3 Frank. There was some superfluous language in that
4 section that was going to get cleaned up.

5 So Claire, you guys still working on that?

6 MS. BURMAN: Right, right.

7 MR. SCAVOTTO: Okay. And on 580 under
8 duplication of services we did have quite a discussion
9 on that. Mike Constantino was to get us the court
10 order that affected the requirements in this section.
11 We have not received that yet. So just for the record
12 those are the follow-up items that we will continue to
13 pursue in the future.

14 So let's get onto 1125.600, bed capacity. And
15 where are my notes on that? Okay. So the first
16 question that I have in my papers is how do we come up
17 with 250, that just being the maximum?

18 I think someone else had questions on that. I
19 think, CeCe, you might have had, you might have had
20 that question. Eli, you probably did, too.

21 MR. FOLEY: This is Charles.

22 MR. SCAVOTTO: Charles, go ahead.

23 MR. FOLEY: Early on years ago this number
24 used to be 300, and subsequently over the years

1 arbitrarily that number was just reduced to 250.
2 There was no rhyme or reason or anything as to how the
3 250 actually really came up.

4 Now obviously with today's time, culture
5 changes and everything else, I think the committee
6 should take a look at that 250 number, and quite
7 honestly in my opinion I think that number should be
8 substantially lower than 250.

9 MR. PICK: This is Eli. I mean, in light
10 of Chuck's comment, why do we need -- unless the rule
11 specifically calls for this, why do we need a maximum
12 bed capacity? The application requires the applicant
13 to provide justification for the size. I mean, I
14 think Chuck's point is on target. Current market
15 conditions would not support probably more than 150,
16 but let the application process dictate that. Who
17 knows what is going to happen 5, 10, 15 years from
18 now? It could be lower, it could be higher, but why
19 do we have to have a arbitrary maximum number?

20 MR. SCAVOTTO: I don't know, but I'm
21 looking at the rule, and it is in the rule. That's
22 one of the challenges that we have as a work group.

23 MR. PICK: Uh-huh.

24 MR. SCAVOTTO: I mean, what we have is an

1 application that reflects what's in the rules. That's
2 understandable.

3 MR. FOLEY: Mike, this is Charles again.
4 If I may interject?

5 MR. SCAVOTTO: Charles --

6 MR. FOLEY: Sorry, go ahead.

7 MR. SCAVOTTO: Let me finish. So we have
8 got this dilemma where we have got an application that
9 reflects what is in the rules, but the application
10 might not reflect a decent work process. We are
11 hearing from the staff that some of these, some of
12 these provisions could be improved upon, and I think
13 that's our challenge. You know, we want to go back,
14 and we are going to end up recommending changes to the
15 rules.

16 Eli, I'm with you on this one. You know, if
17 you want to build a thousand beds today, go ahead. It
18 is your risk. It is no risk to the state.

19 Charles, what were you going to say?

20 MR. FOLEY: Well, just a second. The
21 state isn't saying that you can't build, they are
22 saying if you did build it, obviously you have to
23 justify it.

24 But this was just basically just going back

1 and thinking here from years back what the original
2 board -- I'm going back several years -- did not want
3 to create what is -- even way back they were still
4 thoughts about the institutional type environment.
5 That's why if you read this criteria it talks about if
6 you do build this, you have to indicate that you are
7 still going to provide, you know, quality care. Still
8 want that personal integration in there.

9 The maximum number was just that so that
10 somebody doesn't come in and ask to build a 3, 400,
11 500 bed facility because trust me, I do recall an
12 instance way back where an application was submitted
13 for like 400 some odd beds, and it was rejected
14 because, you know, obviously the bed capacity size.
15 They could not document personalization of quality
16 care. That was the only reason. I mean, I know it
17 doesn't make sense, but that was the only thing that
18 was given at that point in time.

19 MR. SCAVOTTO: Okay. Let's -- this is
20 Mike. Let me ask the staff to start with I guess.

21 Claire, we will start with you. Is there an
22 issue with the 250 beds besides the fact that it is in
23 the rule?

24 MS. BURMAN: No, I don't believe so. I

1 think it would warrant some discussion because of the
2 changes that we've already, you know, brought up. You
3 know, it was interesting at our last subcommittee
4 meeting when Eli brought up the fact that with, you
5 know, the changes in the health care system coming up
6 and there are going to be a lot of people who are
7 going to be eligible for coverage, what that impact is
8 going to be for long-term care.

9 Are you going to need a lot more beds or just
10 some, some more beds?

11 If it is all Medicaid covered, then how do you
12 work that out so that you are able to stay afloat
13 financially? Reimbursement in Illinois isn't
14 spectacular as we know.

15 There are a lot of questions that we may not
16 be able to find an answer to right now.

17 MR. SCAVOTTO: I would agree. I mean,
18 Illinois' reimbursement level kind of makes a lot of
19 this academic.

20 CeCe -- wait a second. George, where are
21 you with this issue?

22 You review a lot of these applications, right?

23 MR. ROATE: Yeah. Well, in terms of the
24 250 beds, I mean, I see a certain degree of

1 flexibility with that number, but, I mean, I am a
2 little hesitant to weigh in on it and just throw my
3 opinion out there. I would rather defer opinion on it
4 right now. I apologize for being -- for waffling on
5 the issue, I just would rather defer opinion right
6 now.

7 MR. SCAVOTTO: Frank, do you have an
8 opinion?

9 MR. URSO: You know, this is really not a
10 legal question, so Mike, legal doesn't have any
11 opinion about that number. That's a number that is
12 programmatically put together, so no, I don't have an
13 opinion on that.

14 MR. SCAVOTTO: Okay.

15 MR. FOLEY: Mike, if I may interject, I
16 would rather see something in there instead of a
17 facility bed capacity, maybe that the facility should
18 have a maximum number of private rooms. The act does
19 say that once you provide and assist quote more
20 private rooms, more I guess interpreting that as
21 meeting what the current licensure standard requires
22 which I believe is 3% of your total, you know, bed
23 count in terms of your total number of beds. I'd like
24 to see, because of the culture change and what have

1 you, that we do, in fact, provide a maximum number of
2 private rooms.

3 But there is the other side of the issue if
4 you are all Medicaid -- the board experienced this not
5 too terribly long ago a facility that was proposing
6 100%, you know, Medicaid, and obviously there is the
7 issue of reimbursement. But even still if you go to a
8 facility today with all double rooms, you are
9 basically building an obsolete facility that is going
10 to be hard competing in the marketplace.

11 MR. SCAVOTTO: It is a valid comment.
12 This is Mike, and I am -- I find myself on this one
13 lining up with Eli and CeCe all of the way.
14 I think why should there be a bed capacity
15 requirement?

16 As a practical matter, if Illinois is going to
17 pay 49 or 50th on Medicaid reimbursement, the rule is
18 giving the planning board an impossible task to say we
19 want to deinstitutionalize, we want to have private
20 rooms. To me the whole, the whole issue was very well
21 summed up by Eli. It is very sensitive to the
22 marketplace. If you've got an applicant in a market
23 that can support 250 beds or more, fine, and they want
24 to take that risk, let them do it. If they want to

1 build 250 private rooms in an all Medicaid
2 environment, I'm afraid that's a very big risk, but if
3 they are willing to shoulder that burden, it is no
4 skin off anyone else.

5 So I'm kind of at the point where I think, you
6 know -- well, let me just -- I'm in favor. I don't
7 know why we need this rule.

8 MR. FOLEY: Mike, I'm sorry. This is
9 Charles Foley. I mean, with reimbursement rates, if
10 somebody does, in fact, build, using your 250 beds,
11 all private rooms and if it makes it, fine, if it
12 doesn't make it, that's their problem, doesn't that
13 really reflect back on the state also?

14 MR. SCAVOTTO: How does it reflect back on
15 the state? The state is not paying for it.

16 MR. FOLEY: If it is all Medicaid.

17 MR. SCAVOTTO: The state is going to pay a
18 rate. If the facility is closed the state is not
19 going to pay the facility.

20 MR. FOLEY: Why do we allow somebody to
21 build a facility if we know up front it is not going
22 to be financially viable?

23 MR. SCAVOTTO: Well, that's another issue.
24 I mean, you shouldn't whether -- that's got nothing to

1 do with bed size. I think Eli had, I think Eli had
2 this one nailed. If the -- I understand that the
3 market is calling for smaller facilities and less
4 institutional environment. People are going to want
5 more programs. I understand that. I am completely
6 sensitive to that and in favor of it, but I also think
7 we need to be realistic here.

8 MR. FOLEY: I think George and Claire
9 would, you know, would agree that I think over the
10 last, gosh, I don't know, five, ten years -- Frank has
11 got to know this also -- this board has maybe seen one
12 or two facility sizes in excess of even 200 beds. I
13 think Lisa made one of those, but for the most part
14 are less than 200 beds.

15 MR. SCAVOTTO: That's probably true.
16 Yeah, that's true.

17 Eli, am I misstating your opinion?

18 MR. PICK: Nope. No. This is Eli. I
19 think you have characterized it exactly the way I
20 intended. You know, if the project can support the
21 number, then we don't need an arbitrary maximum.

22 MR. SCAVOTTO: Claire, where were you on
23 it -- I'm sorry, CeCe, where were you on it?

24 Did we lose CeCe?

1 UNIDENTIFIED: She is home and has a
2 daughter recovering from tonsillectomy surgery, so she
3 may be dealing with it.

4 MR. SCAVOTTO: Yeah. Okay.

5 MS. CREDILLE: Mike? No, I agree with you
6 guys 150%, you and Eli. It is arbitrary, and there is
7 no need.

8 MR. SCAVOTTO: Okay. So --

9 MS. AVERY: Mike, this is Courtney.
10 Let us look and try to figure out where that came
11 from, do a little research on it and take a
12 recommendation from you all that it is arbitrary and
13 not needed, see what we come out with.

14 MR. URSO: This is Frank. The only thing
15 I can think to say is in the hospital arena there is a
16 100 bed rule, too. So there has got to be some, I
17 think, basis for that somewhere, but I don't know what
18 that is, okay?

19 Historically those numbers were put out there,
20 and so maybe it would be a prudent thing to do just to
21 see what the origin of those were, see if it still
22 makes sense.

23 MR. SCAVOTTO: No, I agree. This is Mike.
24 So when I write this up, we are going to make the

1 recommendation that we consider dropping the bed max,
2 and at the same time, Courtney, you and your crew will
3 research that and see if there isn't a cause for us to
4 pause in that recommendation.

5 MS. AVERY: Okay.

6 MR. SCAVOTTO: All right. All right.

7 Let's move onto 1125, what is the next one? 1125.610,
8 community related functions.

9 CeCe, do we have you on the line still?

10 MS. CREDILLE: Yes, you do.

11 MR. SCAVOTTO: Okay. So your comment on
12 610 was that community support letters need to be
13 eliminated, they are a 1980's throwback, and you
14 listed a bunch of states that stopped requiring,
15 stopped requiring them years ago. The letters are
16 questionable, and businesses tend to support
17 everything. Social service agencies always want more
18 of any service. Local elected officials are reluctant
19 to provide these letters because they may have to vote
20 on a zoning issue at a later time. The comment here
21 is that since the process now includes three separate
22 opportunities for public participation, could this be
23 eliminated, and that is the end of your comments.

24 You were noting that there is a public hearing

1 if requested. There are written comments until 20
2 days before the planning meeting, and there may be
3 public comments at the planning board meeting as well.
4 I think those are the three areas of comment that you
5 had listed.

6 MS. CREDILLE: What I am thinking, those
7 were all added since this original -- this is CeCe
8 again -- since the original application all those
9 additional areas for public comment, so --

10 MR. SCAVOTTO: Okay. So we have a
11 consideration here that we should just make, make a
12 recommendation to drop these community support
13 letters. Let's kick it around.

14 Eli, what do you see?

15 MR. PICK: Yeah, I'm kind of waffling back
16 and forth. I agree with CeCe. Adding the -- this is
17 Eli again. Adding the public meetings would provide
18 some justification for eliminating the section, but I
19 guess I'm a little uncomfortable in totally
20 eliminating it. Perhaps substituting something else.
21 I just -- I'm uncomfortable with having an application
22 come in with absolutely nothing from the local
23 community in some form that says that they, indeed,
24 you know, view this as needed.

1 MR. SCAVOTTO: Courtney?

2 MS. AVERY: Yes.

3 MR. SCAVOTTO: This is where a little
4 research might help us. What is the legislative
5 intent of the section?

6 MS. AVERY: If I recall correctly, it is
7 exactly what Eli just described. It just gives that
8 credence that the community is supporting the, the
9 project. Other than that I can't think of anything
10 else, but we will look further into it.

11 MR. FOLEY: If I may make a comment,
12 Michael?

13 MR. SCAVOTTO: You may.

14 MR. FOLEY: To me this is, I think, an
15 important one. Letters within the application is one
16 thing, but as was explained earlier, it is still part
17 of the process in terms of getting community, you
18 know, letters, you know, to provide testimony.
19 This is supposed to be a community project. It is
20 important to know where a facility is located, if it
21 is going to have an access issue. A lot of times this
22 is brought out. Even with negative letters it is
23 brought out in these community letters. You know, we
24 have had applications where facilities were located

1 next to a landfill, next to a large interstate, you
2 know, exchange area, and, you know, way out in the
3 boonies and what have you, and this gives the
4 opportunity for the community to submit comments.

5 Again, whether it is in the application I
6 don't think it is relevant, but if you pick this up,
7 which is good with us, we will still publicly require
8 it anyway.

9 MR. SCAVOTTO: Okay. All right.

10 MR. URSO: Mike, this is Frank Urso. Can
11 I say something?

12 MR. SCAVOTTO: Sure. Of course.

13 MR. URSO: If I understood what CeCe was
14 saying, she said there is ample opportunity for public
15 hearings and written comment, even public
16 participation at meetings, but all of those are
17 voluntary. People don't have to request a public
18 hearing. Projects don't necessarily have a public
19 hearing. They can have written comments that support
20 or oppose. Some do, some don't. Public participation
21 is also voluntarily.

22 So my point being if the board, the board
23 doesn't have a public hearing requested, if nobody
24 submits written comments, if nobody wants to speak,

1 public participation, the board then, without this
2 particular rule, doesn't really know what the
3 community thinks or what the public thinks. That's
4 the only point I think I would make.

5 MR. SCAVOTTO: Good point.

6 MS. CREDILLE: This isn't like a deal
7 breaker to me. This isn't one to lose sleep over.

8 MR. SCAVOTTO: No, I would agree, but I
9 also, I also -- I want to keep everybody focused on
10 making the project as streamlined and as legitimate as
11 we can.

12 MS. CREDILLE: Correct, and given other
13 states have eliminated it, I mean, that is a
14 consideration, but --

15 MR. SCAVOTTO: Claire, can we get you --

16 MS. CREDILLE: This isn't our biggest
17 issue.

18 MR. SCAVOTTO: No, it is not. I agree.

19 Claire, can you take a look at that? You have
20 done a lot of research with other states. Is that --
21 is this something that would be available in your
22 research?

23 MS. BURMAN: Yes. Yes, it would be. I
24 did want to make one additional comment to why this is

1 in there. The key word in it is document and
2 cooperation. It is not just that people, whatever
3 arena they come from, are endorsing it and are in
4 support of. One of the original intents for this kind
5 of section that's been in various forms over the years
6 is to document that you tie in with other services in
7 your area because any, any facility that you propose
8 under these rules would need to be linked, even gently
9 linked to other services, you know, like a community
10 where there is a flow. It used to be an important
11 consideration whether you had good relations with
12 other providers for instance because you are not able
13 to provide everything.

14 MR. PICK: Mike, this is Eli. If I can
15 jump in?

16 MR. SCAVOTTO: Yes.

17 MR. PICK: Claire, I think your point is
18 well taken. Perhaps the term "cooperation" doesn't
19 capture what you are -- what you have just outlined,
20 and that's the coordination of services within the
21 community.

22 MR. SCAVOTTO: I don't see that. I don't
23 see that in the language, at least not on my copy.
24 This is verbatim out of the rule. I don't see

1 Claire's point reflected in that language.

2 MR. FOLEY: In the application form, Mike,
3 the applicant shall document cooperation.

4 MS. BURMAN: Cooperation is in the rule as
5 well.

6 This has been watered down. You used to have
7 to provide letters of agreement with certain other
8 services that you personally did not provide at your
9 facility.

10 MR. SCAVOTTO: Yeah.

11 MS. BURMAN: So this is a weak version of
12 what it originally was.

13 MR. SCAVOTTO: Okay. All right. So
14 Claire, let's just -- we will make this a follow-up
15 item. We will get some more information from you.

16 MS. BURMAN: Sure.

17 MR. SCAVOTTO: The collaboration. I see
18 the cooperation and maybe we can extend that to
19 collaboration as well.

20 MS. BURMAN: All right.

21 MR. SCAVOTTO: Moving on. So we go to 620
22 would be project size. All right. On project size,
23 my comment, my original comment was I thought we had a
24 bad reference here. Again, like CeCe said, it is not

1 a deal breaker, but I think we had a reference to
2 Appendix A which is now sources and uses. So
3 basically the bad reference was easy to clean up and
4 Appendices B, C, and D were almost -- they were
5 floating out there without being tied into any
6 standard.

7 I was curious about the square foot standards,
8 and my question here is basically if a project is
9 financially feasible, why do we care about square foot
10 standards, but I also looked at this again this
11 morning. It talks about proposed gross, proposed
12 gross square footage cannot exceed GSF standards of
13 Appendix A. I didn't find any gross square foot
14 standards in Appendix A. I just went to my
15 ophthalmologist yesterday and had my eyes dilated. I
16 may well have missed them, but I don't see square
17 footage standards in Appendix A which just got me
18 thinking why do we need gross square foot standards.
19 But nonetheless, that's, that's an issue that we will
20 discuss.

21 The comment that I have from CeCe is there
22 should be no limit on square feet per bed. The board
23 should encourage large, private rooms, plenty of
24 therapy space and as spacious an environment as the

1 applicant can afford. Licensure already requires
2 minimums. The planning board should not set maximums.
3 Capital cost does not impact reimbursement, so cost of
4 this additional space does not impact consumer. This
5 is another throwback to the 1980's.

6 You agreed with that?

7 MR. PICK: This is Eli. Yes, I absolutely
8 agree with it.

9 MR. SCAVOTTO: Okay. All right.

10 MR. FOLEY: If I may, first of all, I need
11 to fight with the state on this in that they are
12 providing such a wide range in terms of square
13 footage, number one.

14 Two, there really is not a maximum because
15 what the state is saying is that if you go over, that
16 is fine, justify it.

17 I think the intent here, at least in my
18 experience, is what happens is you give an architect a
19 free rein to design a facility, and I have seen this
20 happen where they design a Taj Mahal so to speak with
21 a lot of useless space that would never, ever be used
22 in a facility. Unless you can provide some sort of
23 business plan that is going to describe your program
24 and services, there are facilities out there right now

1 that are constructed from years ago that provide a lot
2 of this large space which to me is nothing but, you
3 know, excess cost. The reason for the board here is
4 to try and reduce costs. That's what this square
5 footage does. It does help reduce costs a little bit.

6 MR. SCAVOTTO: Okay. Thank you, Charles.

7 I would -- George, are you still with us?

8 MR. ROATE: Yes.

9 MR. SCAVOTTO: Okay. Can you take a look
10 -- I'm looking at Appendix A. I'm trying to, I'm
11 trying to tie this to a gross square foot requirement
12 as referenced in 620. I don't see it.

13 Is there a standard for gross square feet?

14 MR. ROATE: Yes, there is.

15 MS. BURMAN: Yes, there is. This is
16 Claire. It is mislabeled.

17 MR. SCAVOTTO: Okay. So I don't see it in
18 B, and I don't see it in C, so it must be in D.

19 MS. BURMAN: Excuse me, this is Claire.
20 If you look at the rules in Section 1125, Appendix A
21 is project size standards, square footage and
22 utilization.

23 MR. SCAVOTTO: Okay.

24 MS. BURMAN: It is in the rules.

1 MR. SCAVOTTO: Okay. Now, what is in the
2 application on Appendix A?

3 MS. BURMAN: The reference is referring to
4 the rule.

5 MR. SCAVOTTO: No, what is --

6 MS. BURMAN: A in the rule.

7 MR. SCAVOTTO: Okay. In the rule. Now,
8 maybe I have got the wrong document. So my Appendix A
9 is project cost and sources of funds.

10 UNIDENTIFIED: You will need to look at
11 Appendix A, Section 1125.

12 MS. BURMAN: In the rules.

13 MR. ROATE: In the rules, yes.

14 MR. URSO: It appears Appendix D may be
15 the application of the July 2012 edition; is that
16 right?

17 Eli, am I in the right edition now?

18 MR. PICK: That's correct.

19 MR. URSO: Appendix D talks about cost and
20 space requirements.

21 MR. SCAVOTTO: Right. I guessing that's
22 Appendix A in the application. That's what I'm
23 guessing.

24 MS. BURMAN: We can change the wording.

1 MR. SCAVOTTO: Yeah. We should change --
2 I think there is a bad reference here. That's --

3 MS. BURMAN: That can easily be corrected.

4 MR. SCAVOTTO: Right. Okay. So we can
5 correct the reference.

6 MS. CREDILLE: But does that still put a
7 limit on the square feet per bed?

8 MR. SCAVOTTO: No, we are going to get
9 back to that.

10 Okay. So where is the requirement that we
11 have a set number, a maximum gross square footage per
12 bed?

13 MS. BURMAN: This is Claire. That relates
14 to the cost containment. That is one of the
15 requirements for the board to take into consideration.
16 That's why you have standards for those things, the
17 idea being that if you don't have a standard of some
18 kind -- and as Chuck was saying, we do have a range
19 now which is pretty liberal. It is based on approved
20 projects from prior years, and the reason that you
21 have that is when you do a financial review of these
22 applications, you are looking at, number one, can you
23 really afford to do it, you know, like what are your
24 assets, and the other part is are your costs

1 reasonable so that if you were to have a project where
2 the cost was not within the standard, the question
3 would then move into well, who is really going to end
4 up paying for this excess cost. I mean, the facility,
5 but where does the facility get their money?

6 MS. CREDILLE: Do the hospitals have the
7 same --

8 MS. BURMAN: Oh, yeah, definitely.
9 Definitely.

10 MR. PICK: Mike, this is Eli. If I can
11 jump in?

12 MR. SCAVOTTO: Go ahead.

13 MR. PICK: I think it is helpful for us to
14 get some perspective from the hospital, you know, a
15 correlative issue. However, I think that in the
16 long-term care arena it is uniquely different, and it
17 is important to keep that in mind, and the issue that
18 I am struggling with is a project, for example, in
19 Kenilworth or Northbrook is nothing like a project
20 that would be in Back of the Yards neighborhood.

21 So having a single standard that governs those
22 two very different kind of projects becomes, I think,
23 an entitlement and makes it very difficult.

24 MS. BURMAN: This is Claire. Yeah, it is

1 not a single standard, it is a range. It is a range.

2 MR. PICK: Yes. This is Eli. I
3 understand, Claire, but the range still sets a
4 maximum.

5 MR. FOLEY: No, it doesn't.

6 MR. SCAVOTTO: Well, wait a second,
7 everybody. Wait a second. I think it is going to be
8 real difficult to debate this point unless we know
9 what the gross square foot standards are. Is it 600 a
10 bed, is it 200?

11 MR. FOLEY: It is 412 square feet, I think
12 with a range -- help me out, Claire -- and goes all
13 the way up to like 700 and some odd square feet.

14 MR. ROATE: George here. I have got it
15 right here. It is building gross square foot, the
16 range is 435 to 713.

17 MR. SCAVOTTO: Okay. Now, my question to
18 you --

19 MR. ROATE: Gross square feet is 350 gross
20 square feet to 570 gross square feet.

21 MR. SCAVOTTO: So, Charles, there does
22 seem to be a maximum.

23 MR. FOLEY: No, because the application
24 form also says unless you can document that the extra

1 square footage is needed.

2 MR. SCAVOTTO: Okay. My question back to
3 you, George, is where does it say that in the
4 application?

5 We are supposed to be making this application
6 more user-friendly and relevant, and one of the things
7 that we're doing here is we're chasing our tail
8 because the standard that you just quoted is not cited
9 in the application anywhere besides the fact that
10 there is a good faith disagreement over whether or not
11 we ought to have the thing in the first place. But we
12 can't find it in the application.

13 MR. ROATE: George here. Mike, I think
14 Claire said it best earlier. This is an easy fix for
15 us. All we have to do is put the correct -- because
16 you had said something. You were misled to a
17 different appendix like in 1120, correct?

18 MR. SCAVOTTO: Yeah.

19 MR. ROATE: Okay. Well, what we will do,
20 let's go back through. We will take a look -- George
21 again. We will take a look at where that, where that
22 lies, and we'll make sure that it is Section 1125 (A),
23 Appendix A.

24 MR. SCAVOTTO: Good.

1 MR. ROATE: Okay.

2 MR. SCAVOTTO: And provide, provide the
3 standards.

4 MR. ROATE: Well, George here again. This
5 section, if you go out to our web site, it shows the
6 building gross square foot which is for new
7 construction, and then departmental gross square foot.
8 I mean, even -- I guess we can go as far as putting
9 the actual web link in there, too.

10 MR. SCAVOTTO: You know, that wouldn't,
11 that wouldn't hurt at all.

12 MR. ROATE: That would be something,
13 Claire, I would have to defer that to you in terms of
14 whether we --

15 MS. BURMAN: Oh, sure.

16 MR. ROATE: -- whether we put web links in
17 our application. I guess my only apprehension to that
18 is web links change with the weather, so --

19 MS. BURMAN: This is Claire. Really maybe
20 we should put a kindly gentle instruction at the front
21 of the application saying please have your rules next
22 to the application form because ideally that's how you
23 would approach the application. You would have the
24 rules.

1 MR. SCAVOTTO: I agree. In my particular
2 case looking at the rules was a very worthwhile
3 exercise, and I appreciate you putting me onto the
4 rules and sending me in that direction. I'm not sure
5 that every applicant is going to do that, and I think
6 the more information that we can provide in the
7 application, the better.

8 As we go through we will keep reviewing this
9 thing. I think it is going to be better to have as
10 much information at one source, more information to
11 one source than multiple. That's just my opinion.

12 MS. BURMAN: This is Claire. We will --
13 we are happy to make this more clear because that
14 helps everybody. I mean, we can --

15 MR. SCAVOTTO: Let me join this. Let me
16 -- this is Mike. Let me get back to my original issue
17 here. Why does there need to be a GSF standard?

18 MR. ROATE: George here. I think in terms
19 of cost containment.

20 Now, everybody has provided some very good
21 points as to why you shouldn't have a maximum gross
22 square footage, but as Charles had said earlier in his
23 discussion, even the rules say that -- I mean, there
24 is no, you know, there is no set rule in stone that

1 you can't go over, it is just if your gross square
2 footage of your rooms do go over, you need to provide,
3 provide justification or provide a variance explaining
4 the need for it.

5 MR. SCAVOTTO: George, this is Mike. I
6 want to -- just to advance the discussion, where is
7 the cost containment concern? Medicare is a fixed
8 price environment, so is Medicaid.

9 MR. ROATE: Then it is -- once again,
10 George here. I don't mean to take from Charles'
11 earlier discussion, but once again, the board is
12 tasked with cost containment. That's one of the
13 missions of the board, and what the board -- I think
14 this is one avenue for the board to follow that
15 objective in terms of assuring that there are no
16 excessive costs or there isn't -- that these are built
17 with, with certain, I guess, observation standards
18 where they don't price themselves out of the industry.

19 MS. CREDILLE: Isn't cost containment
20 really talking about excess beds to me and that the
21 state would not want to be paying for excess beds, not
22 the cost to the people who build it? Maybe I'm crazy.

23 MR. SCAVOTTO: No. CeCe, I think the
24 problem with what you just said is it is right and

1 so --

2 MS. CREDILLE: Thank you, Mike. Sometimes
3 I wonder. I don't know.

4 MR. SCAVOTTO: No, I think you are right.
5 So, I mean, let's play this thing out. Where is the
6 cost containment?

7 You know, if you looked at it, if you looked
8 at the data we saw in our last committee meeting,
9 Illinois is one state that is overdebted, okay? Is
10 that costing the state anything?

11 It only costs the state something if they pay
12 a per diem rate for somebody in the bed.

13 MR. FOLEY: May I ask a question, if I
14 may? Just to educate me for a second, Medicaid
15 reimbursement there is three components. They look at
16 a capital rate, what is it, a taxing rate.

17 MR. SCAVOTTO: No, you are right. There
18 is a capital rate, a nursing component and support
19 component.

20 MR. FOLEY: Support rate, that's right.

21 MR. SCAVOTTO: But what you are not
22 mentioning is that the capital rate is maxed. You can
23 only get so much out of it, and, you know, Illinois'
24 reimbursement does not promote the escalation of

1 costs. You know, no one is going to sit there and I
2 don't know anybody that puts you on a cost
3 reimbursement basis anymore. They are all per diems.
4 The per diem formulas are limited in every state.

5 MR. PICK: Mike, this is Eli. I think you
6 have, you know, hit the nail. You know, the board's
7 guidance is coming from what was in place in prior
8 years when the reimbursement rate was based on costs.

9 MR. SCAVOTTO: Yeah.

10 MR. PICK: In reality it is not anymore
11 because the state's gone way over the ability to
12 reimburse based on costs, so they set a fee schedule.

13 MR. SCAVOTTO: Right. So --

14 MR. FOLEY: So what you are saying is that
15 if somebody comes in and builds a facility at \$500 a
16 square foot, you are still going to get a maximum
17 reimbursement rate so it really doesn't matter?

18 MR. SCAVOTTO: That's -- from a government
19 perspective, yes.

20 Now, I think one of the reasons, one of things
21 that probably prompted CeCe's comment is a little
22 confusion. I mean, I got that confusion. Who are we
23 trying to, who are we trying to save from excessive
24 costs; the general public or the state? Because,

1 because the only -- if someone comes in, using your
2 example, Charles, at 500 bucks a square foot
3 construction and the government is only going to pay
4 150 bucks a day out of that thing, there is a classic
5 cost shift to everybody else.

6 MR. FOLEY: But we are forgetting a very
7 important component, private pay.

8 MR. SCAVOTTO: That's the cost shift.

9 MR. FOLEY: That private pay person has to
10 pay most of it. They have to pay the difference.

11 MR. SCAVOTTO: That is correct. In
12 today's long-term care environment the private pay --

13 MS. CREDILLE: There aren't any. There
14 aren't any. They're sitting in other environments.

15 MR. SCAVOTTO: Yeah. So I guess the
16 question, the question that I want to put forward to
17 everybody and especially, especially to Courtney is
18 this seem to me to put the planning board in a very
19 awkward position.

20 MS. AVERY: I wouldn't say awkward
21 position, but as we said earlier, there is a way to
22 justify if you go outside of that square footage, and
23 it accounts for how much you are actually paying for
24 the space.

1 Like Charles described earlier, there is some
2 industries that will build just huge facilities, and
3 you are right; if they have the money to do so, then
4 why are we regulating that and how does it contain
5 costs?

6 But I will share that we did have a
7 significant amount of feedback from legislators
8 regarding the huge facilities that are being built but
9 no real justification other than it is kind of
10 irritating.

11 Our feedback was -- this was pertaining to
12 hospitals mostly -- that if a facility can build a
13 5,000 foot waterfall if somebody is donating money to
14 them, who are we to say that they can't within their
15 facilities?

16 MS. CREDILLE: Well, that's why I asked --
17 this is CeCe. That's why I asked with the hospitals
18 what regs they are under because the hospitals that
19 are being built in Illinois are five-star hotels.

20 MS. AVERY: I think that's where the
21 discussion started when there was one that was being
22 built that was going to be in line with a five-star
23 hotel. There were others in the area that weren't.

24 MR. PICK: This is Eli. Mike, if I may, I

1 think that's exactly the point; that in the hospital
2 environment it is not -- they are not nursing homes.
3 So I think the legislators asking, you know, when
4 hospitals are building to excessive levels their
5 facilities and the hospitals' response is well, we
6 have donors paying for this stuff, why does it matter,
7 it does matter when you have facilities like the
8 hospital in Elgin as one example and Elmhurst Hospital
9 is another. You know, they have built themselves to
10 the point where they are not financially viable
11 anymore and are being absorbed into larger, other
12 systems.

13 That is not what is happening in long-term
14 care. If a nursing home overbuilds, they go out of
15 business. The state doesn't pay for it. The hospital
16 environment is completely different. The state does
17 shoulder a portion of that cost.

18 So I think it is a important, very important
19 distinction, and this is one of the issues that we
20 fought very hard in getting the bill adopted that
21 nursing homes are not mini hospitals. This is one of
22 the issues that brings it forward.

23 The other point I want to make is even though
24 there are avenues for exceptions, we don't want to set

1 up a model that says here is what, here is the range
2 it should be in, and you justify to me why you are
3 going over it.

4 As I said, I think, you know, the caliber
5 facility is nothing like the facility that's going to
6 be built in a different economic community. So having
7 a standard and then requiring the applicant that says
8 well, my clients in Kenilworth are moving in from 10
9 to 15,000 square foot homes and therefore putting a
10 range of 700 square foot for the whole project per
11 room is inconsistent with the standard care and use of
12 my client base doesn't sit with any of those justified
13 exceptions.

14 MS. CREDILLE: This is CeCe. I mean, I
15 agree. I just don't know why you have to justify
16 being over X amount.

17 MR. SCAVOTTO: Mike. Courtney, the policy
18 divide here seems to me to be very awkward, and I'm
19 trying to look at this from the standpoint of a board
20 member. I think the State of Illinois has done a
21 great job of assuring that its costs are going to be
22 minimal because it pays so badly for Medicaid.

23 Now, if you were really -- if the state were
24 really serious about reducing its costs, it would not

1 have as many occupied Medicaid beds, and it wouldn't
2 be expanding the Medicaid program like it currently
3 is. So you have got, you have got, you have got to
4 built in problem here which I think is a recipe for
5 disaster that's well beyond the scope of this
6 committee.

7 But is there -- is this worth pushing
8 politically to get this gross square foot thing out of
9 the, out of the application?

10 MS. AVERY: Well, I guess if there is a
11 proposed suggestion for a rule change, then yeah, we
12 would have to take that into consideration and put it
13 out there to see what the feedback is.

14 I know as a past board member and now staff,
15 yeah, it has been a sticking point for some long-term
16 care facilities, but, again, we haven't really seen it
17 because we haven't had that many built in the last
18 couple of years.

19 George, I don't know what kind of questions
20 you are getting about the square footage, but
21 sometimes it is justifiable what the single room
22 occupancy, larger bedrooms to accommodate wheelchairs
23 or other assisted walking devices, enough space for
24 family members to come and be with loved ones in that

1 facility. So there have been reasons why it is
2 justifiable and goes over the standard. I can only
3 think of one time as a board member where the square
4 footage went way over and it was questioned and that
5 facility was asked to reduce it.

6 MR. ROATE: George here. I agree with
7 Courtney. The whole issue of justification, it isn't
8 like you are having to prove a court case.

9 Mike, you had mentioned earlier about the
10 residents moving from large, from larger homes in more
11 affluent communities.

12 MR. SCAVOTTO: That was Eli.

13 MR. ROATE: I apologize.

14 MR. SCAVOTTO: My clients are all the
15 others.

16 MR. ROATE: I will call them Eli's
17 clients, then. Eli's moving -- you know, desiring to
18 move to larger surroundings. These are variances that
19 we see in applications when they do go over. These
20 gross square footage requirements not only are
21 reviewed by the board, but they are also reviewed by
22 design standards, and before any huge changes are
23 proposed in that, we definitely have to go visit with
24 those folks, too, and get their feedback on it.

1 Not that I have any personal knowledge as to
2 what their reason is for having the building gross
3 square footage at 713 gross square foot, but we do
4 have -- when I say "we", I should say the board, the
5 board I serve, has the authority to allow these
6 variances to happen just based on an explanation.
7 These explanations have been furnished before, and as
8 Courtney just said, it is not that you have to
9 approach the great Oz to get a couple extra gross
10 square feet, it is a matter of explaining why you are
11 going over the standard.

12 MR. FOLEY: This is Charles. If I may, I
13 think Courtney also had hit it right on the nose in
14 that what has happened here, if you recall, Courtney,
15 in that since this range has been implemented, I don't
16 think we have really seen an issue with square footage
17 at all. The issue with square footage was when we did
18 not have that range.

19 Number two, I think this process also goes
20 back to the original planning process which basically
21 forces an applicant to sit down and to think a project
22 through in terms of this programming.

23 You know, the board does not care how big a
24 facility is. They can build it whatever they want,

1 but I think what the board is saying is fine, justify
2 it. I mean, they are giving latitude not only of a
3 range but also give latitude to go beyond that by
4 saying that, you know, you can even build more if you
5 want if you can justify it.

6 I have never seen a project turned down, you
7 know, based on this excess square footage. Like
8 Courtney just said, at one time, you know, at one time
9 maybe a facility was asked to reduce, and that's fine.
10 I would like to see that happen more often because I
11 think it does help to reduce health care costs. Based
12 on an application of 1,000 square foot and you got a
13 \$20 million project and the board says that is too
14 much and you need to go back and change it, it went
15 from a \$20 million project down to a \$15 million
16 project. Helps reduce health care a little bit.

17 MR. SCAVOTTO: Wait a second. Wait a
18 second. That's -- this is Mike. Charles, that's the
19 kind of reasoning that I think we need to examine a
20 little bit. So you reduced your project from 20
21 million to 15 million. Your Medicaid rate is still
22 going to be 150 bucks a day. Your rate is going to be
23 the same regardless. Your capital rate is going to be
24 maxed out. You are going to be maxed.

1 MS. AVERY: Mike, this is Courtney. As I
2 was processing and listening to the conversation, I
3 think also with that instance a lot of the financing
4 for that project was dependent upon donations and
5 fundraising, so --

6 MR. FOLEY: Sorry, Courtney, would you
7 repeat that again, please?

8 Ms. AVERY: There was probably, if I
9 remember correctly, a large amount of donations and
10 fundraising that wasn't like, for instance, guaranteed
11 money.

12 MR. FOLEY: Right. Okay.

13 MR. SCAVOTTO: So they would have to
14 finance less which is good.

15 MS. AVERY: A lot of that is played into
16 when we analyze these applications. That is also
17 played into it. So if you are projecting you are
18 going to get 15 million and you think you are going to
19 get, I will say 5 million, 5 million out of 15 million
20 is going to be fundraising, and looking back at your
21 annual reports or your financials and see over ten
22 years you only raised 2 million, then it is highly
23 unlikely unless you have got some kind of endowment
24 that that would happen, that you would be able to

1 finance that project based on those donations and
2 fundraising.

3 So it is more than just saying oh, we can pay
4 for it. The analytical part comes how are you going
5 to pay for it? You can be asked and you can say no.
6 Applicants can be asked to reduce.

7 MR. SCAVOTTO: The conversation as I have
8 been listening to it makes a connection, at least in
9 my mind it makes a connection. I want to throw this
10 out there. I am asking you to tell me if I am crazy
11 if you think I am, but we have connected gross square
12 foot to financial performance.

13 MS. AVERY: Well, when we analyze those
14 applications we do look at that.

15 MR. SCAVOTTO: Yeah.

16 MS. AVERY: How you are financing this
17 project.

18 MR. SCAVOTTO: Right. And it makes me
19 wonder if the number of gross square feet is the, is
20 more the issue or is it the overall financial
21 performance that is the issue? I would suspect it is
22 the latter.

23 MS. AVERY: Right.

24 MR. SCAVOTTO: Now, am I crazy or not?

1 Eli, am I nuts or not?

2 MR. PICK: No, I think you are right on
3 target. This is Eli.

4 MS. AVERY: This is Courtney. I agree.

5 MR. SCAVOTTO: Okay. Charles?

6 MR. FOLEY: I'm still thinking about this.
7 I think that, to my recollection -- I'm not a
8 financial guy by any means, but to my recollection, I
9 know there is a cap on these, but at the same time I
10 do recall clients out there, for whatever reason, did
11 not receive the cap, and somehow to my recollection it
12 was tied into their total project cost.

13 MR. SCAVOTTO: Okay.

14 MR. FOLEY: But I think I have to take a
15 -- I have to think about this, take another look at
16 this.

17 MR. SCAVOTTO: Okay. That's fair, that's
18 fair. So what I would like everybody to do is I'm
19 going to carry this as a follow-up item for further
20 discussion. But I want everybody to think in terms of
21 whether or not this evaluation of gross square feet is
22 really advancing the objectives of the board, and if
23 we are really interested in reducing costs, you know,
24 you are going, you are going to eliminate that. As a

1 practical matter that's probably not going to happen.
2 If you want to eliminate costs you are going to move
3 people out. If you want to eliminate costs in skilled
4 nursing, you are going to move the residents someplace
5 else. Then the question becomes are you going to pay
6 more for them in an alternative setting or not.

7 So that, those issues do not concern gross
8 square feet. I want to come back to this issue in our
9 next call after everyone has had a chance to discuss
10 among themselves where we think the real value in this
11 application process. Is it in the finances, is it in
12 the business plan, or is it in the number of square
13 feet?

14 MS. AVERY: Okay.

15 MR. SCAVOTTO: All right. Fair enough?

16 MS. AVERY: Fair.

17 MR. SCAVOTTO: Okay. Let's move on. I
18 didn't have anything under zoning under 630, although
19 I would note that you can't build anything anywhere
20 these days without having zoning, but maybe some
21 communities out there don't have zoning.

22 640, assurances, the question that I have and
23 I think I'm the only one that had something on this
24 one -- let me make a note here. My question was what

1 happens if one doesn't meet the criteria after two
2 years. So what is the criteria?

3 UNIDENTIFIED: That's a question for
4 Frank.

5 MR. SCAVOTTO: Okay. So you have got the
6 certificate of need and nothing happens after two
7 years. Where did I get two years?

8 MR. PICK: Mike, this Eli. It says 24
9 months in the rules, in the application.

10 MR. SCAVOTTO: Okay.

11 MR. PICK: Second year of operation.

12 MR. SCAVOTTO: Okay. I got it. I am
13 there. Okay.

14 And CeCe, were you quite on that one?

15 MS. CREDILLE: Yes. I am still quiet.

16 MR. SCAVOTTO: All right. So Frank, is
17 this a Frank question?

18 MR. URSO: Well, this is Frank. And is
19 the question is why do these types of assurances have
20 to be made, or is the question are there consequences
21 if you don't, if you don't meet the --

22 MR. SCAVOTTO: The latter, the latter.

23 MR. URSO: Okay.

24 MR. SCAVOTTO: And maybe that leads us

1 back to the first, but nonetheless take the latter
2 first. What are the consequences?

3 MR. URSO: Well, there are no consequences
4 that I am aware of based upon the board's rules or the
5 statute. I don't know of any consequences with the
6 exception that if the board wanted to conduct an audit
7 so to speak -- and they have done this in the past on
8 various categories of service -- they could call that
9 permit holder, exemption holder to a board meeting and
10 say, you know, your application says that you were
11 going to have, you know, a thousand admissions in two
12 years and you only had 500; what is going on.

13 Other than that, you know, I would have to
14 give this more thought. Other than that I don't, I
15 don't see this as a quote unquote compliance issue,
16 but I do see it as if it is in the board's rules and
17 somebody certifies and attests to the fact that there
18 are going to be certain benchmarks and they don't do
19 that, the board has the authority to question that
20 individual or that facility.

21 MR. FOLEY: Frank, this is Charles.
22 Question for you, Frank, if I may?

23 MR. URSO: Yes.

24 MR. FOLEY: Was this really truly aimed

1 towards all other type of facilities other than
2 long-term care, ie, hospitals, ESRD's?

3 MS. BURMAN: This is Claire. Yes, all
4 facilities have this section, assurances.

5 MR. FOLEY: But was it aimed more towards
6 them?

7 I think, unless I am wrong, this was a Jesse
8 Mark issue. He was the one that brought this in if I
9 am not mistaken.

10 MS. BURMAN: Well, he was, he was the
11 executive director at the time. He was not alone in
12 this thought.

13 MR. SCAVOTTO: Wait a second. Who was
14 that? Was that you, Frank?

15 MR. URSO: Yeah, that was Frank.

16 MR. SCAVOTTO: Go ahead, Frank. Say it
17 again.

18 MR. URSO: Claire, were you done?

19 MS. BURMAN: Yes.

20 MR. URSO: I just -- you know, although
21 there is no specific sanction outlined in 640 if
22 somebody doesn't comply and there is no specific
23 sanction within the board's sanction section in the
24 act in regards to assurances, there is a catchall --

1 want to put this on the record that there is a
2 catchall in the sanction section of the act that says
3 the violation of any provision of this act or any rule
4 adopted could lead to sanctions by the board.

5 So I suppose if you -- by extension if you, if
6 you have someone who makes some assurances and does
7 not comply with those assurances, I suppose the board,
8 in its discretion, could, number one, absolutely call
9 somebody before the board for explanation and number
10 two, perhaps the board can say, you know, we have --
11 because of your assurances, this whole market area or
12 this whole planning area has had other applicants that
13 could not get in because you claimed you were going to
14 do X, Y and Z and didn't accomplish that.

15 So that's a long answer, I guess, to your
16 question, but I have not seen that done, okay? I will
17 put that out there also.

18 MR. SCAVOTTO: This is Mike. I thought
19 that's an interesting observation, the fact that
20 someone could have made assurances and that could keep
21 someone out of the market. I really had not thought
22 of that point.

23 The point that I did come up with, though, was
24 that you are trying to reduce costs. If you maintain

1 occupancy you are actually increasing costs because --
2 particularly if you have got more, if you have got
3 more Medicaid. If you, if you maintain the Medicaid,
4 the higher your Medicaid occupancy is, the more the
5 cost is to the state. The more the state's cost is
6 going to be. Am I saying that correctly? I think I
7 am. So if Medicaid occupancy is going up, you are
8 increasing the cost to the state.

9 MR. URSO: Yeah. This is Frank Urso. But
10 you are, you are complying with another major tenet of
11 this board and of the underlying statute that created
12 this board, and that is providing access to care.
13 That's very important to this board.

14 MR. SCAVOTTO: Right, right, but access --
15 the more access you provide, the more the state's cost
16 is going to go up on the Medicaid side. Little bit of
17 a policy conflict there. We will not solve that
18 today.

19 MR. URSO: This is Frank again. You know,
20 maybe this goes back to the earlier discussion, and,
21 you know, other staff can correct me. Let me just go
22 out there and say this, but when the board reviews a
23 project or an application, they are looking at the
24 construction costs and everything related to that, the

1 total project cost. They are not the types of costs
2 that you are referring to, Mike and Eli and CeCe, and
3 that is the cost after the facility is operational. I
4 think those are the costs that you are referring to in
5 terms --

6 MR. SCAVOTTO: You are correct, yes.

7 MR. URSO: But this board, that's not its
8 charge. This board's charge is to provide access to
9 care, make sure there is no unnecessary duplication or
10 maldistribution of services and cost containment of
11 health care dollars that go into constructing health
12 care facilities.

13 MR. SCAVOTTO: That's a good observation.
14 It makes sense.

15 MR. URSO: You know, I'm not quoting every
16 part of this, but those are the ones that come to my
17 mind. The emphasis is different than what you were
18 discussing previously and what you just mentioned now.
19 That's where the cost containment aspect is important
20 to this board, not the operational cost once it is
21 built, even though that's very important. Those are
22 important issues.

23 MR. SCAVOTTO: No, Frank, that's a good
24 clarification. It is one I had not thought of in that

1 context. It is a good one, very good.

2 MR. PICK: Mike, this is Eli. If I can
3 jump in?

4 MR. SCAVOTTO: Yes.

5 MR. PICK: I apologize if I missed
6 something because I got a couple of phone calls. I
7 had to jump off and back on a couple times.

8 But I think, again, it is important to
9 emphasize that the cost containment aspect as I
10 understand it, particularly when it talks about
11 constructing facilities, is orientated around
12 hospitals. When hospitals are developing facilities
13 and services, the state is paying for it.

14 In the nursing home environment that's not
15 true. The rules and the board's direction are based
16 on an expectation that nursing homes are mini
17 hospitals and need to be governed the same way.

18 MR. FOLEY: Mike, this is Charles.
19 Getting back to the issue here, 1125.640, maybe, maybe
20 this somewhat duplicative because an applicant is, in
21 fact, signing an application attesting to the fact
22 that everything in the application is true and
23 accurate. So maybe under assurances we can do away
24 with item number one or just make a statement without

1 requiring a separate signed letter because again, you
2 are already signing the application, and this requires
3 yet a separate letter which I don't think is needed
4 since one is signing an application.

5 I think what is important here, however, is
6 for item number two as relates to maybe item number
7 two should be, I would say expanded in such a way that
8 would take in other variances. We do have other
9 variances than just the CCRC variance which obviously
10 means if you get approved under a CCRC variance, you
11 only can admit residents from that facility.

12 But we have to talk about other variances in
13 terms of accessibility and what have you, and maybe
14 number two can be expanded once we get into that
15 discussion later on about variances.

16 So I guess what I'm trying to say is that we
17 can wrap this up, I think, by just saying that the
18 applicant is already signing an application, you know,
19 giving the assurance and attesting that everything in
20 the application is already true and accurate and not
21 requiring a separate letter.

22 MR. SCAVOTTO: Two issues. Two follow-up
23 questions on that. One is to Frank. Does Charles'
24 idea appeal to you?

1 And the second is to CeCe. CeCe, I'm going
2 back to prior conversation. I may not be going back
3 accurately, so correct me if I am out of bounds. But
4 didn't we have a concern about the second year of
5 operation, want to move that to the third year,
6 particularly on --

7 MS. CREDILLE: It is hard to achieve, I
8 want to say it is hard to achieve 90% occupancy by the
9 end of -- at year two. Just operationally it is very
10 difficult to do.

11 MR. SCAVOTTO: Okay.

12 MS. CREDILLE: I have been doing this for
13 a million years. Twenty-five.

14 MR. SCAVOTTO: Okay. Eli, do you have an
15 occupancy comment on that?

16 MR. PICK: Yeah, I agree with CeCe. I
17 think the reality is, you know, a 90% occupancy
18 threshold in 1970's was a much more manageable target.
19 Since then it is virtually impossible because of the
20 market conditions.

21 MS. CREDILLE: Well, yeah, not only
22 achieving it in two years but even just maintaining
23 it --

24 MR. PICK: Yeah, maintaining, too.

1 MS. CREDILLE: -- period even with
2 buildings that exist today, maintaining a 90%
3 occupancy given the short-term stays from the
4 hospitals in many buildings, given the market
5 conditions, et cetera. I mean, we're all talking
6 about occupancy as an issue.

7 MR. PICK: Mike, if I may? This is Eli.
8 I don't want to lose sight of the other, and that is
9 the consequence aspect. You know, Frank outlined what
10 happens. The board has, within its purview, the
11 ability to call an applicant back to, you know,
12 confirm that they have achieved what was identified in
13 their application that would be, you know,
14 accomplished in the time frame. I think this is an
15 area that we need to revisit at a separate time and
16 talk about what oversight obligations and
17 responsibilities the board has in how it is managed in
18 long-term care.

19 MR. SCAVOTTO: I have no objection to
20 that.

21 MS. CREDILLE: That's fair, Eli, because I
22 really don't know how it can be accomplished.

23 MR. SCAVOTTO: George, let me throw
24 something to you. Can we get some -- well, first let

1 me first ask what types of occupancy statistics do you
2 have on the planning areas?

3 MR. ROATE: We have, we have I guess I'd
4 say monthly updates in terms of what, what these --
5 what the bed excess is in the planning areas. We also
6 from our web site we can glean information to come up
7 with an average as to what the occupancy would be. I
8 mean, we would have to crunch some numbers. I don't
9 think we have them readily available.

10 MR. SCAVOTTO: I think that's one of the
11 things that I would like you to consider doing. You
12 know, you can sit back and say, if my memory is
13 correct, the average occupancy in Illinois was
14 something like 72%.

15 UNIDENTIFIED: 78%.

16 MR. SCAVOTTO: Definitely not 90.

17 MR. ROATE: This is George. I apologize
18 for cutting you off. That number was mentioned at the
19 last meeting.

20 MR. SCAVOTTO: Okay. All right. So, I
21 mean, in light of statistics and in light of some hard
22 information that you might have there in the planning,
23 in the planning board office, can we, can we look at
24 that data and come back and evaluate that 90%?

1 MR. ROATE: Let me check with our web
2 master and see if we can't get some figures out there
3 just to kind of show.

4 Are you asking for annually or monthly or
5 quarterly?

6 MR. SCAVOTTO: Annually.

7 MR. ROATE: Annually. Okay.

8 MR. SCAVOTTO: Yeah, annually.

9 UNIDENTIFIED: In terms of in order to
10 calculate occupancy rate, the latest we have out there
11 is 2011.

12 MR. SCAVOTTO: But he has also got eight,
13 nine and ten. My guess is that occupancy for the
14 state, I mean, some places are going to be running
15 high occupancy, but I would like to find out where
16 those pockets are. I mean, there is a valid point out
17 there that 90% may be legit and it may be a stretch.
18 Let's see where it goes.

19 Now, let me go to Frank. What about
20 Charles' idea?

21 Frank must have stepped out.

22 MR. URSO: Excuse me. I had to take a
23 phone call. What was --

24 MR. SCAVOTTO: Charles, repeat your idea.

1 MR. FOLEY: Yes. What I was saying maybe
2 to just, under assurances, 1125.640, item number one,
3 that the applicant sign a separate letter attesting
4 to, you know, assurances, I guess what I'm saying is
5 that an applicant is already signing an application
6 and attesting to the fact that everything within the
7 application is true and accurate. Therefore, can we
8 eliminate this item number one under assurances?

9 MR. URSO: You know, once again, that's
10 not directly a legal question. I think that's more
11 for Courtney and operations in terms of what would be
12 adequate information and documentation to the board.
13 I would really have to defer on this on an answer to
14 that question.

15 MR. SCAVOTTO: Courtney, would you look at
16 that? We might be able to incorporate the assurances
17 into whatever representation they are signing off on
18 in the application.

19 MS. AVERY: Okay.

20 MR. SCAVOTTO: Let's take a look at that.

21 MS. AVERY: Okay.

22 MR. SCAVOTTO: Okay. Let's move onto --

23 MR. FOLEY: Mike, if I may, I'm going to
24 have to leave here in about ten minutes. If you don't

1 mind, my associate, Mr. John Kniery, will be here.

2 MR. SCAVOTTO: Take him with you.

3 MR. FOLEY: I would like to have him
4 participate in this conversation.

5 MS. AVERY: Welcome, John.

6 MR. KNIERY: Thank you.

7 MR. FOLEY: That's K-N-I-E-R-Y.

8 MR. SCAVOTTO: Okay. John, we are moving
9 onto 1125.650. The only comment that I have on that
10 in my notes is that the application should reference
11 the modernization limits for which an application is
12 not required.

13 Now, in all honesty I can't tell you why I
14 made that comment. No, CeCe made that comment.

15 MS. CREDILLE: I know, Mike. I was hoping
16 you weren't going to realize that because I don't know
17 what I was -- does anyone know what I'm talking about?

18 MR. KNIERY: Well, this is John Kniery.
19 There are limits by the planning board in terms of
20 dollar amount. You can modernize up to a certain
21 amount without leaving the purview of the CON. So
22 there are construction thresholds.

23 You also have anything -- you can modernize up
24 to -- well, you also have bed number, 20 beds or 10%

1 you can modernize without the needing of a CON.

2 Is that what you were referring to, maybe
3 having those linked, you know, to this section or
4 something?

5 MS. CREDILLE: That's all it is referring
6 to. We keep talking about how difficult it is to do
7 the link, so --

8 MR. KNIERY: Well --

9 MR. SCAVOTTO: Okay. So CeCe, you and
10 John sounds like you are on the same page. Sounds
11 like your point was can we just get in the application
12 what the limits are.

13 MS. CREDILLE: Yep. No controversy, just
14 asking to make it easier.

15 MR. SCAVOTTO: Who do we ask about that?
16 Is that a Claire, or is that a George?

17 MS. AVERY: I don't see any issue why we
18 couldn't.

19 MR. SCAVOTTO: Okay. Good. We can cross
20 that one off. Let's move on. The next one that I
21 have is 720, number three. CeCe, that was a comment
22 from you, recommendation from state departments. Oh,
23 basically change public aid to HFS.

24 MS. BURMAN: This is Claire. I think

1 because of changes in legislation we are going to be
2 separating out anything regarding specialized
3 long-term care.

4 MR. PICK: Claire, this is Eli. What do
5 you mean separating out?

6 MS. BURMAN: Well, there would be a
7 separate set of rules for those if they are not under
8 the Nursing Care Act anymore.

9 MR. PICK: Oh, I see.

10 MR. SCAVOTTO: Okay. So does that mean --
11 this is Mike. Does that mean that specialized
12 long-term care is not on our radar?

13 MS. BURMAN: Correct. It is no longer
14 handled under the Nursing Care Act. So it is pulled
15 out under its own act. We have to update the rules
16 for that purpose.

17 MR. SCAVOTTO: Will that still stay under
18 CON?

19 MS. BURMAN: Yes.

20 MR. SCAVOTTO: Okay. So you are saying we
21 will need a new application?

22 MS. BURMAN: Well, yes, any changes to the
23 rule will result in a new application.

24 MR. SCAVOTTO: And let me -- what I'm

1 trying to find out is it is not going to be in this
2 application form.

3 MS. BURMAN: Well, I don't believe there
4 is a problem pulling it out now.

5 MR. SCAVOTTO: Okay. So am I hearing this
6 correctly we don't need to deal with this?

7 MS. BURMAN: No.

8 MR. SCAVOTTO: Or we deal with it later?

9 MS. BURMAN: No, it is not under the same
10 group as the skilled nursing. It has been pulled out.
11 IDPH licensure has separate rules now for these
12 services, and it is because it is no longer under the
13 Nursing Care Act.

14 MR. SCAVOTTO: Okay. Anybody have any
15 lasting misgivings about that before we move on?

16 MR. PICK: No. CeCe, wasn't -- I am
17 trying to remember his name. The guy that was
18 representing the ICFDD from health care.

19 MS. CREDILLE: Mike Bibo.

20 MR. PICK: Bibo, that is it. Bibo has
21 been saying this for over a year that they were no
22 longer under the Nursing Home Care Act and been
23 advocating for this.

24 My only comment is I think before we total --

1 you know, we should set this aside for our work group,
2 but before we walk away from it in its entirety, I
3 think we need to talk to Bibo about the process and
4 what input is needed and whether the subcommittee
5 still has some input or purview with this.

6 MR. SCAVOTTO: All right.

7 MS. AVERY: You are referring to the
8 long-term care subcommittee, correct?

9 MR. PICK: That's correct. Again, this is
10 Eli. It is still long-term care, but it is no longer
11 long-term care under the governance of the Nursing
12 Home Care Act by virtue of the legislation that pulled
13 it out.

14 MR. SCAVOTTO: Eli, what I'm hearing is
15 that we don't have jurisdiction over that or we won't.

16 MR. PICK: We being the work group?

17 Mr. SCAVOTTO: Yes.

18 MR. PICK: Yes, that's correct.

19 MR. SCAVOTTO: I am hearing that the
20 planning board might have jurisdiction over that.

21 MS. AVERY: On the establishment of and
22 notification of this continuation.

23 MR. SCAVOTTO: Okay.

24 MR. PICK: Yes, that's correct, but --

1 again, this is Eli -- I think what we want to do
2 outside of our work group is go back to ICFDD group
3 and find out if they might have some input through the
4 long-term care subcommittee on the process, the
5 application, exact same things that we are doing now
6 for the skilled nursing environment.

7 MR. SCAVOTTO: This is Mike. If you want
8 to make that call, Eli.

9 MR. PICK: Yeah, I will.

10 MR. SCAVOTTO: It is not going to hurt to
11 talk to him.

12 MR. PICK: No, I will reach out to Mike.

13 MR. SCAVOTTO: All right. Courtney, are
14 you okay with that?

15 MS. AVERY: That's fine.

16 MR. SCAVOTTO: All right. So we will
17 leave this in the pending category. So let's move
18 onto 1125.800, and my comment -- frankly I don't think
19 we are going to get anywhere near 800 in this
20 conversation, but let's start it.

21 My comment is that the requirement for a
22 feasibility study has been added at the last meeting
23 in Bolingbrook. Now, this was a long time ago. This
24 was a hot topic. I am sure it will continue to be in

1 the future. We will spend some time hashing out this
2 topic, and I would like to learn more about the
3 rationale for requiring a feasibility study and about
4 the problem that a feasibility study is supposed to
5 solve.

6 This was something that Mike Constantino
7 brought up quite a few months ago. Eli, you were on
8 point as requiring or wanting more discussion and
9 wanted disclosure or discussion of viable alternatives
10 that can be identified to a feasibility study.

11 MR. PICK: Yes.

12 MR. SCAVOTTO: CeCe, you didn't have
13 anything on the feasibility study. You had some
14 questions on -- you had a statement on financial
15 viability, but let's kick this off on the need for a
16 feasibility study.

17 MR. KNIERY: This is John Kniery. If I
18 may at this point, Mike Constantino did bring this up
19 to several of our clients, but it does not seem to be
20 something that has been universally required by all
21 applicants.

22 MR. SCAVOTTO: Well, is it -- John, it is
23 not even -- it is not required now, is it?

24 MR. KNIERY: Well, no, except that we

1 received an email from the state asking for a list of
2 eight items which they call a feasibility study, and
3 then they said they wanted it from all future
4 projects.

5 Now, we have implemented that to the best of
6 our ability, but I have looked at applications across
7 the state, across not just long-term care, but it is
8 not something that has been universally adopted.

9 MS. AVERY: I can't comment on that right
10 now, but I'm pretty sure there was a legitimate reason
11 why. There may have been something particular that
12 stood out that we needed it.

13 MR. SCAVOTTO: I can see both sides of it.
14 From the staff standpoint why spend all this time
15 reviewing a bad application or one that's going to go
16 nowhere? If it is not feasible, why is it being
17 submitted?

18 MR. PICK: Well, Mike, this is Eli. If I
19 can go back, what I remember Constantino really
20 focusing on was the financing of the project.

21 MR. SCAVOTTO: Yes.

22 MR. PICK: Right? They spent all this
23 time going through an application, reviewing, the
24 board approved it and then financing didn't come

1 through.

2 MR. SCAVOTTO: Correct. You can make the
3 argument -- I might have been the one that made this
4 argument in Bolingbrook is that a feasibility study
5 and financing are two different things, but go ahead,
6 Eli. Your point is well taken.

7 MR. PICK: And we did raise those
8 questions in Bolingbrook about the feasibility study
9 doesn't necessarily address a project's ability to get
10 financing.

11 MR. SCAVOTTO: Correct.

12 MR. PICK: So, you know, while we
13 understood what Mike Constantino's intent was, the fix
14 didn't necessarily fix the issue. So I think this is
15 something we want to have a discussion on with Mike
16 Constantino participating because it seems like that
17 was where it originated from was Mike's feeling he
18 needed some more assurances that a project was going
19 to be funded. That was one of his ways of going down
20 that path.

21 MR. SCAVOTTO: I would agree. It seems to
22 me that a business planning effort of some sort,
23 whether it is a feasibility study or whether you call
24 it something else, solves a number of things. It gets

1 at your market, conditions in your market, your market
2 demand, the future demand in your market. It makes
3 you present in financial form the critical assumptions
4 that are going to make your project a success.

5 And let's face it; if you require a
6 feasibility study you are not going to get one that is
7 negative. They are all going to be positive. But it
8 doesn't get at your ability to finance. In today's
9 market that's a big deal.

10 MR. PICK: Uh-huh.

11 MR. SCAVOTTO: So it does solve -- it does
12 put a lot of information in summary form, and it may
13 resolve the assurances issue like 90% after two years
14 and maybe they are at 70% after three years, and the
15 project is still viable.

16 So there is a lot of information that can be
17 gleaned from a well-done study, but I don't think you
18 are going to get at the financing.

19 MR. KNIERY: Mike, this is John Kniery.
20 There were -- it appeared to me that those several
21 items that were being requested were already part of
22 what is requested in the planning board, it was just
23 asking for another year of data kind of thing. The
24 majority of the information, as I understood it, was

1 already being requested by the application.

2 MR. SCAVOTTO: Okay. So John, do you
3 recall what those might be, like revenues?

4 MR. KNIERY: I don't. I really do -- I
5 agree with Eli that we probably really need to talk
6 with Mike in all fairness to him.

7 MR. SCAVOTTO: CeCe, do you have any
8 comments on this?

9 MS. CREDILLE: No.

10 MR. SCAVOTTO: George?

11 MR. ROATE: No, I'm good.

12 MR. SCAVOTTO: All right. Okay. So I'm
13 sensing we are going to put this off until the next
14 meeting, and then we will drag Mike Constantino before
15 the jury and see what he has to say. He was pretty
16 concerned about this.

17 MR. PICK: Yes.

18 MR. SCAVOTTO: Everybody okay stopping at
19 this point?

20 MR. KNIERY: Well, Mike, I do have one
21 other item.

22 MR. SCAVOTTO: Yeah.

23 MR. KNIERY: I talked with the state about
24 this this week. Under the rules in the application

1 form you have to list out construction costs plus
2 contingencies separately on different line items, and
3 then for construction costs the state has a norm.
4 However, there appears to be -- a normal practice by
5 staff reports shows construction costs plus
6 contingencies as the norm. There just seems to be a
7 little bit of confusion there compared to the norm
8 versus what we are putting out there as from rule.

9 MR. ROATE: George Roate here. John,
10 thanks for bringing up that question again. I did get
11 some information on that based on your call yesterday
12 afternoon.

13 The issue of combining new construction and
14 contingency costs is based on the RSMeans
15 calculations. It has been a practice, and as I said
16 in yesterday's conversation, John, that I didn't want
17 to leave you with an answer that this is what we
18 always do.

19 Now, if you look at the other calculations,
20 more specifically for architectural and engineering
21 fees, you see that they're calculated based on the
22 combination of those two costs. I have got to get
23 into RSMeans and their information to give you a more
24 definitive answer behind their, I guess, their

1 reasoning behind it, but we are following the lead of
2 RSMeans on this.

3 MR. KNIERY: Sure, no.

4 MR. PICK: George, this is Eli. What is
5 RSMeans?

6 MR. ROATE: RSMeans is a construction
7 estimating -- it is a company that what they do is we
8 subscribe -- when I say "we", I mean the State of
9 Illinois subscribes and gets a disk that is released
10 annually of what the average construction costs are
11 based on geography and what type of project it is.

12 MR. PICK: Okay. Thank you.

13 MR. ROATE: RSMeans is one of the leaders
14 in the industry in terms of cost estimating, and I
15 have still got -- I'm still trying to dig through
16 their 2013 disk to see if they have provided any
17 historical data as to the reasoning behind it.

18 MR. PICK: Thank you.

19 MR. KNIERY: This is John Kniery. All I
20 was suggesting is that we just need to be clear
21 between the rules and how staff reports are put out is
22 all I was suggesting.

23 MR. SCAVOTTO: Okay. John, we are going
24 to revisit this when we get to the appendices. What

1 we are going to do is we are going to work our way
2 through the application, then we will pick up the
3 appendices. Then we are going to go back and wrap it
4 up and see what sort of havoc we have wreaked and how
5 do we organize it.

6 So we haven't gotten through the application.
7 Although we are getting to the end of it, I think we
8 are going to be awhile on the financial feasibility
9 discussion.

10 All right. So in the meantime, John, would
11 you email me your concerns and the items that the
12 state wanted from year three? That way we will know,
13 try to keep things straight.

14 MR. KNIERY: Sure.

15 MR. SCAVOTTO: Are there any objections to
16 ending the conference call at this point because we
17 are scheduled to go till twelve? We will pick it up
18 at 1125.800 next time around.

19 MR. PICK: Sounds good to me. This is
20 Eli.

21 MR. SCAVOTTO: All right. I will be in
22 touch with you soon about setting up another call
23 unless you want to do it now.

24 MS. AVERY: It will be helpful if we can

1 do it now.

2 MS. CREDILLE: Can you hold on? I will
3 grab a calendar. Hold on, please.

4 MR. SCAVOTTO: Going to be in January.
5 Does anyone want to volunteer a date? I will
6 volunteer Monday, January 7th.

7 MS. BURMAN: No.

8 MR. PICK: No, we have a health care board
9 meeting that day.

10 MS. BURMAN: Health care board meeting.

11 MR. SCAVOTTO: I have got a long-term care
12 subcommittee conference call on the 8th. Does anyone
13 remember what that is about?

14 MS. BURMAN: That is the RFP.

15 MR. SCAVOTTO: Oh, yeah. Okay.

16 MS. BURMAN: Can we maybe do Monday the
17 21st after 9:00?

18 MR. PICK: Good for me. Eli.

19 MR. SCAVOTTO: I can do it.

20 MS. AVERY: Okay. I will send out the
21 usual -- this is Courtney. I apologize to the court
22 reporter. I keep forgetting to do that. I will send
23 it out for a meeting request for the 21st, and you
24 said after nine, so --

1 MR. SCAVOTTO: Let's make it ten.

2 MS. AVERY: Okay. Yep.

3 MR. ROATE: George here. Courtney,
4 January 21st, that may be the weekend of Martin Luther
5 King.

6 MR. PICK: Oh, that is right. That is
7 Martin Luther King's birthday.

8 MS. BURMAN: Monday the 28th?

9 MR. SCAVOTTO: Unless we want -- can we go
10 elsewhere in the week of the 21st?

11 MS. BURMAN: I could do the 24th or 25th.

12 MR. SCAVOTTO: Okay. I can do the 24th.

13 MR. PICK: The 24th will be better for me.

14 MS. AVERY: This is Courtney. Is 10:00
15 okay, 24th at ten?

16 MR. SCAVOTTO: The 24th at ten. John, get
17 it on your calendar.

18 MR. KNIERY: Terrific. Thank you.

19 MR. SCAVOTTO: All right.

20 MS. BURMAN: Happy holidays. Happy New
21 Year.

22 (Conference call concluded at 11:57 a.m.)

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