

NEW YORK STATE
DEPARTMENT OF HEALTH
SEMSCO

Thursday, September 3, 2009 9:06 a.m.
Crown Plaza, Pearl Street Room
Albany, New York

- SEMSCO - 9-2-2009
ATTENDEES
Lee Burns
Mark Henry, M.D.
Edward Wronski
Donald Faeth
Robert Delagi
Tim Czapranski
Michael Murphy
James Deavers
Raymond Serowik
Michael Mastroianni
Andrew LaMarca
Edgar Wedge
Alan Lewis, Sr.
Paul Cousins
Storm Treanor
Warren Darby
John Malinchock
Donald DuVall
Donna Funk, M.D.
Cheryl Mayer
Jack Davidoff
Michael Reid
John Hassett
Richard Brandt
Bradley Kaufman
Phyllis Ellis, R.N.
Vincent Faraone
Mike Mackavoy
Paul Bishop
Karen Taddeo
Sharon Chwimento
Michael Quinn

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MS. JOHNSON: Don DaVall?
MR. DAVALL: Here.
MS. JOHNSON: Henry Ehrhardt?
MR. MASTRIANNI: Mike
Mastroianni -- appointment pending.
MS. JOHNSON: Phyllis Ellis?
MS. ELLIS: Here.
MS. JOHNSON: Don Faeth?
MR. FAETH: Here.
MS. JOHNSON: Vincent Faraone?
MR. FARAONE: Here.
MS. JOHNSON: Dr. Funk?
DR. FUNK: Here.
MS. JOHNSON: John Hassett?
MR. HASSETT: Here.
MS. JOHNSON: Dr. Kaufman?
DR. KAUFMAN: Here.
MS. JOHNSON: Andrew LaMarca?
MR. LAMARCA: Here.
MS. JOHNSON: Alan Lewis?
MR. LEWIS: Here.
MS. JOHNSON: Tim Lippe? Kim
Lippe is pending. John Malinchock?

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to get it online on the D.O.H. website. It's a PDF
file.
Do I have any -- any corrections
or amendments to that? Do I have a motion to
accept the minutes?
MR. DARBY: So moved.
MR. FAETH: Warren Darby.
MR. DELAGI: Second.
MR. FAETH: Second, Edgar Wedge.
Any discussion? All in favor?
FROM THE FLOOR: Aye.
MR. FAETH: Any opposed?
Sustained, it passes. Okay.
I received one correspondence
from the Northeastern Educational Corp. regarding
the -- the funding reimbursement for A.M.T.s. I
believe Mike Mackavoy will be -- be discussing that
issue and -- and that was responded to by the State
Office. All right. Chair's report? I'd like to
just start, if we can have a moment of silence. We
had on August 24th, two firefighters lost their
lives in Buffalo, Lt. Charles Chip McCarthy and
Firefighter Jonathan Groom -- Groom, I'm sorry. If

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if you would step up. We only have three members
on that tag right now, and it would be -- it would
be more than appropriate for more assistance,
because there's some work to do on that.
Please see -- Tim. That --
that's basically it on my report. Do I have a
report from the first chair?
MR. DELAGI: One item for
discussion today. At the beginning of the year,
relative to our work with the safety tag, we had
opportunity to have a representative sit on a
National Fire Protection Association Standards
Committee for Ambulance Design with safety in mind.
And we've asked Mike Mackavoy to
fulfill that role for us and Mike has attended
several meetings in on a couple of work groups and
I just ask that he give us a brief update on the
progress of that committee.
MR. MACKAVOY: Thanks -- thanks
Bob.
Just to let you know what's
happening. The National Fire Protection
Association had been asked by a number of groups,

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The Department of Transportation
came in and told us that under presidential
directive once the N.F.P.A. standard is introduced
and becomes formalized in the United States, the
federal government will drop issuing the Triple-K
specification and will adopt the N.F.P.A. standard
for ambulance design in this country.
So, at this point, what's
happened is a group has been charged to merge in
draft format the two documents that exist, the
Triple-K spec. and the A.S.T.M. spec. That work
has been completed. It was finished about a week
ago and we're planning a meeting at some point in
October now to divide that up into task groups that
will work on various components, such as the
electrical system, crash protection, the patient
compartment, et cetera, et cetera. And hopefully
by the spring, most of that work will be done and
there will be some draft document that can enter
into N.F.P.A. process, which if you're familiar with
that takes about eighteen months and has
opportunity for tremendous amounts of input from
all segments of the population and then goes

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identified some of the busyness. And we're going
to have a busy fall from what I gather coming on at
the moment.
Go back to a subject that I've
led in my report off with, I think the last few
meetings. And that's the State budget. There's
always concern about the State budget, what it will
mean to E.M.S.
Recently -- and the finance
committee will certainly discuss a number of
letters they've received regarding their work to
make recommendations on the reconfiguring of how we
pay for state education for E.M.S., but it resulted
in a whole number of letters coming to both them
and to my desk expressing concerns.
So, you know, we have to walk
very carefully and make careful considerations of
any changes we make. In regard to the State
budget, again, as I've said, and I want to say for
the record, because some people who weren't
listening last time will listen now on the web,
that the E.M.S. budget is whole. It has not been
cut. It's the same as it's been for the last

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everybody would please stand for a moment of
silence?
Thank you. On my report we've --
I'd just like to remind everyone if you have not
registered for Vital Signs, take this opportunity
to do so, see Valerie or Donna. They have
registration forms if you didn't bring them with
you. And you can have that taken care of today.
If you're a SEMSCO member, you -- you do not have
to pay registration, but you do have to pay for the
banquet. And I'd like to see everybody there if
possible. Try to make this a good event like it
has been in the past.
Also, Mr. Czapranski is going to
passing around a sign-up sheet for the Vital Signs
both. I'd greatly appreciate any assistance with
that, participation. It's only an hour and a half
of your time during the conference and it would be
a great assistance.
Also, we are -- are still looking
for additional personnel to assist Mr. Czapranski
with the diversity tag. Anyone that would be
interested in that, we would greatly appreciate it

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some -- some of them E.M.S. groups from around the
country to put together a standard for ambulance
design. And so, that -- that's the group that I'm
serving on, representing this body, as well as
other governmental organizations in New York State.
And our -- at our first meeting, it was somewhat
hence. It's comprised of one-third ambulance
manufacturers, one-third regulators and one-third
consumers, people who use the ambulances and spent
about three hours all glaring at each other
wondering whose agenda was going to prevail.
There are basically three
standards now that are out there. One is the
Triple-K specification, one is A.S.T.M.
specification, one is a European specification.
It was decided that the European
specification is probably relatively useless in the
United States because they use a very different
sort of ambulance than we use here in the United
States. The two that are left, the Triple-K and
the A.S.T.M. are basically going to serve as the
basis for formulating the N.F.P.A. document that
will guide ambulance design in the future.

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through several draft iterations before it finally
becomes an actual standard about a year and a half
later.
So, that's where we are at this
point.
MR. FAETH: Thank you. Your
report secretary? No report.
MR. DELAGI: I apologize. I did
have one more item on -- on my report. I just want
to congratulate several members who were recently
vetted. We have John Malinchock from Big Lakes who
was recently vetted. He will be replacing Mr.
Lewis Bertella (phonetic spelling). Kim Rippis
from Hudson Valley is replacing Angela Marka
(phonetic spelling). And Mike Murphy is replacing
Mike Mackavoy. Congratulations.
Anybody who hasn't been vetted
that process is still ongoing, please let us know
if you haven't received your letter. Okay? And
I'll pass the mic over.
MR. WRONSKI: Good morning. I
hope everybody's had a good summer. It certainly
has been busy. Yesterday's SEMAC meeting

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couple of years. It is sufficient funding to pay
for all of what we do currently.
Now, is that sufficient funding
to pay for everything we want to do? Of course
not. It never is and no State budget is. But, it
is significant funding. It will pay for education
as we have it and it has some room to breathe. My
estimate is probably two -- two or three budget
cycles from now, depending on the number of
students we see in any given year, we will probably
need an increase. And we -- and if -- if there
really is an argument to raise funding
significantly, there will be an argument to make
with the legislature and the governor to increase
the E.M.S. funding. And that would include the
contractors who work for you in the regional
offices. If there's significant argument to be
made and need and there has been argument made,
there would need to be more money in the budget.
But currently contracts have money in the budget to
pay for them as they're written and education has
money in the budget to pay for it as we have each
year. So, I wanted to make that very clear for,

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2 not just you, but whoever is listening.
3 The second issue, the one that's
4 going to make our fall busy, is H1N1. There was a
5 lot of discussion yesterday at the SEMAC and for
6 those of you who were here in the audience who are
7 attending as a SEMAC member, Bob Burhands (phonetic
8 spelling) who's the Director of the Office of
9 Health Preparedness for the Department of Health
10 gave a presentation on H1N1 preparation efforts and
11 what's going on.
12 He also discussed new regulations
13 that went into effect that affect health care
14 workers who work for hospitals and nursing homes
15 and any Article 28 facility.
16 I wanted to briefly discuss, at
17 this time, what that means for E.M.S. The
18 regulations -- and a letter went out to all the
19 facilities, not to E.M.S. services, but to the
20 hospitals and to other Article 28 facilities,
21 because that's who the regulation is pointed at.
22 But E.M.S. services that are owned and operated by
23 a hospital will -- and their -- their E.M.S.
24 employees will come under this regulation. This

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2 regulation says that health care providers who are
3 employed or otherwise work for and that may be in a
4 voluntary status, or a hospital or an Article 28
5 facility, are mandated to get a seasonal flu
6 vaccine.
7 And, so, that includes employees
8 who are E.M.S. employees for hospital-owned
9 ambulance services. Who else in E.M.S. does this
10 affect? Does it affect the contracted ambulance
11 services? My view is that it probably does, if the
12 contracted service is actually operating under the
13 hospital's certificate. But if they're not, there
14 is a question. And I have raised the question with
15 our division of legal affairs to get clarification.
16 I don't have an answer yet and Bob discussed that
17 yesterday, that we don't have a definitive answer.
18 But, at present, until we hear otherwise, it
19 doesn't. And it does not affect, at present,
20 unless I hear otherwise, 911 delivery of patients
21 or inter-facility where a hospital again contracts
22 with someone to move a patient from point a to
23 point b. But that may change depending on what the
24 interpretation is.

5 (Pages 14 to 17)

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2 The phenomenon in the spring,
3 while we saw some of it in other parts of the
4 state, did tend to concentrate itself in New York
5 City. That may not happen this fall. You may see
6 the flu in large numbers, and large numbers of
7 people getting the flu across the state. That's a
8 possibility. That's what the worry is. Worry
9 isn't that we can't treat it or handle it, or that
10 they'll be vaccine available. There will be.
11 E.M.S., by the way and I'll
12 underline this, is in the priority group for
13 vaccination. The federal government has indicated
14 that. We support that. And when the vaccine is
15 available, E.M.S. will be in the priority group to
16 receive that vaccine. Exactly how you will get
17 that vaccine is not determined yet, but it probably
18 will happen on a local level through the public
19 health departments. But there will probably be a
20 number of ways that it will be delivered. But
21 E.M.S. will be in the priority group. I encourage
22 you, the Commissioner of Health encourages you, to
23 get all of your staff flu vaccine. You don't need
24 to have staff out for long periods of time. And

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2 that's our primary worry. I believe Dr. Henry will
3 discuss this a little bit more during the SEMAC
4 report and others may have questions. Let me move
5 on.
6 Unless you have a specific
7 question of what I've covered right now, if you
8 want it clarified.
9 MR. DELAGI: Ed, can you just
10 address how this affects the students that course
11 sponsors send to hospitals.
12 MR. WRONSKI: There -- there's a
13 reason that we have Mr. Delagi at the podium here,
14 because he reminded me of this yesterday and I
15 forgot it again today.
16 It's a -- an impact on your
17 students, the regulations specifically discuss
18 this, and makes it very clear that if -- and it's
19 not -- it doesn't say E.M.S. students, it just says
20 students.
21 So, nursing students, any kind of
22 student in a hospital setting, who has patient care
23 contact or potentially could have patient care
24 contact, must be vaccinated. So, those of you who

6 (Pages 18 to 21)

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2 hundred hospitals, but if -- if we're talking a
3 half dozen or a dozen, I will personally call them
4 and talk to them and see if I can smooth the way
5 towards their working with you on -- on an
6 agreement. Because I want this to happen and --
7 and the letter will go out within the next,
8 probably six days at most, maybe less.
9 I want to discuss NEMESIS
10 (phonetic spelling) briefly, because it's going to
11 come up in Mr. Delagi's and Dr. Kaufman's
12 discussion. NEMESIS, as you all know is the
13 National Data Base in recommendation and the gold
14 standard is four hundred data elements for --
15 P.C.R.'s, pre-hospital care report. For the
16 record, again, let me underline it, we're not going
17 to do a four hundred data point P.C.R. It's not
18 going to happen. The Department will not authorize
19 that, not support it. Now, so you understand what
20 we're going to develop and Mr. Delagi and Dr.
21 Kaufman and their committees are going to develop
22 over the next, you know, probably few meetings, a
23 final recommended data set for New York State that
24 would be NEMESIS compliant.

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2 NEMESIS compliant only requires
3 ninety data elements and our New York State P.C.R.
4 currently is four data to that anyway. There're
5 only a few we'd have to add. But the important
6 part is what they're going to look at, is what do
7 we really want and what do we really need? Now,
8 maybe that means a hundred and thirty data
9 elements. It might, but the form needs to be
10 useful, workable, something that is a support for
11 the E.M.S. provider and the patient in the hospital
12 when filed out. Not just for research. Research
13 is a tool that's important, but the first point of
14 any document, patient care document, is the day
15 you're using it. Because the doctor takes that
16 patient, may not have had an opportunity to talk
17 with you and the triage nurse may be in a rush
18 during this patient overcrowding time that we're
19 in, and may get a minute for you and -- so, this
20 document helps them.
21 And we want to make sure that
22 continues. But there will be flexibility too.
23 Frankly, any ambulance service who wishes to create
24 their own document and get approval for it, can

7 (Pages 22 to 25)

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2 three people on a diversity committee is not
3 appropriate and you should all know that and I know
4 you do, but you may not realize that only three
5 people are attending. And that's what's happening.
6 And I -- I do need your
7 participation particularly in areas where you have
8 a very diverse population. Some areas don't, but
9 you may and if you do you should -- you should
10 attend this meeting. It would something that you
11 can speak to, give advice and learn from. So, I
12 make that request.
13 My last point of my report is
14 really my last report. As many of you know, and
15 those of you who don't, got here late, because word
16 gets around and actually word got around even
17 before yesterday's meeting. It's amazing how that
18 happens, but I am retiring and leaving State
19 service. I've been in State service for
20 thirty-five years. I started with the labor
21 department back in 1974 in Brooklyn, a small
22 employment office on Schermerhorn Street, which
23 still exists, but operates in a very different way
24 apparently.

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2 But, I used to talk to people
3 personally, you know, twenty or thirty of them a
4 day and try to find them work and who knows, maybe
5 I'll see one of them after I leave, you know the
6 new ones, but -- but thirty-five years I've had a
7 varied career with the State. When it came to
8 health, I worked with professional conduct and I
9 then moved on -- to E.M.S. and honestly and --
10 and I mean this, because I wouldn't say this for
11 the record since the record is whirring right now,
12 that my last seventeen years have been the best,
13 and that's with you, and with the E.M.S. community.
14 It's been a very interesting job.
15 It's been a job that I've -- I feel I've -- I've
16 gotten to love. That doesn't mean I love all of
17 you but it means I appreciate and respect all of
18 you, even those of you I've disagreed with at times
19 or you have disagreed with me. You've all been
20 very professional. I appreciate that. I ask you
21 to continue that when I go, and I know you will,
22 because that's how you get work done.
23 But, the seventeen plus years in
24 E.M.S. while -- and those of you who are in an

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2 standards also, I'd appreciate it.
3 DR. HENRY: Dr. Marshall is not
4 able to be here. Medical standards report at the
5 SEMAC meeting yesterday, we didn't have a quorum.
6 So I'm not bringing any forwarded motions to your
7 attention today. We had some rich discussion. The
8 member who would have made the quorum had to return
9 to his hospital on an emergency basis. So, we were
10 short one member, but we had a rich discussion and
11 those motions are not, I don't think time urgent,
12 they'll come forward in December to your attention.
13 But I do want to talk a bit about
14 the H1N1, because as Mr. Wronski said we had an
15 hour presentation from Mr. Burhans and that led
16 into, you know, a richer discussion on our part.
17 You should also know that we met after our last
18 meeting, as the disaster committee, and talked to
19 Mr. Burhans and some of our input, I think, is
20 being realized. So, what are some salient points?
21 One, it's not good for the public to have people
22 with a communicable disease come to a crowded
23 emergency department where they can expose patients
24 who are very ill, who are being admitted to

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2 hospitals, with influenza virus, whether it's the
3 old seasonal flu or the new one. That's not a good
4 thing to happen.
5 And, the messages had always
6 been, don't come to the E.R. unless absolutely
7 necessary, but they were down lower in the
8 advisories. Those have been moved up. I've
9 noticed it in public announcements. You may have
10 too. And that is an important message because we
11 don't want to mix it. We don't want to mix it up
12 any more than we have to, okay. And the more
13 people are educated, the better the response will
14 be.
15 And I think our job, like any
16 potential disaster, and this is declared a pandemic
17 now, is preparation. So, in what ways can we work
18 together ahead of time? And there're two or three
19 areas that I would like you to consider.
20 The first is, our people have to
21 be educated about the disease and about potential
22 therapies, whether they're the antiviral medicines,
23 Tamiflu, Relenza and the potential for vaccination.
24 Because the better we are educated, the more we can

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2 influenza or H1N1, but not everybody does. That
3 would be appropriate if people are calling for
4 information that they get information and not an
5 ambulance dispatched to their home.
6 And in fact, the -- even if the
7 call goes to 911, it may not be appropriate that an
8 ambulance is dispatched for a person with concerns
9 about flu. In fact, Mr. Delagi said that some of
10 these national directives to dispatchers have such
11 advice built in already. I don't know, Bob if you
12 want to comment on that now but I'd welcome that,
13 because I think that's important information.
14 MR. DELAGI: Thanks Dr. Henry.
15 Just very briefly, the National Academy of
16 Emergency Medical Dispatch issued Protocol 36,
17 pandemic influenza. And, as you know emergency
18 medical dispatch licenses require the sign-off of
19 local medical control and within the E.M.D. license
20 there are several specific protocols that require a
21 second signature by a physician, such as
22 determination at death and having dispatchers tell
23 callers to take aspirin when they have ischemic
24 chest pain. This is another such protocol and for

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2 the very first time has a determinate code where
3 the public safety answering point can determine,
4 after consultation with a flu specialist that an
5 ambulance is not needed.
6 And, this is designed to reduce
7 surge on the E.M.S. system and it's designed to
8 have medical input at the point of 911 call-taking
9 to make a determination that this is influenza-like
10 illness and either not send an ambulance or route
11 the patient away from an emergency department to an
12 alternate care facility.
13 And the question remains whether
14 or not those A.C.F.s are on campus, in which case
15 there are no issues, or whether they're off campus
16 in which case there are.
17 So, some significant work has
18 already been done, but more work is required as
19 regions struggle to implement this locally given
20 the issues we have with multiple piece absent
21 counties and multiple dispatch centers not using
22 E.M.D. and so forth, but that is the intent.
23 DR. HENRY: Thank you. And --
24 and so -- and the last area I want to talk about is

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2 delivered by E.M.T.s or medics for this illness
3 like we administer for other illnesses.
4 So, that's -- that's my report.
5 MR. FAETH: Thank you Dr. Henry.
6 Is there any questions for Dr. Henry? Okay, seeing
7 none. We're doing real good on time right now. So
8 we're going to move into the committee reports if
9 everybody's good for that. We're start off with
10 Q.A.Q.I. Bob or Dr. Kaufman who -- who will be
11 giving that? Okay.
12 MR. DELAGI: Thanks Mr. Chair.
13 We had our meeting yesterday, no seconded motions
14 to come forward. The attendance sheet has been
15 passed along to staff.
16 We had a somewhat active season
17 between our last meeting and this meeting, although
18 admittedly everybody was tied up with their own
19 influenza planning. So, we didn't make as much
20 progress as we had hoped to, but there is light at
21 the end of the tunnel and progress to report, we
22 are pleased to say. We heard from staff that the
23 Division of Legal Affairs and the Hospitals
24 Preparedness Bureau is still reviewing the letter

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2 to the hospital CEO's encouraging data sharing with
3 local ambulance services for Q.I. purposes. That
4 letter has not gone out and we've discovered that
5 we're kind of at the crossroads between that
6 request and some currently changing 405 regulations
7 with regard to the Q.I. associated with stemi
8 center designations.
9 So, we just need to be very, very
10 clear that -- that we're not working at cross paths
11 as the 405 regs. are being changed to reflect
12 required Q.I. and stemi center designations. And
13 make sure that we don't cloudy up the issue --
14 cloud up the issue I should say, with routine
15 information sharing on day-to-day E.M.S. So, that
16 document is being prepared and we hope to have that
17 out soon.
18 Now, you heard Mr. Wronski talk
19 about the NEMISIS data point, so I won't speak to
20 that issue, other than to say that just so
21 everybody is clear, the silver, gold and bronze
22 designations are really marketing tools that are
23 made for the vendors to sell their products and
24 really has nothing to do with our compliance as a

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2 medicine changes the things that change in our Q.I.
3 process. To be very, very clear, so there is no
4 misunderstanding, there is no intention here to
5 publish or release any specific results that have
6 been provided by the regions. It's simply titles
7 of abstracts to demonstrate what the topic of study
8 is. Okay, nobody's releasing any data from any
9 region. It is just a spreadsheet on the title of
10 the program.
11 Eventually we hope that that will
12 lead to an amendment or an appendix to the current
13 Q.I. manual where we can provide additional
14 guidance to regions and to services on what types
15 of -- of items have been studied and can be studied
16 in their respective regions. Again, looking at
17 best practices for Q.I. ideas.
18 No new discussion on the online
19 medical control issue and under new business we
20 picked up another work item that we're going to
21 suggest some additional collaboration with the air
22 medical tag group on a release -- recently released
23 N.T.S.B. document on air medical safety and we also
24 understand that there might also be a financial

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2 piece to that as well.
3 And you're recall that the
4 N.T.S.B. took an interest in this subject after a
5 spate of aircraft crashes over the last twelve to
6 sixteen months. And this document may actually
7 have some guidance in it on medicav
8 appropriateness. And we want to take a look at
9 that to make sure that their recommendations are
10 consistent with ours from a safety perspective. We
11 want to make sure that we're utilizing air-medical
12 services in accordance with National Safety
13 guidelines. So, we hope to have a report back to
14 you by next month.
15 And that is my report.
16 MR. FAETH: Thank you, Bob. Do
17 you have any questions for Mr. Delagi? Hearing
18 none. Move the agenda to education and training,
19 Mr. Edgar Wedge.
20 MR. WEDGE: We have no seconded
21 motions to bring today. We had a presentation by
22 the E.M.S.C. group that concerned the mini grants
23 that had been awarded for workshops. There are
24 three that they talked about and I assume they'll

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2 variety of things. But, one of them that's been --
3 actually been in the works for a couple of years
4 has been to automate a lot of our education files,
5 match them with our financial information, match
6 them with our ambulance information. Although that
7 is going to take a little bit more work before
8 we're done on that part.
9 But, the goal is to assure that
10 the public fund is used properly and that we pay
11 out properly. What we have found, even in an
12 initial review, is that in some cases there's been
13 double billing and the double billing may be
14 innocent, may not be. In -- in some cases, double
15 billing involves the C.M.E. program where an agency
16 may have billed and been paid for that student and
17 so did the course sponsor, the same -- same
18 student -- you know, same period of time. So,
19 C.M.E. dollars were released twice for the same
20 student.
21 And there are other types of
22 things that the automation is catching. There will
23 be bugs in the automation and we will certainly
24 look at those bugs and -- and clean them up, but

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2 what it does do is it helps assure that funding
3 that was fought for by all of you, gets used
4 properly and not erroneously. And that a student
5 who is in E.M.S. does get reimbursed, not the
6 individual, but the agency or the sponsor, does get
7 reimbursed properly but not twice.
8 You know, I've asked my boss to
9 pay me twice and they haven't yet. So, I don't
10 think we should be giving out two checks for one
11 service. But this automation is getting to those
12 issues. Over the next year we'll work out
13 different bugs and add more information to it to
14 confirm that in fact payments are appropriate. But
15 I wanted you to understand that this is going on.
16 You'll, you know, hear about this in region at
17 different times because in some cases they'll --
18 when we have confirmed it there will be a big
19 overpayment issue and you may hear a complaint.
20 And we'll be happy to look at
21 those complaints but if it turns out that you
22 billed us twice, or shouldn't have billed us at
23 all, the money will have to be paid back. So --
24 but again, we're learning. We've just implemented

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2 updated with what the bureau decides to do with
3 that.
4 The awards meeting we had in
5 August, I guess I was a little bit disappointed in
6 that in one category we only had five nominations,
7 And that's out of eighteen REMSCOs. So, we ranged
8 from five to twelve and it's -- it's down from last
9 year and we'd like to see a little bit more
10 participation by all the REMSCOs in -- in sending
11 forward nominations for the different categories
12 for statewide awards.
13 It seems to me unacceptable to
14 have only five applicants for, you know, a
15 dispatcher of the year award for instance. So, I
16 would encourage each of you to go back to your
17 REMSCOs and make sure that we focus on forwarding
18 those nominations to the state, typically by August
19 1st, so they can come into consideration for
20 statewide awards.
21 And I think that's it for PEER.
22 MR. WRONSKI: Just as a comment
23 on the awards. It is -- it is a way and you know
24 that of congratulating people when you don't have a

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2 bonus to give them. But, you -- you can pat them
3 on the back and make sure they understand they did
4 a good job. For the -- for every single awardee,
5 who's nominated from the region, a letter does go
6 out from our office congratulating them and
7 although they may not have won, they're notified
8 formally that their region thought well of them and
9 they were one of the few people who made it to the
10 state level to be considered for a state award.
11 And -- and while you may not have
12 gotten a state award that year, I -- I think
13 it's -- a recognition that they get when they
14 receive a letter indicating that, you know, the
15 region's nominated them and they certainly were
16 considered for this.
17 MR. FAETH: Thank you, Ed. Well,
18 we've reached the two-hour mark. So I think we'll
19 take this opportunity, if everybody wants to
20 stretch, you know, get your vouchers for your --
21 your parking and get a cup of coffee.
22 Be back please in about ten
23 minutes. Thank you.
24 (Off the record)

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2 So, I know there's a core of
3 interest that may be looking at introducing some
4 legislation to allow for subscription programs. I
5 do know that Rural Metro has the spirit program
6 that was available in the Rochester -- no,
7 Syracuse, Buffalo and Corning and we have -- we
8 will not renew subscriptions for that.
9 And that was really very low
10 cost, but advantageous to the person that needed --
11 appropriate ambulance service a number of times
12 throughout the years. So, the attorney general is
13 looking into these programs. Apparently the
14 insurance department has said that some of them are
15 offering an insurance program and they're illegal
16 and there's a whole issue going on. So, stay tuned
17 to this.
18 I'm really sensitive to the
19 volunteer sector that's strictly a volunteer that
20 now has this revenue loss in order to operate in
21 their small communities. So, I think something
22 will come out of it eventually. Really that's
23 basically all of my report at this time. I'll
24 answer any questions anybody may have.

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2 MR. FAETH: Actually I have one,
3 Al.
4 MR. LEWIS: Yes.
5 MR. FAETH: Do you have available
6 the letter that the attorney general is sending
7 out?
8 MR. LEWIS: We can make it
9 available, yes.
10 MR. FAETH: I'd appreciate that.
11 MR. LEWIS: They are
12 investigating all of the subscription programs and
13 we can share information with you on that.
14 MR. FAETH: Yes, I can see where
15 this would be a serious impact with the economic
16 concern right now --
17 MR. LEWIS: Yes.
18 MR. FAETH: -- out there.
19 MR. LEWIS: Yes, it is,
20 definitely.
21 MR. WRONSKI: The -- I'm aware of
22 some of this. I didn't know a letter was going
23 out, but I -- I did -- I did know that there was a
24 review of all of this.

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2 providing free service is caught in the middle of
3 this. The ones that charge, I understand the
4 implications with Medicare and Medicaid
5 regulations. But, the core that provides free
6 service is really the ones that I'm really
7 concerned that they have a loss of revenue if they
8 need to be able to offer the service to their rural
9 core community.
10 MR. FAETH: Thank you, Al.
11 MR. LEWIS: Thank you.
12 MR. FAETH: Okay. Finance
13 committee. Phyllis?
14 MS. ELLIS: Thank you, Don. We
15 have two items. One informational and one seconded
16 motion. And the first informational item is a
17 result of the survey of corresponding adjustments
18 that we did at our last committee meeting and since
19 I wasn't present Mike Mackavoy has agreed to
20 explain that.
21 Thank you, Mike.
22 MR. MACKAVOY: We did, at that
23 last SEMSCO report from the finance committee about
24 a survey that we had done and had issued at that

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2 point a proposed adjustment in corresponding rates,
3 which -- a summary of which was that we were
4 planning on making a recommendation to the bureau
5 to eliminate some of the funding for the advance
6 level courses in order to more fully fund the
7 B.L.S. courses to levels that sponsors felt were
8 appropriate to their cost to run those courses.
9 And we ask for you to take that
10 back to your constituents and to ask them for some
11 feedback. And, we were overwhelmed with feedback,
12 death threats, suicide notes and other sorts of
13 information. About seventy percent of it was
14 unfavorable and thirty percent of it was relatively
15 neutral.
16 In other words, course sponsors
17 who said I don't use this state funding and so it's
18 not really applicable to my program. So, at the
19 meeting this morning of the finance committee, a
20 decision was made that the proposal as we had
21 brought it forth to you at the last SEMSCO meeting
22 is probably not acceptable to the -- the vast
23 majority of the state.
24 And we're going to, at our

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2 at a meeting. We're going to discuss this, if
3 there's -- you know, I recently read it and it
4 seemed a -- I'd like to share it to make sure that
5 we're all on the same page when we're discussing
6 that.
7 MR. WRONSKI: Let me -- let me
8 comment so -- my seventeen, almost eighteen years
9 with the bureau had me in the room when all of this
10 was created. So, I have a little benefit and I
11 worked with the -- the chairman, the aide to the
12 chairman of the Assembly on a couple of occasions
13 where he answered questions regarding the dedicated
14 fund and its use.
15 The state legislature created the
16 dedicated fund and many discussions, with many of
17 you here or your -- your associations, that there
18 was a need to support E.M.S. training if we were
19 going to -- if E.M.S. -- the E.M.S. community
20 was going to support the standard of having an
21 E.M.T. on every ambulance. Specifically, the law
22 says you have to have an E.M.T. with the patient.
23 And that this was not necessarily possible unless
24 we had funding that we could put out there to offer

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2 free training to create more E.M.T.s. That was the
3 goal.
4 The goal -- the primary goal was
5 this funding would support B.L.S. training,
6 ultimately at the E.M.T. level. Originally also
7 C.F.R. and there was, as all of you know, the
8 statute tiered in over the years until we
9 reached -- there had to be an E.M.T. with every
10 patient but it was focused on B.L.S. That was what
11 the fund was created for. But the fund also
12 recognize A.L.S. and it said that money left over
13 in the fund, in any given year, could be rolled
14 over and used for advanced life support in -- for
15 training.
16 We were fortunate enough to have
17 enough money from the beginning to pay for all of
18 this without having to wait for rollover. And so
19 we did that. And we've had increases in funds over
20 the years, although not in the last ten years or
21 so, that allowed us and allow us currently, to pay
22 for all the levels.
23 The legislature doesn't mind
24 that, you know, it was their intent that if there's

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2 supplies and expense, go to the very end of the
3 class to find out they're getting nothing, you
4 know. So they have a lot out laid there and it
5 could put at risk certain of our course sponsors,
6 which is not going to support, you know, what we
7 want to do.
8 MR. WRONSKI: Actually I'd
9 encourage you to -- to -- to discuss that at
10 meetings. The -- we've looked within the bureau at
11 the process. How is payment put out? What to do
12 or not? We certainly heard the argument before
13 that we should pay for all students who enroll. I
14 don't support that argument because I -- I don't
15 think we have a good process at the local level to
16 screen out the students. I've seen that too often.
17 I've seen people enroll fifty students, do no
18 screening and these students are not capable of
19 passing the course and never were.
20 And -- and as they take the
21 course and continue to fail, we -- we recently --
22 literally two weeks ago it was brought to my
23 attention one sponsor who had an entire class with
24 an average, in-house class, something like

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2 forty-five on their test. Yet, he passed them all
3 and let them take the state exam. So, you can't --
4 we can't, you know, support that until that local
5 system changes.
6 MR. LAMARCA: Right.
7 MR. WRONSKI: So that these --
8 and this isn't occasionally. This happens on a
9 regular basis, although that was probably the worst
10 example I've seen.
11 The -- so those things have to
12 happen too, but -- but I do agree the process could
13 be modified to help the sponsor not lose dollars,
14 including strong policies that we would support of
15 the sponsor, that when a student signs up they
16 understand they are responsible for payment, if in
17 fact they do not pass the State exam that they
18 would have to foot the bill potentially.
19 The -- and we'd have to think
20 about how that would work and whether or not that
21 would be something that would not work in the
22 legislative, you know, arena and -- and the intent
23 of the legislation.
24 But, you know, certainly our hope

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2 MR. FAETH: Thank you, Mike.
3 Phyllis, do you have anything
4 further?
5 MS. ELLIS: Yes, just the budget.
6 As Mike said, after surveying the
7 program agencies and the bureau data, the finance
8 committee brings forth a second motion presenting
9 the 2010-11 budget estimate for emergency medical
10 services in New York State to a total of
11 twenty-three million five hundred and thirty-nine
12 thousand three hundred and twenty dollars.
13 MR. FAETH: A roll call?
14 MR. MACKAVOY: Yes.
15 MR. FAETH: Going to need a roll
16 call vote.
17 MS. JOHNSON: Richard Brandt?
18 MR. BRANDT: Yes.
19 MS. JOHNSON: Paul Cousins?
20 MR. COUSINS: Yes.
21 MS. JOHNSON: Tim Czapranski?
22 MR. CZAPRANSKI: Yes.
23 MS. JOHNSON: Warren Darby?
24 MR. DARBY: Yes.

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2 MS. JOHNSON: Dr. Davidoff?
3 DR. DAVIDOFF: Yes.
4 MS. JOHNSON: James Deavers?
5 MR. DEEVERS: Yes.
6 MS. JOHNSON: Robert Delagi?
7 MR. DELAGI: Yes.
8 MS. JOHNSON: Donald DuVall?
9 MR. DUVALL: Yes.
10 MS. JOHNSON: Phyllis Ellis?
11 MS. ELLIS: Yes.
12 MS. JOHNSON: Donald Faeth?
13 MR. FAETH: Yes.
14 MR. JOHNSON: Vincent Faraone?
15 MR. FARARONE: Yes.
16 MS. JOHNSON: Dr. Funk?
17 DR. FUNK: Yes.
18 MS. JOHNSON: John Hassett?
19 MR. HASSETT: Yes.
20 MS. JOHNSON: Dr. Kaufman?
21 DR. KAUFMAN: Yes.
22 MS. JOHNSON: Andy LaMarca?
23 MR. LAMARCA: Yes.
24 MS. JOHNSON: Alan Lewis?

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2 MR. LEWIS: Yes.
3 MS. JOHNSON: John Malinchock?
4 MR. MALINCHOCK: Yes.
5 MS. JOHNSON: Cheryl Mayer?
6 MS. MAYER: Yes.
7 MS. JOHNSON: Michael Murphy?
8 MR. MURPHY: Yes.
9 MS. JOHNSON: Michael Reid?
10 MR. REID: Yes.
11 MS. JOHNSON: Raymond Serowik?
12 MR. SEROWIK: Yes.
13 MS. JOHNSON: Storm Treanor?
14 MS. TREANOR: Yes.
15 MS. JOHNSON: Edgar Wedge?
16 MR. WEDGE: Yes.
17 MS. JOHNSON: Roll call complete.
18 MR. FAETH: Okay. Motion passed
19 unanimously. Anything further?
20 MS. ELLIS: Thank you.
21 MR. FAETH: Thank you Ms. Ellis.
22 I also want to thank Dr. MACKAVOY, although you
23 alternate has been vetted, I think the council
24 greatly appreciates your continued assistance and

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2 work with the finance committee. Thank you. Okay.
3 I'd like to move to the safety
4 tag, Mr. Darby?
5 MR. DARBY: Safety tag met
6 yesterday and we co-chairs drew straws. I got the
7 executive committee report and my partner, Paul
8 Bishop has got the SEMSCO report.
9 MR. BISHOP: Thank you. We had
10 seven members of our tag in attendance yesterday.
11 I'll give the secretary the
12 sign-in list.
13 The most important activity that
14 occurred was over the summer, Lee Burns and Gary
15 Tuttle (phonetic spelling) and the rest of the
16 bureau staff released a new policy statement on
17 E.M.S. incident reporting, focusing on injuries and
18 accidents and to let us really know what's going on
19 in our community, what our areas that we need to
20 target for our education and engineering to try and
21 prevent further injuries.
22 I think this incident reporting
23 form, if you haven't taken a lot at it, it -- it
24 provides a lot of data. We've already gotten

Page 78 1 SEMSCOs - 9-2-2009 2 Let me just take an opportunity 3 to say something before I don't get an -- a word in 4 edgewise once he starts. I know your -- your 5 alternate has been -- been vetted, but she 6 hasn't -- received her letter yet. 7 Mr. Vincent Faraone will be -- be 8 replacing your seat as the systems chair. I thank 9 you Vinny for stepping up on that. But Andy, I 10 just want to say thank you for your -- your service 11 here. You've done an excellent job. I've always 12 appreciated your -- your honesty and -- and 13 although we've butted heads a couple of times, I 14 have always respected your opinion and you've 15 always been a consummate professional and thank 16 you. 17 MR. LAMARCA: Thank you. All 18 right. 19 Now down to the down and dirty. 20 Yesterday the systems committee did meet. We have 21 hopefully the up-to-date list of the committee 22 members. We have submitted the attendance sheet. 23 We will have a second motion to come forward, let 24 me hold that for a couple of minutes.

Page 79 1 SEMSCOs - 9-2-2009 2 We did dispense with most of the 3 routine matters of business, Vinny and I co-chaired 4 the meeting. We did hear from the staff report 5 from Lee Burns and in the staff report a couple of 6 issues are noteworthy. 7 First of all, we are preparing in 8 September to probably hear two appeals to the 9 Article 30 action. One will be the City of Utica 10 and the second will be the north area of volunteer 11 ambulance, for its appeal, which will probably 12 necessitate some sort of a schedule change to the 13 actual committee, since those are both viewed to be 14 probably pretty time demanding. So, we may have 15 to, you know, looking at a change in the schedule 16 for the next meeting. 17 We do have three new municipal 18 C.O.N. declarations. First is the Albany County 19 Sheriff's Department for an ambulance. The second, 20 the City of White Plains for an A.L.S. first 21 response and the third is the Berkshire Fire 22 District for ambulance service permit. 23 One of the repeated topics that 24 we've heard in the last couple of meetings is

Page 82 1 SEMSCOs - 9-2-2009 2 In the process of this submission 3 it seems like Rural Metro, the provider that they 4 were using and they had some sort of an arrangement 5 for service and payment. At some point it appears 6 that there must have been some contention about 7 payments and whatever the contractual arrangements 8 were, the hospital felt that they needed to have 9 the opportunity to control their costs and put in 10 for their own ambulance service. 11 It had went through the process. 12 There were letters of support. It went through its 13 regional hearing. It was approved. It was 14 subsequently appealed and we are -- we've had that 15 go through an administrative law judge. At that 16 time, the administrative law judge looked at it, 17 was weighing the evidence, but also realized that 18 there were some areas that perhaps were not 19 complete, their stenographic record, and a number 20 of other items. And it was -- in the process of 21 remanding it to us here at the state council, or 22 returning it to us to remand back to the region, I 23 should say. 24 We subsequently -- this is the

Page 83 1 SEMSCOs - 9-2-2009 2 E.M.S. systems committee about middle of August 3 in -- in preparation for this had a conference call 4 to the committee to discuss this -- this 5 application and this appeal. 6 We made a request to -- since the 7 region had forwarded it to us, by that time, some 8 additional information that the A.L.J. had 9 initially had wanted and Lee was kind enough and 10 Dana to actually sent it back to the law offices 11 and we did indeed get an expedited, I would have to 12 say, opinion to move it forward. 13 At discussions yesterday, a 14 motion was made and I will read you the motion in a 15 second here, if bring it up a bit. "Due to the 16 absence of proof and the determination of public 17 need and the applicants states in their narrative 18 the purpose of the application is strictly cost 19 savings. This is from Mr. Lewis, I would bring 20 forth a motion to deny this C.O.N. application as 21 no public need was established". There were eleven 22 seated delegates able to vote at that meeting 23 yesterday. 24 The vote was cast and it was six

Page 86 1 SEMSCOs - 9-2-2009 2 We spoke about this in executive 3 yesterday. We're not going to have any 4 presentations done at this -- at this time. 5 However, we would like to have you available as a 6 resource if the body has any questions for you with 7 regards to this process, okay. Thank you. Let's 8 open the floor up to discussion. Yes Mr. Delagi. 9 MR. DELAGI: I think as we 10 prepare to cast our votes based on the motion 11 that's before us on the video screen, I think it 12 would be important for the council members who were 13 not privy to discussions as systems yesterday to 14 hear what the hearing officer reported and what the 15 A.L.J.'s recommendations were. 16 MR. FAETH: Andy, do you have 17 that? 18 MR. LAMARCA: Yes, I've got to 19 just dig out the final version. Give me one second 20 to find the -- the most recent. Do you want me to 21 just read the final recommendation? It's only a 22 two sentence --. 23 MR. FAETH: Sure. 24 MR. LAMARCA: Based upon this

Page 87 1 SEMSCOs - 9-2-2009 2 resubmission back, the A.L.J. reviewing the 3 resubmission, the A.L.J.'s recommendation based 4 upon the review of the entire -- recommend the 5 state council issue an order that the appeal be 6 dismissed and a certificate of need be issued. 7 That's in the -- the final 8 resubmitted. 9 MR. FAETH: Okay. And I -- just 10 as a point of information, the REMSCO vote was 11 sixteen in favor to -- 12 MR. LAMARCA: One abstention. 13 MR. FAETH: -- one abstention. 14 MR. LAMARCA: Correct. 15 MR. FAETH: And the A.L.J. is 16 basically stating that he found that process was 17 done lawfully and that they followed procedure, 18 correct? 19 MR. LAMARCA: Yes, basically --. 20 MR. FAETH: And he upheld the 21 REMSCO decision. 22 MR. LAMARCA: He wound with the 23 resubmitted material finding that everything he 24 wanted procedurally was there and that it was

Page 90 1 SEMSCOs - 9-2-2009 2 case shows that there were questions raised about 3 the financial ability of the applicant to render 4 requested service. 5 On a review of the entire record 6 it appears that the hospital would save money by 7 returning its own service. It is noted that there is 8 very limited application and that -- that this is a 9 very limited application, excuse me for the 10 correction, and that the hospital wants only to 11 transport its already admitted patients from their 12 main hospital to the Summit Health Quest for 13 M.R.I.'s. 14 The only opposition in this case 15 is coming from an ambulance service, Rural Metro, 16 that's presently charging Niagara Falls Medical 17 Center Hospital five hundred dollars for each of 18 these trips. 19 The Niagara Falls Medical Center 20 Hospital has argued that they can provide the 21 service themselves and save some hundred thousand 22 dollars per year, money that they say will better 23 spent on needed medical equipment for the direct 24 patient care and not wasted on inflated

Page 91 1 SEMSCOs - 9-2-2009 2 transportation costs. 3 The record shows that Niagara 4 Falls Memorial Medical Center Hospital has a 5 history of serving the poor and elderly in the 6 heart of the city in which the poor and elderly 7 comprise more than half of the population. 8 According to the unrefuted 9 documentation on the record, Niagara Falls Medical 10 Center Hospital has provided some six million 11 dollars in uncompensated care to the poor in 2007. 12 It also appears that because of 13 these dire financial challenges, Niagara Falls 14 Medical Center Hospital has, at times, been less 15 than prompt in the payment of its bills. A 16 hospital, which is serving the poor and 17 disadvantaged in the inner city, and which has 18 provided some six million dollars in uncompensated 19 care to the poor will, of course, have from time to 20 time difficulty in paying its bills and promptly 21 as -- as promptly as a profit-making suburban 22 entity. The hearing officer found I concur that 23 the above Rural Metro needed ambulance service 24 shows that there's a need for Niagara Falls Medical

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2 FROM THE FLOOR: Point of
3 information?
4 MR. FAETH: Sure. Mr. Murphy?
5 MR. MURPHY: Just for a point of
6 information, this application is for a -- was
7 originally presented for a restricted certificate.
8 It's my understanding from
9 discussions yesterday at systems that the bureau
10 cannot offer a restricted certificate and can only
11 issue a certificate based on geographical
12 locations. So, that's just a point of information
13 that I would request clarification for. So, this
14 application is not for a -- although cited as a
15 application for B.L.S. service from ten to two,
16 Monday to Friday, it would be issued as a full
17 ambulance service certificate based on geography,
18 if I'm correct.
19 MS. BURNS: You're correct.
20 MR. FAETH: Thank you, Mr.
21 Murphy.
22 MR. MURPHY: Yes.
23 MR. DELAGI: Further
24 clarification on that point, if you would Lee,

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2 the -- the policy statement 0606 makes reference to
3 a regional council's ability to place binding
4 contingencies on an approval.
5 And the administrative law judge
6 cites in his document that a regional council may
7 place binding contingencies on an approval of an
8 ambulance certificate. So, how does that, if it
9 influences at all, the decision with regard to the
10 ultimate certificate that's issued?
11 MS. BURNS: Article 30 gives the
12 statutory authority of the REMSCO to make that
13 determination and put contingencies on the
14 certificate. However, since enacting Article 30,
15 there have been a series of questions about that.
16 For example, in -- in what is now
17 the mid-state region, but it predates that --
18 commercial ambulance service had operating
19 authority in one county and then in the second
20 county on their certificate it said for
21 inter-facility transports only.
22 After a series of -- of
23 discussions and -- and Article 78, it was
24 determined that the definition of an ambulance is

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2 well mean that.
3 For our purposes, at the state
4 level, we issue an ambulance service certificate
5 period.
6 MR. FAETH: Thank you, Ed.
7 Actually, I have one comment.
8 I'm a little concerned about the verbiage of -- of
9 the motion before us, only because saying that due
10 to the absence of proof of determination of public
11 need.
12 My understanding of this whole
13 process is look approximately fifteen, sixteen
14 months and the A.L.J., who I would consider to be
15 the competent legal authority on these issues,
16 confirmed that the -- the process was followed and
17 that public need was proven.
18 Mr. Lewis, I think you had -- you
19 had written this motion?
20 MR. LEWIS: I had written this
21 motion, yes.
22 MR. FAETH: Can you give me a
23 better understanding of where you're coming from on
24 that?

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2 MR. LEWIS: Sure. I appreciate
3 your asking the question. Let me -- let me preface
4 a my comments by clearing the record as to who I
5 represent here. There seem to be some question
6 about that.
7 And as you know, I own my own
8 ambulance service, or may have known, own ambulance
9 service in Coming and work there for thirty-four
10 years. After that I sold my company to Rural Metro
11 and worked for them for fifteen more years. I now
12 am retired. I do some part-time work for Rural
13 Metro. I am not conflicted. I have no pecuniary
14 interest in -- in this application.
15 I will say that I represent --
16 sitting here today and have for years, the United
17 New York Ambulance Network. We have serious
18 concerns about this application being approved by
19 this body going forward. There is no doubt that it
20 sets a precedent that's never ever been set here,
21 never.
22 Public need has never been
23 demonstrated and proven by cost. It's always been
24 by the need of the general public for ambulance

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2 to approve the appropriate number of C.O.N.s for a
3 community to have adequate numbers of ambulances
4 available twenty-four/seven, three sixty-five.
5 That's our responsibility and you know there --
6 there's talk yesterday about overturning a decision
7 of a sixteen zero of a council. I believe this
8 council has erred in their decision. I really
9 believe in -- in going forward in a global sense
10 that we now will look at applications for C.O.N.s
11 totally different, if we approve this one based on
12 economics only, no public need, economics only.
13 MR. FAETH: Thank you, Mr. Lewis.
14 Just one comment on that, on the flip side of that
15 argument, you -- you would have to agree that --
16 that the reason why this was appealed was based on
17 an economic situation. It's not an accounts
18 payable it's an accounts receivable for Rural
19 Metro.
20 And -- and we also -- you have to
21 take that into consideration in all fairness with
22 regards to the hospital's side. And, yes, I did
23 make the comment yesterday about more ambulances
24 being a good thing, and -- and I do -- I do

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2 appreciate and understand your argument with
3 regards to over saturation of a market, you know,
4 but at the end of the day in the core of what we
5 do, ultimately patient care is supposed to be the
6 primary objective and a timely response by -- by
7 our resources is -- is what will make the
8 difference in -- in survivability of our patients.
9 And that -- that's really the core of my argument.
10 There is a point of -- of over
11 saturation and -- and my definition and some people
12 might disagree with me, is once we've achieved a
13 five-minute response time to -- to priority calls,
14 like a cardiac arrest or choke, where --
15 MR. LEWIS: Uh-huh.
16 MR. FAETH: -- where every minute
17 counts or that tight asthmatic. So, that's --
18 that's where I'm coming from on this and I do
19 appreciate your argument from the business model
20 side, but that's where I stand on that.
21 MR. LEWIS: Can I respond to that
22 quickly.
23 MR. FAETH: Sure.
24 MR. LEWIS: I know Mr. LaMarca

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2 comment, but sitting on a regional council for
3 twenty-some-odd years, you know, it doesn't bode
4 well in my mind either having to go against the
5 wishes of a regional council. And sixteen to zero
6 vote doesn't sound like there was very much, you
7 know, opposition.
8 But when I look back and re-read
9 this in -- preparation for our conference call and
10 this hearing, it comes back to a basic point. And
11 that was in the actual words of the applicant they
12 stated that there was only one provider and that
13 provider is holding them hostage and that was in
14 error. There was more than one provider.
15 The regional council failed to
16 recognize that as well and make that correction.
17 So, when the letters went out for support and need,
18 it went out with the wrong instructions. It went
19 out thinking that Rural Metro was the only game in
20 town and that was in error. So, how could sixteen
21 good-natured people, working diligently, find that
22 there was a need, perhaps found a need, because
23 they gave the wrong instructions. And in doing so
24 they made a conscious decision, they felt that they

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2 were right, as did an A.L.J.
3 But if they were not told that
4 there was more than one provider, and they're
5 granted a permit, you know, as far as need goes,
6 you now have harmed potentially two other services,
7 both Rural Metro and you have harmed Twin City
8 Ambulance, which is permit holder for there and
9 from what we understand, may have been in
10 discussions with that hospital. So, how can a
11 council be wrong? It has to be wrong if they were
12 given the wrong information initially and all of
13 them acted in good faith.
14 MR. FAETH: I'm not -- I'm not
15 familiar with the region, but this Twin City holds
16 a C.O.N.?
17 MR. LAMARCA: Yes.
18 MR. FAETH: But do they actually
19 currently operate that?
20 MR. LAMARCA: It is a contractual
21 arrangement that you're talking about. So, they
22 don't have to physically be present.
23 MR. FAETH: So, they don't
24 actively have ambulances running in that area?

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2 decision for what's best in their region. I don't
3 think anybody can really think that the members of
4 that REMSCO didn't know of the existence of Twin
5 City.
6 I mean our REMSCO members know
7 every ambulance in our region and we would expect
8 them to. So, I find it odd that -- that Twin City
9 didn't send a letter in opposition. They got
10 twenty-six letters of support and only one letter
11 of opposition.
12 The local people know best what's
13 best for their region and I think it would be wrong
14 for us to overturn a local decision and the law is
15 set up, Article 30 is set up for them to make that
16 decision for a reason because they are intimate
17 with their region.
18 MR. FAETH: Thank you, Mr.
19 Faraone. Yes, Mr. Wedge.
20 MR. WEDGE: I too have a problem
21 using finance as the determination. But, I also
22 reading in the literature that was sent to us, I
23 believe they were looking at a limited time frame
24 of operation. Was it not from ten o'clock in the

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2 morning until two o'clock in the afternoon, which
3 means that there is twenty hours that somebody else
4 is going to have to take over this.
5 MR. FAETH: I -- I believe this
6 is just basically for inter-facility transport to
7 the M.R.I. It's not -- it's limited.
8 MR. WEDGE: That's what I
9 understand.
10 MR. FAETH: Yes.
11 MR. WEDGE: But there may be
12 others that are popping up after that two o'clock
13 time frame and who's going to be handling those?
14 MR. FAETH: I wish the hospital
15 was here to speak to the hours of operation, but
16 it -- it probably falls within those -- those
17 hours.
18 MR. LAMARCA: In -- in the
19 record, they did indicate Rural Metro or they would
20 use another service to handle anything, advanced
21 life support, anything other than that they couldn't
22 handle. So, that's their own admission.
23 MR. FAETH: Okay. Mr.
24 Czapranski.

29 (Pages 110 to 113)

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2 come to this body or that they should --
3 MS. BURNS: Yes.
4 MS. ELLIS: -- present, have
5 someone present?
6 MS. BURNS: We don't go that far
7 actually.
8 MS. ELLIS: Thank you.
9 MR. FAETH: Mr. Lewis.
10 MR. LEWIS: I -- I see these
11 patients that they're talking about and this C.O.N.
12 as if we support this motion, they simply need to
13 purchase a invalid coach with a stretcher to manage
14 their patients and not put us in a position where
15 we're setting a precedent that's going to have a
16 negative impact on C.O.N. applications going
17 forward.
18 I -- I'm -- it's unclear to me
19 why they decided to make a C.O.N. application
20 versus simply buy a van and put a stretcher in
21 it. They have the right to do that. They would --
22 it would be less expensive. They -- they talk
23 about cost and savings. They would pay less than
24 half for an invalid coach to pay for an ambulance.

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2 And their staffing would be different. If they
3 need B.L.S. or A.L.S. intervention they would call
4 the existing providers in the community. So, I --
5 I -- I share with you, I believe they're making
6 application for an ambulance, when they don't
7 really need to.
8 And, they would be obligated to
9 have all the equipment in the ambulance. That if
10 they had an invalid coach they would simply not
11 have to have, not have to go to that expense.
12 So, I think they were misguided
13 in this application. At the very least I think we
14 should remand it back because there's a lot of
15 unanswered questions here to simply deny this and
16 approve it is an injustice to our responsibility,
17 because when we issue a C.O.N. we need to be very
18 clear it's for the appropriate reasons and just for
19 cost is not an appropriate reason.
20 MR. FAETH: Okay. Mr. Brandt and
21 then Ms. Ellis.
22 MR. BRANDT: May I respectfully
23 request of the chair that before the roll call vote
24 is called that someone read into the record the

30 (Pages 114 to 117)

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2 are the only ones that would be transported. All
3 A.L.S. patients and unit patients would be
4 transported by Rural Metro.
5 So, this is our only, as I
6 understand it, low acuity patients would be
7 transported in this vehicle.
8 Further, you know, while I have
9 the floor Mr. Chairman.
10 MR. FAETH: Yes.
11 MR. LEWIS: I'd really like to
12 have in the record a comment from Ms. Burns as to
13 whether a C.O.N. application has ever been approved
14 in this state for simply cost need.
15 MS. BURNS: Not that I'm aware
16 of.
17 MR. LEWIS: Make a statement
18 there -- care to make a statement.
19 MR. FAETH: Do you have the
20 definition.
21 MS. BURNS: Yes. The original --
22 the genesis of this definition, just as a reminder
23 to you, comes from -- 1993, 9310's policy
24 statement, and it -- we did not change it in '06 --

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2 '06. It is as follows, "a demonstrated absence,
3 reduced availability or an inadequate level of care
4 in ambulance or emergency medical service available
5 to a geographic area, which is not readily
6 correctable through the reallocation or improvement
7 of existing resources".
8 MR. FAETH: It's not there.
9 MS. BURNS: There are --
10 variables in considering public need. This is part
11 of the policy statement: Geography, population,
12 size density, and projections, levels of care,
13 existing and available, quality, reliability and
14 response patterns of existing services, type of
15 service, emergency, non-emergency, special need.
16 As an example, air medical
17 services, industrial or a facility, service
18 effectiveness, cost and operation, and other local
19 factors.
20 MR. FAETH: Okay. Thank you Lee.
21 Vinny.
22 MR. FARAONE: A moment ago Mr.
23 Lewis, you said that you'd like to at least see it
24 remanded back.

31 (Pages 118 to 121)

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2 to the absence of proof of the determination of
3 public need and that the applicant states in their
4 narrative the purpose of the application is
5 strictly cost saving. I would like to bring forth
6 this motion to deny the C.O.N. application as no
7 public need was established.
8 Motion brought forward by Mr. Al
9 Lewis.
10 MR. LAMARCA: So, a yes vote is a
11 motion to deny, right?
12 MR. FAETH: A yes vote is a
13 motion to deny and --
14 MR. LAMARCA: A no vote is --
15 MR. FAETH: -- basically opposed
16 the A.L.J.'s and the REMSCO's decision. Yes.
17 MR. LEWIS: Say it again. A yes
18 vote --
19 MR. FAETH: If this motion fails,
20 a new vote will -- will enter the floor and it
21 should be to support.
22 MR. LEWIS: Or -- or remand.
23 MR. FAETH: Or remand.
24 MR. LEWIS: Correct.

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2 MR. FAETH: Correct.
3 MS. JOHNSON: Can you please
4 repeat what a yes vote is?
5 MR. FAETH: A yes vote, on this
6 motion, is to oppose the A.L.J. and the REMSCO's
7 decision to uphold the C.O.N. for Niagara Falls
8 Hospital -- Memorial Hospital.
9 MS. JOHNSON: So, are you ready?
10 MR. LEWIS: So, if you vote yes,
11 you're in favor of the motion?
12 MR. FAETH: Correct.
13 MR. LEWIS: This is what the
14 council can do, correct. Is that -- let's be
15 clear. I'm --
16 MR. FAETH: Just for a point of
17 information. "Upon appeal from the appropriate
18 regional council, the state council shall have the
19 power by an affirmative vote of a majority of those
20 present to amend, modify and reverse determinations
21 of the regional councils made pursuant to
22 Subdivision Five of Section 3003 and Section 3008
23 of this article.
24 All determinations of the state

32 (Pages 122 to 125)

Page 126 SEMSCOs - 9-2-2009 1 SEMSCOs - 9-2-2009 2 MR. JOHNSON: Donald Faeth? 3 MR. FAETH: No. 4 MS. JOHNSON: Vincent Faraone? 5 MR. FARAONE: No. 6 MS. JOHNSON: Dr. Funk? 7 DR. FUNK: No. 8 MS. JOHNSON: John Hassett? 9 MR. HASSETT: Yes. 10 MS. JOHNSON: Dr. Kaufman? 11 DR. KAUFMAN: No. 12 MS. JOHNSON: Andrew LaMarca? 13 MR. LAMARCA: Yes. 14 MS. JOHNSON: Alan Lewis? 15 MR. LEWIS: Yes. 16 MS. JOHNSON: John Malinchock? 17 MR. MALINCHOCK: No. 18 MS. JOHNSON: Cheryl Mayer? 19 MS. MAYER: Yes. 20 MS. JOHNSON: Michael Murphy? 21 MR. MURPHY: Yes. 22 MS. JOHNSON: Michael Reid? 23 MR. REID: Yes. 24 MS. JOHNSON: Raymond Serowik? 25

Page 127 SEMSCOs - 9-2-2009 1 MR. SEROWIK: No. 2 MS. JOHNSON: Storm Treanor? 3 MS. TREANOR: No. 4 MS. JOHNSON: Edgar Wedge? 5 MR. WEDGE: Yes. 6 MS. JOHNSON: Roll call complete. 7 FROM THE FLOOR: Twelve to 8 eleven. 9 MR. FAETH: Thank you. Drum 10 roll, please. 11 FROM THE FLOOR: Twelve, eleven. 12 MS. JOHNSON: I have twelve yes, 13 eleven no. 14 MR. FAETH: Okay. Motion passes. 15 The -- overturning the A.L.J.'s decision and -- 16 FROM THE FLOOR: To be continued? 17 MR. FAETH: What's that? 18 FROM THE FLOOR: To be continued. 19 MR. FAETH: To be continued. 20 Yes. 21 MR. LAMARCA: That concludes my 22 systems report, my last systems report. Vinny, 23 take it away. 24

Page 130 SEMSCOs - 9-2-2009 1 SEMSCOs - 9-2-2009 2 and may actually be the catalyst for Lee's C.O.N. 3 101, I'm not really sure. I can just tell you that 4 we come through some very difficult times and 5 certain processes and we've learned from them. But 6 really the program that Lee put together and if any 7 region hasn't availed themselves of it, really has 8 helped us, particularly since we change delegates 9 so often and certain regional councils and they 10 don't have this level of experience in dealing with 11 this, that it probably is -- is a great thing to 12 consider to redo. Particularly knowing you might 13 have something coming up with any sort of C.O.N., 14 not just appeal, but even just initial 15 applications. So, I'm not obligating Lee to go out 16 and travel all over, but it was a very worthwhile 17 program to learn. 18 MR. FAETH: Thank you. Now Mr. 19 Lewis. 20 MR. LEWIS: Another story. 21 I'd like to thank Mr. Wronski for 22 his leadership. It's been a great seventeen years, 23 Ed. We wish you all the best in your retirement. 24 It's -- it's -- it's time for you to have some

Page 131 SEMSCOs - 9-2-2009 1 enjoyment in life. It's -- and I'm sure that you 2 will. Thank you, so much. 3 MR. WRONSKI: Thank you. 4 MR. FAETH: Mr. Faraone? 5 MR. FARAONE: Just getting back 6 to the record. I know that we can't change it 7 here, but I just would like the record to reflect 8 that we -- the unintended consequence of this 9 webcasting has created this problem. Our region 10 used a court stenographer. We had meticulous 11 records for many years and because of cost we 12 couldn't do both. So, now we're also stuck with 13 kind of sketchy records. We do the best we can, 14 but it -- it's just -- it's unintended consequence 15 and I just would like the record to know that this 16 webcasting is not the right way to go. 17 MR. FAETH: Thank you, Mr. 18 Faraone. Mr. Darby? 19 MR. DELAGI: I would just like to 20 echo things that we've heard before. This was a 21 particularly difficult decision to come to based on 22 the deliberations yesterday and the deliberations 23 today. 24

Page 134 SEMSCOs - 9-2-2009 1 DR. KAUFMAN: And the 2 vaccination, as well. These are -- these are 3 medication and treatments that I think our 4 providers are going to become more and more exposed 5 to, not only because they may need to receive the 6 vaccination, or prophylactic or treatment 7 medication. But certainly the patients they take 8 care of will have received the vaccination or be 9 receiving these medications. 10 And, again, in the future it's 11 possible that the E.M.S. providers may be 12 participating in the administration of these 13 medications, as well. So, I think it's beneficial 14 if we were to develop some -- some information and 15 guidance that can go out, so that they'll be this 16 preparedness for whatever comes in the future. 17 MR. WRONSKI: I will reach out 18 to -- there's an education committee and I -- 19 actually and a clinical committee and I believe 20 they actually have that material aimed at a 21 different provider group, but which we can pick up 22 and utilize. 23 So, let me talk to them and we'll 24

Page 135 SEMSCOs - 9-2-2009 1 see what they have already and take a look at how 2 we would do that and provide it. 3 MR. FAETH: I -- I do have to 4 apologize again. I did forget E.M.S.C., if you can 5 give a quick report, I would appreciate it. 6 Where'd she go? Oh, there she 7 is. 8 MS. CHWIMENTO: Our meeting 9 actually doesn't occur until after this meeting. 10 However, there was no report at the last meeting. 11 So, I just want to bring you up-to-date on a couple 12 of things. E.M.S.C. has endorsed the national 13 ambulance equipment list, so therefore the bureau 14 of the E.M.S. will be looking at -- at the list and 15 its endorsement and whether -- trying to make 16 decisions whether there should be some regulatory 17 language put into Part 800 or whether this should 18 be some policy related to addition of the 19 equipment. 20 So, that's -- the list can be 21 found on the Bureau of E.M.S. website, under E.M.S. 22 for children if -- if you're interested as to what 23 that includes. 24

Page 136 SEMSCOs - 9-2-2009 1 Yes, Mike. 2 MR. MURPHY: Point of order? 3 MR. FAETH: There is a motion on 4 the floor, I know. 5 MR. MURPHY: Yes, there is a 6 motion on the floor, which I'd like to second. 7 MR. FAETH: Thank you, Mike. Any 8 discussion on the motion on the floor? 9 Dr. Kaufman, could you just read 10 that again for the record. 11 DR. KAUFMAN: Okay. Sure. Sir, 12 I'm not sure if the motion continues. It seems 13 like Mr. Wronski had already addressed the -- that 14 this -- this is in process. Is that correct with 15 the education committee or something the education 16 committee is looking at? 17 MR. WRONSKI: The -- I believe 18 they have developed them, but I will reach out to 19 them to determine -- not our education committee, 20 this is the -- the department's. 21 DR. KAUFMAN: Oh, I see. 22 MR. WRONSKI: The Department of 23 Health has -- Bob talked about a number of 24

Page 137 SEMSCOs - 9-2-2009 1 on, a white paper related to the regionalization of 2 pediatric critical care, and then also looking at 3 the needs of -- of the system related to pediatric 4 patients in the cases of surge capacity. In the 5 situations of multiple trauma or in disaster 6 management. So, what -- how -- how do we deal with 7 pediatric patients in those particular situations? 8 And we're assessing the needs of 9 not only pre-hospital, but also hospital, doctors' 10 offices, urgent care centers, in making decisions 11 about when to transport patients and what 12 facilities they should be transported to, how they 13 should be transported by E.M.S., what additional 14 needs there might be in E.M.S. training for 15 inter-facility transport in particular. 16 So, there's a lot of things that 17 we're looking at for the future. So, if any of you 18 have any interest in any of those topics, if you 19 want to talk with Martha or myself, we would 20 certainly be glad to listen to your ideas. 21 Thank you. 22 MR. FAETH: Thank you very much, 23 Sharon. Any questions for Ms. Chwimento? 24

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 2 accepted. He's been there ever since and one of 2
 3 the little thing that comes out, during the time 3
 4 that he was speaking a couple of years ago, one of 4
 5 the vendors who was involved in E.M.S. in another 5
 6 state said, "Who's that talking" and I said "that's 6
 7 our State director of E.M.S." and she said, "gee in 7
 8 our state we don't even know what the director 8
 9 looks like", okay. 9
 10 So, Ed thanks a lot. 10
 11 MR. WRONSKI: Just one -- just 11
 12 one last comment. I thank Mr. Quinn. I must admit 12
 13 that when he came to the microphone I had a shiver. 13
 14 One never knows what Mike's going to say, but it's 14
 15 always important in my view and thank you very much 15
 16 Mike. And thank you again for the pleasure of 16
 17 working with all of you and good luck in the future 17
 18 years. 18
 19 MR. FAETH: Thank you, Ed. Do 19
 20 I --, 20
 21 MR. DARBY: Mr. Chair, I'd like 21
 22 to make a motion to adjourn. 22
 23 MR. FAETH: There we go. Mr. 23
 24 Darby, motion to adjourn. 24

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STATE OF NEW YORK

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 2 MR. FARAONE: Second. 2
 3 MR. FAETH: Seconded by Mr. 3
 4 Faraone. All in favor? 4
 5 FROM THE FLOOR: Aye. 5
 6 MR. FAETH: Any opposed. Any 6
 7 abstentions? Everybody get home safe please. 7
 8 Thank you for coming. 8
 9 (Off the record) 9
 10 (The proceeding concluded) 10
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1 SEMSCOs - 9-2-2009 1
 2 I, Howard Hubbard, do hereby certify that the 2
 3 foregoing was reported by me, in the cause, at 3
 4 the time and place, as stated in the caption 4
 5 hereto, at Page 1 hereof; that the foregoing 5
 6 typewritten transcription, consisting of pages 6
 7 number 1 through 143, inclusive, is a true 7
 8 record of all proceedings had at the hearing. 8
 9 IN WITNESS WHEREOF, I have 9
 10 hereunto subscribed my name, this the 16th day 10
 11 of September, 2009. 11
 12 12
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