August 4, 2011 - Albany, NY - Public Health

MS. LIPSON: Dr. Streck?

DR. STRECK: I'm sorry.

MS. LIPSON: There's one more piece of this.

DR. STRECK: Yes, Ms. Lipson?

MS. LIPSON: The anti-trust piece. And I realize we're running behind schedule. Should I just --?

DR. STRECK: I think we could probably defer the anti-trust piece if -- if acceptable to you. I mean, but I'll yield to you. Is this a -- is this a substantive issue that should be brought? Go ahead.

MS. LIPSON: It is --

DR. STRECK: Okay.

MS. LIPSON: -- substantive, but it probably would trigger a lot of discussion, so I understand if you want to put it off to another meeting.

DR. STRECK: I think we might best do that.

MS. LIPSON: Okay.

DR. STRECK: And that will also guarantee that this topic resurrects itself.
August 4, 2011 - Albany, NY - Public Health

welcomed by
some members of the council.

MS. LIPSON: Okay.

DR. STRECK: Thank you.

And I apologize for being unaware of that addition.

Dr. Rugge?

DR. RUGGE: As its first project, the Health Planning Committee is looking to take on C.O.N. review and reform. With the state having already addressed the mechanics of the -- of the process of application, we're now looking to tackle this more. We hope to avoid President Obama's metaphor, that being "a shellacking."

It only took about five minutes of the committee's discussion to become rather feisty about what it -- what it is that drives improvement and that creates energy in the healthcare system. Is this really coming from the providers, and the C.O.N. process can only dampen that? I would observe that -- that what providers, what drives change, is
August 4, 2011 - Albany, NY - Public Health

opportunity is driven by the combination of need clear understanding of what -- of what need is.
I think that the materials we've had and the discussion we just had raised two very interesting aspects to the discussion that I think the committee will be undertaking. For one is kind of -- of revision of the C.O.N. is with regard to establishment of new kinds of organizations, new kinds of financing The other paper that we've all received was proposal to establish a possible certificate public advantage, a very interesting twist understanding how to certify or recognize of -- of organizations and whether a public -- of public advantage might fold C.O.N. where there might be a parallel whether, perhaps, the -- the certificate of advantage could replace the C.O.N., I think, the kind of open questions that we as a council and was to circulate a broad overview of the
August 4, 2011 - Albany, NY - Public Health

process by staff. Thank you very much. And will be more information coming forward the profile of the activities we've been undertaking over -- over the last number of to have a better handle on how we may shape future.

In addition, we've come to understand that -- that all of our meetings subject to the open meetings law. Council working very hard to find a way to have a bulletproof secure mechanism for us to do meetings. And I suspect we will have such a meeting prior to the next meeting of the and the council face to face.

I should also say that a has been drafted to a long list of the healthcare system asking for their and their recommendations regarding C.O.N. letter is now being reviewed by the clearance process -- the process, I always existed, but had never exactly heard of As we do this look at C.O.N., the committee expecting to have a concurrent review of activities going on at the regional level by
August 4, 2011 - Albany, NY - Public Health

health planning. Clearly, any work that we
do here
as the PHHPC needs to dovetail with work
done at a
more local level and at the regional level.
In
addition, I would see this as preparatory
for the
council and the committee itself to take a
look at
what kind of structure of healthcare
planning
statewide should there be in the future. So
I
really see this as preparatory to another
agenda
item which will come forward later in our --
in our
work.

Today, then, we had two

strong
presentations at our committee meeting, one
by Jeff
Kraut (phonetic spelling) describing that
new --
new forms of collaboration among community
leaders
and providers on Long Island, America's
oldest
disparities
suburb, with a particular attention to
island
healthcare and health services within the
services to
and how to match new delivery spots and
those populations.

Also, Fran Weisberg
described her
efforts at hosting a community table, at
bringing
providers together, and really determining
the
nature of expansion plans institution by
institution within Rochester while also
August 4, 2011 – Albany, NY – Public Health

more broadly at the region in terms of more
outlying areas and what kind of health
necessary and appropriate given the
resources available in Monroe County.
interesting activities, which I think
kind of considerations that we will be --
taking at -- at that -- at that other level.

In addition, I think all
kind of work presages yet another topic
come our way, and that is how to address
the regulatory process these new kinds of
institutions, be they medical homes, health
or accountable care organizations. To that
collaboration with D.O.H. and at the behest
Commissioner, the United Hospital Fund and
primary care development corporation are
a statewide conference on medical homes in
A conference which I expect will tee up the
of issues that we will then be taking on as
committee during 2012. So multi-levered
that we -- we expect will carry us through
conversations and hopefully through some
good products.

As a -- and one additional
August 4, 2011 - Albany, NY - Public Health

The committee did review a proposal by Auburn Hospital to establish a designated strokes center. And I would like to move approval application by the council.

FROM THE FLOOR: Second.

DR. STRECK: It's been moved and seconded to approve the application for as a stroke center. Is there further hearing none, those in aye.

FROM THE FLOOR: Aye.

DR. STRECK: Thank you.

Are there other questions or comments for Dr. Rugge? I would only add that one great hurdle will be replace C.O.N. with COPA (phonetic spelling) be a difficult transition.

We'll move to the report on public health services. Dr. Boufford?

DR. BOUFFORD: Yes, we're committee -- we had had a whitepaper also for conversation, which was the basis of our meeting discussion. That was revised meeting and this meeting as a result of the comments. And we did conduct a little poll
August 4, 2011 - Albany, NY - Public Health

members to prioritize the areas that they
work in. I assume that all of that can be
whatever public record it needs to be put in
with the results. But I think it's fair to
group is very concerned -- wants to concern
really, with, A, the organizational capacity
health department and all of the areas that
touched on in terms of accreditation. But
especially, looking at ways in which the
dramatic changes in the healthcare delivery
in the New York State and also New York
application of accountable care organization
activities can be used a vehicle for
population health results. And really,
where the funding is (phonetic spelling),
where the -- a lot of the policy energy is,
we're -- we're very keen to try to align the
incentives so that providers can be even
force for population health in their
In the re-edit, we came up with a set of
givens, expected activities, that we -- that
relate to the accreditation process and the
strategic planning for the Department of
And we would hope to be very -- and plan to
involved in those. And similarly, if the
transformation grant comes through, to be
active as part of the prevention agenda
group in overseeing that. And I think
commitment to that group. And perhaps
its membership to include multiple
regardless of whether the community
grant comes through because there's a big
that.

We then had three other
activities. One is that we wanted to stay
with the context in which New York State
making its changes, meaning things like the
national prevention strategy, the national
improvement strategy, and the -- the H.H.S.
disparities plans, the national disparities
So those are things that we will -- I'll get
if I'm not able to pass an exam, but we want
those as contacts for the work.

A number of oversight and
advisory activities, some of which we hope
link very closely to what Dr. Rugge has just
about. We would like very much to link the
with the health planning committee to the
review or reinvention process to really look
potential for a greater impact on population
in that effort and then also link it to the
health department planning activities, which
linked a couple of years ago when they were
the -- the phasing of the hospital community
and the local health department plans was in
And we thought that was a good idea. I
that's expired, but this idea of trying to
those relationships that were developed
process and see how the -- the C.O.N.
also motivate local planning and local
engagement.

There were a couple of --
other -- we want to follow the redesign
national health reform impact on your state.
I.T., I think our committee, I -- just
at -- we did our voting and look -- we're a
technophobic. I can see that that was
lower, but I think it's in good hands with
with the Commissioner and with Rachel, but
have some comments on that.

And then on the leadership
activities, which is the third category,
August 4, 2011 - Albany, NY - Public Health

again, reactivating the prevention under a
new leadership group, especially trying to
involve the business community in those conversations.
We've had pretty good statewide representation of
other sectors. And identifying a couple of
priority areas on the prevention agenda that are

particularly linked to the most dramatic
health disparities in the state and trying to see,
I think, as one of our members said, how we
could move the needle on one or two of those
course of the next year or so.

And then we're very
promoting health in all policy approach in
New York, that -- that the decisions of multiple
sectors like transportation, agriculture,
development all have health implications,
don't want to medicalize them, but we want
really begin thinking about how those health
impacts could be avoided as decisions are
made on -- on the development of plans in those
sectors. So our -- our voting came out that the sort
I'd say five, and I think we realized from
that we do need to maybe drill down a little
more and -- and I think hopefully use some
August 4, 2011 - Albany, NY - Public Health

techniques that John mentioned to get a
more meat on those bones before we
on which priorities we'll take on. But I
partnering on the health planning effort was
everyone's first priority, John. So I hope
can -- and we can really do that. Tracking
Medicaid redesign process and the New York
application of the healthcare reform, and
identification of one or two priorities for
moving the needle. And finally, the health
approach. I think those were the big five
and some of the others that are on the
anyway. So we're excited and I think off
running.

And I -- I just want to
voice to, I think, a concern that was
the last meeting that we -- we really need
create some structure that allows for public
to the meetings, but also allows the group
the groups -- the committees to identify a
more closely with one another as they do
work, and also have some time that -- where
in a smaller space or more directly related
other, but still giving appropriate access.
August 4, 2011 - Albany, NY - Public Health

think we -- we know we have -- there are
be challenges in doing that, but we'd like
move in that direction to the degree we can.
appreciate anyone's support for that. Thank

DR. STRECK: So what --
products do you anticipate bringing to this
I mean, a whitepaper, reports, joint reports?
Just --?

DR. BOUFFORD: I think
would certainly think on the C.O.N. piece,
would -- we would need to figure out a
where we might be able to look at what
doing. For example, you mentioned a
been created by staff, and we could -- we
share, you now, what we've done, which is
just priority setting documents at this
it would be great if our group could take a
that, and then we could figure out, you know,
to link those up.

I think on the -- part of
that's a good question. I mean, part of the
those that are going on anyway may be to pick out
dimensions of the Medicaid redesign such as
package and prevention are some of the areas
fit. And we would, you know, talk about feed that information into the appropriate level. I think the health in all approach lend itself to some kind of a whitepaper, a piece. And we can get started on that. be a product. And then, obviously, if we priority area to move the needle, we'll have come up with some objectives and metrics in want to do that. So that's probably the could do at this point.

DR. STREECK: Other comments for --

DR. RUGGE: Just -- just a second. I think --.

DR. STREECK: -- Dr.

DR. RUGGE: Yes. As our committee meeting, the next committee likely to still be a scoping exercise. If able to join us, that could be very helpful.

DR. BOUFFORD: Okay.

DR. RUGGE: -- to be sure we're linking agendas.

DR. STREECK: Thank you.

For our guests who are expecting the establishment
August 4, 2011 - Albany, NY - Public Health

project review to begin at twelve thirty, we
try to set up an agenda so that people would
have to travel early and wait long before
found their topics. We are running behind
half an hour, so that we're going to move as
council into our final section of regulation.
are then going to break for lunch. And I am
hopeful that by one o'clock, we can resume
be about thirty minutes behind in terms of
establishment and project review. So for
need an extra thirty minutes, I wanted to
you're aware of it. In the meantime, we
to regulation and the report of the
codes, regulation, and legislation. And I
Dr. Gutierrez, that will be your report.
you.

DR. GUTIERREZ: Thank you
much. Dr. Streck, I have to apologize. I
here on the last meeting, and the person
supposed to be presiding that meeting, and
the meeting, is not here today. So I have
staff for preparing something that will, I
sound cohesive.

Because our regulation
August 4, 2011 - Albany, NY - Public Health

met on July the 21st and reviewed one
discussion concerning adverse event
before reviewing those deliberations, we
to vote on a regulation that was presented
first codes committee held on June the 10th.
proposal, on for adoption, concerned public
systems and changes regarding ground water
It revised various sections of Subpart 5-1
10 N.Y.C.R.R. to implement a federal ground
rule. That rule was promulgated with the
reduce exposure to fecal contamination that
present in drinking water from ground water
on public water systems. These changes will
enhance requirements for sanitary surveys of
water supplies, require monitoring of source
for e. coli when triggered by detection of
bacteria during routine distribution system
monitoring, schedule and require actions to
significant deficiencies, have additional
requirements for measurements and record
ensure safe drinking water quality and
procedures for notifying the public in the
that water may not be safe to drink.

After a motion and a
codes committee unanimously voted to
adoption to the food council. This
not taken on the June 16th food council
however, but it is now before us today, and
move it.

DR. STRECK: So it has
moved, and I'm looking for a second. Dr.
seconded the motion. Is there further
on the recommendation from the codes and
regulations committee? Hearing none, I
for those in favor of the motion as
say aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed? The
resolution passes. Thank you.

DR. GUTIERREZ: At the
committee meeting on July the 21st, the
adverse event reporting regulation was
This measure conforms to a recent change in
that would allow the Department the ability
conform to the national quality forum
definitions and share New York patient
system, NYPORTS, the identified data and
The regulation amends both general hospital
August 4, 2011 - Albany, NY - Public Health

diagnostic and treatment center provisions. Incident reporting will now be referred to "adverse event reporting." The Department allowed to add, modify, or eliminate requirements after consultation with experts interest of patient safety and consistent N.Q.F. standards. It directs the Department analyze event reports, root cause analysis, corrective action plans to determine systemic failure and identify methods to those failures and communicate the findings facilities. The Department expects to do analysis and public reporting of NYPORTS event information than it has in the past.

And that, Mr. Chairman, completes my report.

DR. STRECK: In regard -- there questions for Dr. Gutierrez? Just in regard -- may I ask, in regard to the last the incident reporting, in the committee's discussion, have -- has there been an this discussion into the industry community terms of thoughts about the implications of

DR. GUTIERREZ: Given the I mentioned at the beginning, I'm going to
August 4, 2011 - Albany, NY - Public Health

to --

DR. STRECK: Okay.

DR. GUTIERREZ: -- ask

somebody

who was present at the committee meeting or

members of the staff --

DR. STRECK: Ms. Lipson?

DR. GUTIERREZ: -- to

answer

that.

MS. LIPSON: Yes. The

Department

stakeholders,

consumer

did convene a group of interested

hospital quality management staff, and

representative, and got input into these

regulations.

DR. STRECK: Okay. Thank

you.

So that's for information at this point. Dr.

Rugge?

DR. RUGGE: Just a

question. Will be

on --

on state-wide experience?

MR. COOK: We can
certainly do

context, this move

that, John. I mean -- I mean, I think the
again, it's important to recognize here,
does two things that's very, very important.
August 4, 2011 - Albany, NY - Public Health

began to allow us to compare ourselves to states by -- by moving us to a national
And I think, secondly, it begins to only the most serious events, which, given our resources, will allow us to dive in and more in a culture of safety, rather than the of enforcement actions that we've been the past. So we think this offers benefits, we're happy to report.

DR. STRECK: So from a point of view, is this the first this, and then it would go back, be and then be brought back for a vote. Is correct?

MS. LIPSON: I -- I were on for discussion.

DR. STRECK: Right.

MS. LIPSON: And so published in the state register, a comment period --

DR. STRECK: Right.

MS. LIPSON: -- and then brought back to you to be adopted.

DR. STRECK: Okay. Thank
August 4, 2011 - Albany, NY - Public Health

Are there other -- other comments or
the report of the Codes and Regulations
Hearing none, we will adjourn until one
(A luncheon recess was
dr. Streck: Ladies and
gentlemen, we can resume. We do have a
expect the full group will reassemble in
but we can begin with the establishment and
review group. I would point out that in
process, we have batched the applications so
those applications that have no objections
argumentative basis nor any complications of
recusals or conflicts with members of the
are considered first.

So I will turn the podium
Mr. Booth for the report on the work of the
committee on establishment and project

Mr. Booth: Okay. And I
to move, especially the early ones where
such a consensus, along as fast as possible.
I -- I've got to tell you, I can't talk as
Jeff Kraut did at the end of the last
The first two applications will be batched.
102412C, Buffalo General Hospital/Kaleida
August 4, 2011 - Albany, NY - Public Health

interest declared by Mr. Booth and Ms. Regan, 102404C, Olean General Hospital, interest by Mr. Booth to relocate an existing Kaleida Health/Buffalo General Hospital P.C.I.- cardiac catheterization lab to Olean General Hospital under a joint operating agreement. For the record, the first year volume was sixty-three -- equals three sixty-three procedures, and the third year volume equals twenty-five. O.H.S.M. recommended approval the -- and contingency. The committee also approved with a contingency and conditions. was no discussion unanimous -- I move it for approval of the recommendation.

DR. BERLINER: Second.

MR. BOOTH: Dr. Berliner.

DR. STRECK: So the motion's been moved and seconded. Is there further discussion?

Those in favor, please say aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Number 111109C, Eastern Niagara Hospital. Lockport Division Eastern Niagara Ambulatory Surgery Center,
August 4, 2011 - Albany, NY - Public Health

multi-specialty clinic Lockport.
conditions and recommended

There vote. I declared by Mr. Booth, certified
ambulatory surgery service at the extension
located at 5875 South Transit Road in
O.H.S.M. recommended approval with
contingencies. The committee also
approval with conditions and contingencies.
was no discussion, and it was a unanimous
move it for approval.

FROM THE FLOOR: Second.

DR. STRECK: Seconded.

seconded -- moved and seconded. Is there
discussion? Hearing none, those in favor,

FROM THE FLOOR: Aye.

DR. STRECK: Thank you.

MR. BOOTH: Application

Rome Memorial Hospital, interest declared by
Booth to construct a twelve bed transitional
unit to bridge the gap between acute care
post-acute care settings. O.H.S.M.
approval with conditions and a contingency,
committee approved -- or recommends approval
conditions and a contingency. There was no
discussion, and I move it forward for

Okay. 1022369T, New York
August 4, 2011 - Albany, NY - Public Health

Medical -- New York Hospital Medical Center
Queens, interest declared by Mr. Fassler, Dr.
Martin, Dr. Sullivan. That's construction
sixteen bed T.C.U. in response to the
September 1, 2010, solicitation. Again,
with conditions and contingencies by
the committee with no discussion.

10237OT, Good Samaritan Hospital of Suffern,
eighteen bed T.C.U. In this case, again,
with contingencies and conditions by
approved by the committee with no discussion.

DR. STRECK: So there's a
Is there a second?

DR. STRANGE: Second.

DR. STRECK: Seconded by
Strange.

MR. BOOTH: Excuse me. Dr.
Torres, did you declare a conflict on that
one? Okay. I think you should --.

DR. STRECK: Oh, as a

MR. BOOTH: Yeah.

DR. STRECK: So you should
the room. Yes, thank you. Thank you, Mr.
So we have a motion and a second on the
August 4, 2011 - Albany, NY - Public Health

applications with Dr. Torres noted as a
recusal on
Hearing
102370T. Is there further discussion?
one, those in favor, aye.
FROM THE FLOOR: Aye.

DR. STRECK: Opposed?
MR. BOOTH: Okay.

Thank you.
Application
111388E, Riverside Health Care System, the
corporate withdrawal of Riverside Health
Care
recommended
System from Pinnacle Care. O.H.S.M.
approval. The committee also recommends
There was no discussion. I so move it.
FROM THE FLOOR: Second.

DR. STRECK: Moved and
seconded.
Hearing none,
Is there a discussion on the motion?
those in favor, aye.
FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you.
You can --.

MR. BOOTH: I'm going --

I'm
going to batch the next several.

establish and
Application 102147B, Premium Health,
d/b/a
construct a D.N.T. 111183E, Airport Imaging
Hudson Valley Imaging, establishing four new
physicians as members of Hudson Valley
August 4, 2011 - Albany, NY - Public Health

Airport Imaging, P.L.L.C., a sixty percent owner of Imaging.

I should have mentioned on Premium Health that the O.H.S.M. approval for a five year limited life with conditions and contingencies. The committee approved that with that same five year life conditions and contingencies was recommended. On the Airport Imaging, there was approval contingencies. And that was approved by the committee for recommendation here.

111220B, Healthcare

Saratoga, establish and construct an urgent D.N.T. at Route 67 and I-87 at Malta to Saratoga County and Washington County. recommended approval with conditions and contingencies, and the committee approved recommendation to come here.

The final one in this

111347E, C.P.R.N.C., L.L.C., d/b/a Central Rehab and Nursing Center. Establish Central Rehabilitation and Nursing Center, L.L.C., new operator of the Vivian Teal Howard Health Care Facility. O.H.S.M. recommended
August 4, 2011 - Albany, NY - Public Health

committee approval with contingencies, and the
all as a approved that recommendation. I move them
group.

FROM THE FLOOR: Second.

DR. STRECK: Moved and

seconded -- moved and seconded the four
applications. Further discussion? Hearing
those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: The next

071074E, Excellent Home Care Services. It
defered at the applicant's request.

We will do another batch of -- of
1990L, Meadowbrook Terrace; 1966L,
County; 2024L, Schuyler County Public Health
Department; 2025L, Lewis County Public
1884, Crestwood Health Care Center; 1910,
Healthwood Health Care Center; 1981L,
Assisted Living. The committee recommended
approval with a contingency, and I move them.

DR. STRECK: There is a

motion for these home health agency licensures as
enumerated by Mr. Booth. Is there a second?
August 4, 2011 - Albany, NY - Public Health

FROM THE FLOOR: Second.

DR. STRECK: Is there a discussion? Hearing none, those in favor,

FROM THE FLOOR: Aye.

DR. STRECK: Thank you.

We'll now move to category two. And there are no category two. Chris?

MR. BOOTH: Item eleven, Q.E.A.S.C., L.L.C., interest declared by Dr. and Dr. Sullivan. Establish and construct a free-standing, single specialty ambulatory center providing gastroenterological

175-15 Horace Harding Expressway, Fresh O.H.S.M. recommended approval for a five limited life with conditions and that recommendation was approved by the without discussion, and I move it.

DR. STRECK: The motion second, Dr. Berliner. Is there a discussion motion? Hearing none, those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Application

Queens Boulevard G.I., establish and
August 4, 2011 - Albany, NY - Public Health

gastroenterological
Queens
recommended a --

free-standing single specialty
ambulatory surgery care center at 7925
Boulevard, Forest Hills. O.H.S.M.
for a five year limited life approval with
conditions and contingencies. The committee
approved that recommendation, and I move it.

FROM THE FLOOR: Second.

DR. STRECK: A motion and
second. Is there discussion? Hearing none,
in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Okay.

MR. BOOTH: 111196B,
Surgery Center, interest declared by Mr.
Establish and construct a free-standing
specialty ambulatory care -- ambulatory
center for ophthalmology at 3400 Vickery
Syracuse. O.H.S.M. recommended approval for
year limited life with conditions and
contingencies, and the committee approved
recommendation. There was a brief
need and payer mix. I move it.

FROM THE FLOOR: Second.

DR. STRECK: Moved and
August 4, 2011 - Albany, NY - Public Health

aye.

Thank you.

081059B, declared

James part

Menorah inclusive recommended

The

Discussion? Hearing none, those in favor,

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Application Menorah Campus Health Services, interest by Mr. Fassler. Establish and construct a multi-specialty D.N.T. center at 461 John Audubon Parkway in Amherst. The proposal is of an initiative undertaken by the parent, Campus, to implement a program of all care for the elderly pace. O.H.S.M. approval with conditions and contingencies. committee approved that, and I move it.

FROM THE FLOOR: Second.

DR. STRECK: Moved and Discussion? Those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Application Compassionate Care Hospice of New York, Inc., interest declared by Ms. Regan. Transfer of ninety percent of the company's membership interest Judith Grey to Bella Heching. O.H.S.M. approval with contingencies, and the

seconded.

Thank you.

102454E,
August 4, 2011 - Albany, NY - Public Health

approved that with no discussion. I move it.

FROM THE FLOOR: Second.

DR. STRECK: Second.

MS. HINES: Yes, I have --.

DR. STRECK: Yes, Ms.

MS. HINES: I really just competency question. I know this is just a of ownership and shares among two of the -- same people, but the individual who will ninety percent share as the operator is not healthcare provider, and the individual who have ten and is the C.E.O. is also the fourteen hospices in other states. And that me. I'm not sure how it's possible to be as a C.E.O., much less a C.O.O. in fourteen places. So I don't know if that's ever been reviewed.

DR. STRECK: Mr. Abel?

MR. ABEL: I understand question, and I think the -- I think Linda she's available, would probably be the best to give you the details on her character and competence review. Would you like to come

MS. RUSH: I have to say
August 4, 2011 - Albany, NY - Public Health

when we're doing a character and competence
we review the owners of the agency, and if
agencies that they own. So we did not
a review on those agencies that she's an
of. I don't know if that answers your

MS. HINES: I -- I -- I
answers the question that maybe we haven't
done a full vetting of her ability to be the
of a hospice in New York State. If she's
C.O.O. and -- yeah, I -- as I read it, I
she's the C.O.O. of fourteen hospices in
states.

MS. RUSH: Well, she's --
being approved as an owner of this one --

MS. HINES: Yeah.

MS. RUSH: -- and a
necessarily the C.O.O. of this one.

MS. HINES: Well, she --.

MS. RUSH: I don't --.

MS. HINES: I know. But
application, unless I'm reading it wrong,
be the C.E.O. of this one. And -- and I
that this -- that this certificate of need
around change of ownership, but it begs the
August 4, 2011 - Albany, NY - Public Health

the
- is
being the
-- I
necessarily

question that, is it appropriate for -- for
C.E.O. of a New York State hospice to also -
she capable of being the C.E.O. and also
C.O.O. in fourteen others? And it's a -- I
would say it sounds like we haven't
answered -- asked or answered that question.

MS. RUSH: We did not do a

of her reviews of the agencies that she is
employee of.

MS. HINES: Okay.

MS. RUSH: So that, I
to say yes.

MS. HINES: Okay.

DR. STRECK: Do you wish

make -- well, we -- we have -- do we have --
have a motion on the floor, so you could
motion or we could vote on the motion. Do
a second on the motion? We have a second.

So we have the motion and a second for

102454E, and we have -- Ms. Hines has
question in regard to the capabilities of a
individual to fulfill these multiple roles
described in the application.

So with that question in mind, and with the
August 4, 2011 - Albany, NY - Public Health

information provided by Department of Health
I'll ask for a vote for approval. And if it
approved, that concludes this. If it is not
approved, then there would be opportunity
second motion. So first I will ask, on the
for approval and the second, those in favor,
aye.

FROM THE FLOOR: Aye.

DR. STRECK: Okay. We
hand vote, those in favor, raise your hand,
One, two, three, four, five, six, seven.
Those opposed? One, two, three, four, five,
seven, eight. Okay. So the motion for
defeated. Is there any further motion
the group? Mr. Berliner?

DR. BERLINER: Yeah. I --
we defer this application until the next
we can question the applicants as to this

DR. STRECK: Is there a
for that motion?

FROM THE FLOOR: I second.

DR. STRECK: So it's been
and seconded that this application be
to the committee for -- to address the
August 4, 2011 - Albany, NY - Public Health

on that

know, in the know,

-- I'm we're even

essentially states in involved in

And time with

application going down

And the They

Department they

hour, be an fair to

raised by Ms. Hines. Is there a discussion motion? Hearing -- oh, Mr. Hurlbut, please?

MR. HURLBUT: Well, you Vicky, I also operate thirteen nursing homes state of New York. And I really do -- you this is a change of ownership, and I -- I'm really trying to -- really question why discussing this. I mean, the -- the Health Department did their job, and we're accusing someone who is involved in other running businesses that because she is other ones, is she competent to own this one? I -- and I'm really -- I'm having a tough this, and I don't like this at all. I think it's -- totally goes against what this is -- is standing for, and I think we're a road that isn't fair to the applicant. applicant did what they were supposed to do. answered all the questions. The Health went through and did their due diligence as saw fit, and now at the -- at the eleventh we're questioning whether this person should owner, and that's not good. And that's not the applicant.
August 4, 2011 - Albany, NY - Public Health

MS. HINES: May I? Bob, I hear you and I -- I'm certainly not -- I'm accusing this applicant of anything. I'm raising the question. I think it is in our regard regardless of how it comes forward to us through character and competence questions.

I -- I guess I -- without knowing whether or the C.E.O. role and the C.O.O. role in these fourteen other places is the principal role, the -- that's the only structure that I know in -- in hospices. So if it's the principal administrative role, then I would raise -- question really stands. If it's not, and that C.E.O. and C.O.O. level, there are administrators who have the character and competence to manage a hospice appropriately, I'm completely fine with it. I just don't answer to the question.

MS. RUSH: Excuse me.

Linda again. I just wanted to point out to guys that the person that you're talking the current one hundred percent owner of agency.

MS. HINES: No, I -- I
that. I just have never seen it before, so

DR. STRECK: Dr. Grant?

DR. GRANT: I think that

that the person we're talking about isn't

just -- you know, it would allow us to ask

questions, regardless of whether -- you know,

I'm not raising an issue of competency. I

want to know, you know, how this -- how this

working, and there -- there may be other

but the person's not here. So I think that

be helpful to all of us to lay this to rest

move on.

DR. STRECK: Ms. Regan?

MS. REGAN: I -- I think I

might have misunderstood. When I first read this,

read that Ms. Heching -- I don't know if --

I'm saying it right -- her qualifications

she is with Lincolnwood Fund, Lincolnwood

a hedge fund investment portfolios. And

we know about her, that she owns and manages

hedge fund. It's Ms. Grey, I think, who is

experienced at operating hospices. So we

situation where somebody is selling their

entire interest to somebody whose only
August 4, 2011 - Albany, NY - Public Health

is running a hedge fund. That's my question. Linda, do you -- can you tell us anything more about Bella Heching?

MS. RUSH: My memory doesn't give me anything more than what's actually in the report regarding her.

MS. REGAN: So we don't know anything about her personally, and -- and we don't know whether she had other affiliations with healthcare facilities. Do we know that?

MS. RUSH: No, she doesn't have any other affiliations with healthcare facilities.

MS. REGAN: Well, that's where I know -- Fensterman? things simple establishment past

I'd like to address. First of all, from a protocol point of view, we went through an establishment committee process. The committee had the opportunity to ask these questions. What was interesting is, in my years, most of us around this table were at
August 4, 2011 - Albany, NY - Public Health

committee meeting, even if you were not on
committee. It is typical in the State of
for all sorts of healthcare facilities that
folks come in as owners simply as investors,
they get established, and they don't have
necessarily the experience. Here, we have
who owned a hundred percent, was obviously
established at one point in time, and now is
continuing to retain an interest.

Are we -- I -- I guess we
be making an assumption to disapprove of
application if there is not an appropriate
infrastructure in this facility to run the
facility. But the fact that someone does
experience in a particular business has
dispositive of this council not approving an
application when -- when there's someone
experience.

MR. ABEL: Yeah, and --
may just chime in. The -- the person that
believe -- I'll paraphrase -- may be spread
thin, the existing one hundred percent
she's been operating this hospice without a
problem. If -- if there were issues related
August 4, 2011 - Albany, NY - Public Health

operations, it would have been disclosed in review. She will retain a ten percent interest and bring that experience with her the new ninety percent member.

DR. STRECK: Mr. Berliner?

MR. BERLINER: I mean, I don't see what the issue is here. We have a question. We're not, in this meeting, ask the applicant, even if the applicant was the answer to that question. Unfortunately, didn't raise this two weeks ago. I don't problem if there -- if there's no time limit on this purchase, if there's no harm to the applicant coming from this, I don't see why can't just put this off to be able to ask question independent of what the answer And we may say, "Fine, this is okay." But a question we want to ask, and, you know, I don't see -- if -- if there's not any the applicant in this, I don't see what the problem is with waiting another couple of to -- to ask it.

DR. BOUTIN-FOSTER: Just -- just --
August 4, 2011 - Albany, NY - Public Health

Boutin-Foster?

just for

is not

practically,

percent
effectively pay

this --

assuming
doing

provisions

put this

question

to come

answered.

question

I had

have

it's a

percent

obviously

is

DR. STRECK: Dr.

DR. BOUTIN-FOSTER: --

the record, the question that's being raised

necessarily competence, but thinking

are there provisions made so that this ten

owner with other responsibility can

attention and guide the administration of

you know, assuming almost -- I mean,

control of this, you know, is she capable of

this and does she have -- what -- what

are there in place? So I think before we

to -- to rest, we have to come up with the

that's being asked. Otherwise, it's going

back again if the specific question isn't

DR. STRECK: Ms. Regan?

MS. REGAN: This is the

I would like to ask. And I apologize. I --
to leave the meeting early, so I -- I would

asked these questions if I could have.

You have a situation where

for profit hospice. You have a hundred

owner who is selling to a -- an investor

need the funds. What I would want to know

what's the governance of your -- of your
August 4, 2011 - Albany, NY - Public Health

Who's going to make clinical decisions? Going to make priority judgments? Who's going to be running the place? And -- and I think important issues. If the only authority is by -- by vote -- voting weight, then it's be run by the investor. It's not going to be run by the clinician. And to me, that's a Issue for running a healthcare facility in the State of New York.

And -- and we have always, in the character and competence review, imperfect is, and we've struggled with this largely nursing homes, there are times when somebody investor and they have an ownership interest may have something to say about it, but we have looked at the governance. And we've made sure that there was a licensed administrator and that the governance was such that the could be correctly called. So that's -- the questions I'd like to ask.

DR. STRECK: Mr.

MR. FENSTERMAN: Yeah, I Dr. Berliner's motion, and I move it to a

DR. STRECK: The vote is
August 4, 2011 - Albany, NY - Public Health

for
deferral. Everyone's aware of that? Okay.

So Mr.

Fensterman has suggested without making --

without

formally calling the question, which would

require

a vote in itself, that we proceed to vote if

everyone is comfortable with that process.

And I

would ask those who are in favor of the

motion to

defeer this application and refer it back to

questions of

establishment committee to answer the

council members in regard to the owners' of

relationships to management. Those in favor

of

that motion, please signify so by saying aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

It's

referred back. Thank you. Dr. Martin?

little

turned around procedurally because I thought

we

voted something down, and then we deferred

it.

DR. STRECK: Well, I think

you

have a good point there. We did -- we did

not

approve it, but then we entertained a second

motion

to send it back to answer the questions.

DR. MARTIN: Okay.

DR. STRECK: Might we have
August 4, 2011 - Albany, NY - Public Health

defered it first? Yes.

DR. MARTIN: So I -- the

really I raised it is just is I -- I -- I
want it to -- to -- the minutes or whatever,
actions to reflect that we actually have
say that we are opposed to the application.
don't have enough facts to actually make a
determination. So if it doesn't make a
then I would say fine. If it does make a
difference, then I'd ask for a motion to
our first one just to get the -- the
or the non-approval off the record.

DR. STRECK: I -- as the

would entertain. Did you vote -- which way
vote?

DR. MARTIN: I abstained.

DR. STRECK: So someone

for the motion the first time has to make
motion for reconsideration. So someone who
for approval would have to make a motion for
reconsideration. That is made. That is
So we are now entertaining a motion to
the initial disapproval, which I think is an
important point Dr. Martin has brought up.
August 4, 2011 - Albany, NY - Public Health

little uncomfortable with that, and I must
I did not allow the proper debate on the
motion, I think. So we now have a motion
reconsideration of the first motion. Those
favor of reconsidering the first motion,
aye.

FROM THE FLOOR: Aye.

DR. STRECK: And in lieu
first motion, though I would entertain a
support the motion for deferral, can I have
motion to that effect? Yes.

FROM THE FLOOR: So moved.

DR. STRECK: And a second?

so in lieu of the first motion, we are
our motion for deferral. Those in favor,

FROM THE FLOOR: Aye.

DR. STRECK: Thank you.

All

right.

MR. BOOTH: I don't know
you, but my mind's blown now.

DR. STRECK: But I think
there.

MR. BOOTH: I think we got

All right. We're --.
August 4, 2011 - Albany, NY - Public Health

DR. STRECK: Mr. Booth?

MR. BOOTH: We're going to take the next several applications as a unit. Mr. Fensterman has declared a conflict, and let record show that he's leaving the room.

The application numbers are 092035E, 092037E, 092038E, 092041E, 092077E, 111132E, 111170E. In each case, O.H.S.M. recommended approval, committee approved that without discussion. would move them as a group.

FROM THE FLOOR: Second.

DR. STRECK: The group has been -- the group has been moved and

Further discussion? Hearing none, those in aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Mr. Fensterman is reentering the room.

M.T.C. Senior Housing --.

DR. STRECK: Mr. -- Mr. Fassler is leaving the room. Okay.

MR. BOOTH: M.T.C. was established under Article 28 of the Public
August 4, 2011 - Albany, NY - Public Health

Law in 2006 to operate a nursing home as
the continuing care retirement community in
Queens

County that was to be known as Skyline

Commons in
determined that
continuing
financially
it.

from the floor: Second.

Dr. Streck: Moved and

for the certificate of dissolution. Those
favor -- discussion? Those in favor, aye.

from the floor: Aye.

Dr. Streck: Opposed?

Mr. Booth: Another batch

Home Health Agency licensures. Item -- or
application 1708L, interest by Ms. Regan;
interest, Mr. Fassler and Ms. Regan; 1849L,
interest, Ms. Regan; 192L, interest, Ms.
Regan; 1918L, interest Ms. Regan; 1931L, 1924L,
1737L, 1806L, 1916L, all with interest by Ms.
Regan. Approval with contingency was
and approved by the committee, and I move
batch.
August 4, 2011 - Albany, NY - Public Health

FROM THE FLOOR: I can

DR. STRECK: Discussion?

in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Application conflict declared by Ms. -- Ms. Hines, and leaving the room. Interest declared by Mr. and Ms. Regan. Approval with a contingency recommended and approved by the committee, move it.

FROM THE FLOOR: Second.

DR. STRECK: Motion and a Discussion? Those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Ms. Hines can the room.

Another batch. 1924L, Ms. Regan; 1948L, interest by Ms. Regan; interest, Mr. Fassler, Dr. Palmer, and Ms. 1722L, 1974L, 1926L, interest by Ms. Regan of those. Approval with a contingency was recommended and approved by the committee,
August 4, 2011 - Albany, NY - Public Health

move it.

FROM THE FLOOR: Second.

DR. STRECK: Discussion?

Those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you.

So we’ll now move on. There are no category

three or four applications, so we move to category

five.

There are no applications there, so we're

category six. Mr. Booth?

MR. BOOTH: Application

102159E,

Parcare Community Health -- Health Network,
a conflict declared by Mr. Fensterman, who is

now leaving the room. Establish and construct

an Article 28 D.N.C. by conversion by -- of an

eexisting private practice operated by

Parkville

Medical located at 445 Park Avenue, Brooklyn.

Note for the record, at the June 10th

establishment project review committee meeting, the motion

to approve failed with a vote of five in favor

five opposed. The motion to defer one cycle

was then adopted.

There was extensive

discussion regarding the need at the last meeting for a
August 4, 2011 - Albany, NY - Public Health

facility -- recent approval of a facility in proximity and possible code deficiencies. The Department responded to the opposition's continues to recommend approval. The heard from several community leaders in the application as well as from the attorney opposition. A roll call was taken at that meeting, and the motion to approve failed vote of six in favor and two opposed. So it forward with no recommendation. Mr. -- Mr. believe, has some comments.

MR. ABEL: Thank you. I'm going to try to summarize my comments that -- that at the establishment and project review because I think -- I think it's important everyone understand what went on. And those those of you who may have caught the webcast of this, it was extensive discussion, I'll try to be brief here.

The -- the opposition has all members -- we -- the Department that material as well, I believe -- a letter contained nineteen points upon which they their -- their opposition. And those points
August 4, 2011 - Albany, NY - Public Health

categorized in -- in a -- in a few
One, the need for this facility. And you
know,
with respect to the need for the facility, I
think
it's important to understand that this is --
this
proposed facility is to serve a health
practitioner
shortage area. All of the blocks are
considered to
be underserved areas. All of the -- all of
the
five
individual tracks in the -- in the proposed
proposed for
ZIP codes that are being -- that are
tell us
service. The -- the health indicators here
that there simply is a need for additional
resources in the area.

The -- the opposition has
pointed
out that an F.Q.H.C. -- an already
established
F.Q.H.C. in the area has received approval
and will
be opening within the next few weeks or
months an
extension clinic only approximately three
blocks
from this facility. That -- we -- we -- the
even
Department approved that extension clinic,
clinic to
provided a HEAL grant for that extension
have
open. That -- the services provided and
not
approved -- the services to be provided and
been approved by the Department are -- are
duplicative of the services to be provided
August 4, 2011 - Albany, NY - Public Health

applicant entity. The -- this applicant
Parcare, is proposing to provide a wider
services and in fact, some new -- some
programs of care that are targeted to
need. And -- and we will be assessing --
this project be approved, assessing the
performance over a five year limited life
that is being recommended.

We -- and without getting
all the detail that is contained in the need
review, we -- the Department finds that
need for this additional facility. There
extension discussion by the applicant in his
over those nineteen items about the --
the -- the budget of the applicant and the
reasonableness of -- of the -- of the
What we have found with respect to the rent
the forty-five dollars per square foot --
first floor facility that is in a highly
populated and highly valued neighborhood.
requires very little renovation or work in
operationalize it. And the forty-five
we -- we considered to be, based on
be reasonable for that area.
August 4, 2011 - Albany, NY - Public Health

The applicant has also given us three real estate letters attesting to the reasonableness of that rent. And in fact, the Department has found a Brooklyn Hospital clinic in the area with the exact same footage rental. So we're -- we're satisfied with the rent that the applicant is -- is paying. It is an arm's length -- an arm's length lease. There's no relationship between the applicant and the landlord. We have that affidavit by the applicant.

With respect to the budget, the -- the opposition has expressed concern over generous also side of revenues colleagues with the proposing in that the sensitivity on the -- the -- the opposition has expressed concern over generous also side of revenues colleagues with the proposing in that the sensitivity on
August 4, 2011 - Albany, NY - Public Health

rates proposed fall within the corridor -- reasonable corridors for the -- for the these A.P.G.'s. So we -- we really don't we don't have an issue there.

On the expense side, one reasons the expense side of the budget is so that we have an applicant who has already repairs. There's no significant capital in this project. So the -- the borrowing is low. There is -- there is a significant the -- the equipment that has been donated proposed to be donated by the existing practice -- and no prohibition to doing that. it -- it's -- it's clear that -- and -- and assessed the staffing pattern of the against the -- the proposed service mix and volume and the cost -- the -- the -- the services cost in the budget, and we find all factors to be reasonable.

One other element that the opposition brought up was the -- the physical plant, that there is an incomplete certificate of occupancy, or had been an certificate of occupancy for that building,
August 4, 2011 - Albany, NY - Public Health

we believe to be a landlord issue. And

may -- there is alleged to be some

with respect to compliance with all local
codes. It is not unusual for us to have an
applicant that is proposing to operating at
that requires some work, either by the
themselves or by the landlord, to comply
local building codes. And we will -- we
permit an applicant to operate -- or an
applicant to -- to begin operation unless
the -- the building codes are -- are
This is a matter for our drawing review
which is a condition of an approval to go
and make sure that there is no problem with
to the physical plant of the Article 28.

fact, that the -- that the -- the overall
structure, the overall building has a valid
certificate of occupancy. This is checked
the -- when the regional office goes to do
pre-opening survey. If there is no valid
certificate of occupancy, the facility will
allowed to open.

So -- so we -- in -- in
at those issues, and those -- that's a
August 4, 2011 - Albany, NY - Public Health

the issues that I discussed two weeks ago --
the department finds that we have no basis
which to -- to additionally question the
applicant's budget. And -- and -- and just
remind you, we're talking about the -- the
regulatory and statutory requirements for
character and competence, financial
and -- what -- I'm -- I'm missing something.

FROM THE FLOOR: Need.

MR. ABEL: And need,

Thank you. And -- and of course, we have an
architectural review, which is not
required, but in fact, we do that.

Now yesterday, I sent you
memo because the -- the opposition had
Medicaid information related to the current
practice Medicaid service information. What
what the opposition is questioning is, well,
how can we trust the -- the volume projections
applicant if we don't have -- if we can't
comfortable with the current private
volume? And the opposition is -- is
the applicant's basis for the projections by
challenging what the private practice has
August 4, 2011 - Albany, NY - Public Health

doing in terms of volume and service to the Medicaid population.

So the -- the -- the opposition -- and Peter Millock is the representative of the -- for the opposition received a Medicaid report via -- via FOIL shows Medicaid fee for service claims at proposed site at -- where the private currently operating, for thirty-three ten claims for a hundred and fourteen Medicaid fee for service recipients. We -- believe that information to be accurate, and volume is consistent with the Medicaid fee service volume that the applicant has their application and its historical What -- what is of note is that -- and -- Millock asked us to bring this to your is that in this report, there is -- there is indicated for managed care recipients or care volume. Clearly, a question for me, especially when we know in Brooklyn there's large penetration of Medicaid managed care, someone's going -- if a provider is going to provide Medicaid fee for service, and
August 4, 2011 - Albany, NY - Public Health

relatively small payment for Medicaid fee
for
managed
providers? So
and we
related
recipients
I

I had to dig a little deeper. And --
were able to just yesterday get information
to managed care claims and managed care
that are included in that second report that
attached to my memo. For -- for 2010, we're
talking about forty-one thousand in -- in
counterclaims for nine thousand twenty-five
individual Medicaid managed care people.

That's

the
caveat here is that while the -- the -- the
give
the Medicaid managed care folks could
address,
me these numbers for the providers at that
--
it does include any services those providers
other
practice at that address -- provided at
physicians
sites. And we do have some of the
They do
that -- that are practicing at Parcare.
New
practice at -- at other locations, including
away
York Downtown Hospital, I believe.

But you should -- a couple things to walk
with. The forty-one thousand Medicaid
visits are in excess of the -- of the number of visits that the applicant has notified us in of its past historical experience. So that number is in excess, and does -- I would -- based on what managed care told me include services provided at other sites. This morning, I've got two things. We were get correspondence confirmation from the New York City Department of Health, who monitors providers in underserved areas. And they information relative to those providers in payer mixing numbers of services. What they reported to us with respect to services from -- from Medicaid fee for service and managed care services for the Parkville P.C. is consistent with -- with the data that they provided to us with -- about historical volume on which we -- we assessed projected budgets.

In addition, we contacted the Medicaid managed care insurers that the applicant said they had contracts with, and told -- there are -- there are three managed contractors, insurers that -- with names
August 4, 2011 - Albany, NY - Public Health

three said that they have contracts and do substantial business with Parkville Medical Care.

we have dealt with all of the -- the opposition's points.

And I'd be happy to take any questions.

DR. STRECK: So we will begin the discussion now. There is no recommendation from the committee. The Department of Health has issued its recommendation. And now we're open for discussion. Mr. Fassler?

MR. FASSLER: Again, just to approved, clarify need. Even with this application is there still an unmet need area?

MR. ABEL: Yes.

MR. FASSLER: And the other part of it is, is there anything in the Department's regulation prohibiting, in an urban area, locating within a few blocks of someone else?

MR. ABEL: We have no regulation.

MR. FASSLER: Thank you.

DR. STRECK: Dr. Boufford?

DR. BOUFFORD: Yeah, I -- I think the point -- the additional
August 4, 2011 - Albany, NY - Public Health

you're providing is -- is sort of the
question I have, which is it seems to me
of information would have been here on the
in order to -- to have some security around
fiscal viability issue. Because I -- when I
I looked at this, it was sort of things the
provider is telling you they will do. And
saying they're telling the truth or lying.
really not the point. It's just I'm sort of
to seeing layouts like this, especially for
conversion, I mean, essentially a conversion
activity of, you know, last year's
payer mix, et cetera, what we're projecting
increase. And that would then give you a
that would show whether the financial
the case it is. And so I -- I really want
applaud you for pulling all this information
together, but I guess I'm wondering if in
applications, some formatting of these kinds
projects shouldn't be rethought. Because I
have -- that's what I was looking for when I
at this, and you've answered a lot of the
questions.

The other question I
trouble with here is the capital investment
question, because this is an existing
practice office. I've noticed that an
architectural inspection has been done, but
Article 28 standards, and certainly to meet
F.Q.H.C. standards, there's going to be a
significant -- I would imagine a significant
capital investment, at least in my
don't know if those -- all of those rules
waived in terms of A.D.A. and various other
that I think are not necessarily part of a
practice office. So I'm wondering, the
investment part which ties into the
you indicate they have a pool of four
thousand dollars or something, I guess,
in the application. But I -- I just think
it's sort of -- it's hard to believe that
no additional capital investment that will
necessary other than, you know, clean up,
and fix up to move into a new facility. So
that was another question around the
issue.

And you know, I guess the
the rate setting is the rate setting.
August 4, 2011 - Albany, NY - Public Health

And I -- I had an inquiry. So those are -- were sort of substantive questions. They -- can't -- what I'm curious and delighted to on page seven, you say that your that -- that it's contingent upon the and implementation of a plan for improvement health status indicators consistent with the prevention agenda. I'd be very interested knowing what that is because I think that's cool. But I'd be very interested in knowing it's the first time I've seen that appear, just interested in that.

So -- but I do think problems in organization of the data to give route to a number that would give us the financial side. And -- and I do have capital question outstanding, so --.

MR. ABEL: Just concerned the capital question, let me just say, we -- that -- that we did do a physical plant the -- of the -- of the -- the schematics floor plans that were -- that were presented and we did not see any glaring need for investment. That's not to say that upon --.
August 4, 2011 - Albany, NY - Public Health

DR. BOUFFORD: To meet
meet Article 28 and F.Q.H.C. --

MR. ABEL: That's correct.

DR. BOUFFORD:

MR. ABEL: That's correct.
the -- if there -- if there had been a need
significant physical plant improvement, we
not advance this to you without defining
need was and the cost involved and how the --
how the applicant would -- would propose to
that and assessing each of those elements.

DR. STRECK: Dr. Yang?

DR. YANG: This is someone
unrelated to the application itself, but I
should note that I'm the executive deputy
commissioner and chief operating officer of
York City Department of Health and Mental
whose data Mr. Abel just cited. So I just
to put that out there, and if council feels
now have an interest or a conflict, I'd
knowing that. I think it's -- I mean, a
of fact, but you know, I -- I just need to
that.

DR. STRECK: Consider it
August 4, 2011 - Albany, NY - Public Health

So you are clarifying the fact that it -- it is from your office that the statistical information was provided to the Department of Health?

Okay.

We'll note that for the record. Dr. Rugge?

DR. RUGGE: I -- I -- I gather that these two proposed services have an identical service area. Do we know the population of the primary service area?

MR. ABEL: I don't offhand.

I'm not sure if we have that in our review.

DR. RUGGE: If I can -- in determination of --.

FROM THE FLOOR: Three hundred forty-one thousand four sixty-eight.

MR. ABEL: I'm hearing three thousand --

FROM THE FLOOR: Three hundred forty-one thousand.

MR. ABEL: -- three -- okay. Over three hundred thousand --.

DR. RUGGE: And -- and am I -- am that -- that -- that -- that O.D.A.'s projecting twenty thousand visits annually? Is that -- is that what I saw?
August 4, 2011 - Albany, NY - Public Health

MR. ABEL: Yeah. It -- it
you -- you're probably questioning whether
a large enough number considering the
I -- I'm presuming that's where you're going.

And -- and I -- I mentioned at establishment
project review that -- that we believe that
a conservative estimate of the volume this
will do. The applicant indicated to us that
similarly believe, but they did not want to
a projection that they believed they would
difficulty achieving in operation. Clearly,
a -- as this facility, even though it's a
practice, as it rolls out as an Article 28,
expects to expand its business beyond what
business had been. Its business has been
approximately -- as a private practice --
approximately thirty thousand visits.

So -- so I -- I -- you're
you're correct in what -- in your statements,
I -- and I would consider that -- those
to be conservative.

DR. STRECK: Other

MR. ROBINSON: I -- I
August 4, 2011 - Albany, NY - Public Health

just this we have demonstrated understand

The other issue that I am concerned about is that from committee the have a unsettled
to make until the

further and -- to the the next

motion

continue to have a concern that this council recently approved an extension clinic, in case, O.D.A.'s. It has not yet opened, and not yet seen its performance levels before we are approving another one. I understand the comments that Mr. -- Mr. Abel made.

The other issue that I am concerned about is we have now gotten data, which we appreciate, Mr. Abel, but actually the establishment has not had a chance to vet that with either applicants or the opponents. And so I just concern that this still is -- there are issues here that perhaps need further consideration. And therefore, I would like a motion that we defer this application next round so that we could have continued discussion at the establishment committee, review the data that Mr. Abel has presented, and then bring that forward back to the -- council with a recommendation at the -- at meeting. So I make that as a motion.

FROM THE FLOOR: I second.

DR. STRECK: A motion -- a and a second. Dr. Grant and Mr. Levin have
August 4, 2011 - Albany, NY - Public Health

seconded this. Is there a more -- is there
discussion on the motion that is now on the
Dr. Grant?

DR. GRANT: I just -- I --
never seen such a flurry of paper,
politicization of any proposal before us, I
to the point where I'm sure several of us
the table have received calls from elected
officials, and it just concerns me. So you
plus the Crain's article we received. You
I -- I'm just concerned. I really feel
that we need to defer this, get all the
cleared through, so that we have a level of
that we really are looking at this in an
fashion.

DR. STRECK: Ms. Regan?

MS. REGAN: I think a lot
the -- the noise around this application was
much controversy as an expression of -- I
even say passionate intention that we really
that the community really needs this. I've
seen so many public officials come forward
support of an application and not a single
official opposed to it. I mean, I can
August 4, 2011 - Albany, NY - Public Health

know, coming into a community would not want to
see a competitor opening up down the block.
That's obvious. But when a community speaks as
this one has about the need, and when we see
figures like I -- I was able to see the
webcast from the Berger Group in -- in Brooklyn,
figures are astonishing.

The P.Q.I. data is -- it's
very persuasive. Thirty-four thousand
unnecessary hospitalizations in this very community, and
we're debating whether we need more primary care.
Isn't it that what P.Q.I. data is all about? I mean,
really seems to me we've had now years' worth of
hospital data gathering and work on -- mostly on
behalf of the Department, and also other work to
try and show in a very specific way where the need
is and what the need is for. And we've been shown,
I think, conclusively, that there is need for
care in this neighborhood.

We're then offered a very
developed applicant who tells us that
operating at a very significant loss, and if
don't approve them, they will literally go
August 4, 2011 - Albany, NY - Public Health

And we're even debating it or -- or thinking about extending it? I -- I think our job, at least part of our job is to support the priorities and strategies of the department. And this is something that is so clearly coherent with strategies, it's hard for me to understand why we would not want to support it.

DR. SULLIVAN: I would also like to speak against delay. I think the Department has brought data. I have answered every question that has been forward. They've really delved into the don't think we're going to get a lot of new that's going to help clarify this any more. also agree a hundred percent that all the demographics, all the studies of that area, continue to show the need. I don't know can be disputed. And every other comment been brought up, the Department has really think, really due diligence. And I think to off will only continue this, and I don't we're going to get much clearer picture than have at this point in time.

DR. STRECK: Other comments? Mr. Fassler? Or I'm -- yes, Mr. Fassler?
MR. FASSLER: We heard morning from Mr. Cook that the area has needs. Mr. Abel just confirmed that even project approved, there's still tremendous The community needs this project. I think to call it to a vote already, and hopefully approve the project for the area.

DR. STRECK: Dr. Gutierrez?

DR. GUTIERREZ: Whether it problems of this council to say so, it may important to, whatever decision we make, call for cooperation rather than fighting other. If a community needs it, let's ask participants to cooperate for the benefit of community.

DR. STRECK: Is there discussion on the motion? The motion, to the group, is for deferral. Is there any discussion on that motion? Dr. Boufford?

DR. BOUFFORD: Just to the reason for the deferral. The reason for deferral was to put the information that getting in dribs and drabs today in a everyone would have a benefit to take a look
August 4, 2011 - Albany, NY - Public Health

And I think there -- I mean, I don't know. I think there are issues. I'm not debating the issues in the community. I think some of what we're seeing here, primary care has been underfinanced for many years, and you see -- you tend to see sometimes providers that are put in place without adequate infrastructure, without fiscal viability. So I think the -- in addition to need, the viability is an important question. And it just seems to me, I -- I would hope to see at least in at least in future applications as a consequence of this, this kind of information that you've had to pull together, asked for from applicant.

But I think the deferral just to think in -- in the air. It was to try to get the information lined up in a way that people could consider it. They had not been before them at the previous committee meeting establishment committee meeting, so --.

DR. STRECK: I think that the -- the sense of Mr. Robinson's motion --

DR. BOUFFORD: Yes.
August 4, 2011 - Albany, NY - Public Health

- DR. STRECK: -- that the --
- the --
  DR. BOUFFORD: Yeah. I just
  wanted to reiterate it.

material
by
Did you
have a comment, Mr. Cook?

MR. COOK: I mean, I -- I
understand the concern with some of the data
related questions, but I do think it's
note a couple things.

Number one, the level of
of this application goes far beyond anything
ever done in the past. And quite frankly, I
really have gotten to the point where the
are really about delay, not about making a
decision.

This application has met
need category that we can identify. It has
financial review. It has met character and
competence. There is no information that
looked at in the last, quite frankly, seven
that has led the Department to think that
going to inevitable. look at perfect minds that decision shouldn't be approved. There are always be questions relating to data; it is But there is no question here that we can the data forever and still not get to a answer. And there is no question in our this is a proposal that needs to have a made.

DR. STRECK: And the first decision for this group is whether to defer, because that is the motion that is on the So is there further discussion on the motion deferral? Hearing no further discussion on motion, I would ask for a hand vote, please, those who vote in favor of the motion for All right. Six.

And those who are opposed motion for deferral? One, two, three -- motion for deferral fails. Well, let me clarify. We need thirteen votes to pass but we can defeat a motion with less than

FROM THE FLOOR: Oh, yeah.

DR. STRECK: The motion carry. We can leave it in that limbo. Okay. Is -- is there -- are there additional
August 4, 2011 - Albany, NY - Public Health

anyone would put forth for the council's
consideration? Ms. Regan?

MS. REGAN: For approval.

DR. STRECK: There's a

motion for

approval.

FROM THE FLOOR: Second.

DR. STRECK: It's been

moved and

seconded that the applicant's -- the

application on that motion? Hearing none, then we would

ask for a vote -- again, a hand vote in favor of the

motion? Those in favor, please. My

count is thirteen. Thirteen, the motion carries.
you.

MR. BOOTH: All right.

One more

item before we finish here. Mr. Fensterman

is returning to the room. Application 092072B,

Mohawk Valley Dialysis Center. Establish and

diagnostic and treatment center with a

station dialysis service. O.H.S.M.

recommend approval with conditions and contingencies.

application has been discussed over the last

cycles of meetings. At the June 10th

meeting, the motion to approve failed with a
of four in favor and seven opposed. At the subsequent meeting, the Department noted a correction in the need for the projection statistics as well as reiterating the proposed facility would serve. Discussion continued on the subject of insufficient stations available in the region and the stay in the hospital causing delayed to the limited slots.

The committee heard from the applicant as well as an attorney for the well as from a local hospital and a patient. The motion to approve was recommended with a seven in favor and one opposed. And I'll approval.

FROM THE FLOOR: Second.

DR. STRECK: So there is a from the committee to approve this has been seconded. Is there further Mr. Abel, do you wish to add comments to discussion?

MR. ABEL: This -- this application has seen additional paper come before -- since -- since the establishment
August 4, 2011 - Albany, NY - Public Health

project review committee. We distributed information from both -- and the opposition from the -- the applicant. And I think the single thing that I -- that I'll -- I'll -- speak about in terms of the opposition that needs to be addressed is the opposition that -- that Herkimer County was indicated need analysis, and the -- and the numbers Herkimer County were -- were factored into projected need for the region.

The applicant themselves have -- in correspondence, have not indicated that Herkimer County would be its -- its primary service area. Though, clearly, if you look on a map, it's in the vicinity. Looking at the -- the four counties that the applicant has -- is proposing to serve, we do find sufficient need to -- to recommendation of approval for this dialysis clinic.

DR. STRECK: Is there further discussion on the motion as presented? The motion is for approval, and it has been seconded. no further discussion, those in favor, aye.
August 4, 2011 - Albany, NY - Public Health

FROM THE FLOOR: Aye.

DR. STRECK: Opposed? The motion is approved. Thank you --

MR. BOOTH: Thank you.

DR. STRECK: -- Mr. Booth.

That concludes the establishment and project committee meeting.

That -- are there other comments or questions from members of the council would move into executive session? Hearing we will adjourn the public session of this meeting with my thanks for your patience, and we will shortly convene for an executive session and report from the personnel committee. Thank