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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 that's 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

another meeting, which I think would be 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 the content of the C.O.N. program. Whether this turns out to be a sandpapering exercise or more fundamental reframing is to be determined. 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 drives providers, what drives change, is

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need clear interesting what necessary arrangements? the of on new forms certificate of into process or public are council and ago, we

opportunity is driven by the combination of and reimbursement. So certainly, in some way, the C.O.N. process does address our understanding of what -- of what need is. I think that the materials we've had and the discussion we just had raised two very 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 as a committee might choose to address.

And just a couple of days were to circulate a broad overview of the

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

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

I should also say that a letter has been drafted to a long list of stakeholders in the healthcare system asking for their perspectives and their recommendations regarding C.O.N. That letter is now being reviewed by the executive clearance process -- the process, I always expected existed, but had never exactly heard of before. As we do this look at C.O.N., the committee is also expecting to have a concurrent review of current activities going on at the regional level by

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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 suburb, with a particular attention to disparities in healthcare and health services within the island and how to match new delivery spots and services to 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

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rural services are competition and All very presages the need to of this which will through homes, end, in of the the sponsoring October. kinds a activities many good --

more broadly at the region in terms of more outlying areas and what kind of health necessary and appropriate given the 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

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The committee did review a proposal by Auburn Hospital to establish a designated stokes -- stroke center. And I would like to move approval of that application by the council.

FROM THE FLOOR: Second.

DR. STRECK: It's been moved and seconded to approve the application for designation as a stroke center. Is there further discussion?

Hearing none, those in favor, 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 to replace C.O.N. with COPA (phonetic spelling) will be a difficult transition.

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

DR. BOUFFORD: Yes, we're -- our committee -- we had had a whitepaper also prepared for conversation, which was the basis of our first meeting discussion. That was revised between last meeting and this meeting as a result of the comments. And we did conduct a little poll

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wanted to put in along say our itself, of the Gus pretty system State's improving that's that's and more of a communities. sort of really 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

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community very leadership there's a expanding stakeholders transformation role for kinds of familiar will be quality plan. up on to use will talked work

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

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at the local health was -- when plans sync. guess build on during that process can stakeholder a few closely, And looking little ranked the -- we'll

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,

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again, reactivating the prevention under a leadership group, especially trying to business community in those conversations. had pretty good statewide representation of sectors. And identifying a couple of areas on the prevention agenda that are particularly linked to the most dramatic disparities in the state and trying to see, think, as one of our members said, how we 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 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 on -- on the development of plans in those 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

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little bit definitely jump think the we the State then the -- for in all for us, must-do list and add my expressed at to access of -- little their they be to each

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.

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

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

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

I think on the -- part of -- that's a good question. I mean, part of the things that are going on anyway may be to pick out those dimensions of the Medicaid redesign such as benefit package and prevention are some of the areas

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those and fit. And we would, you know, talk about
staff feed that information into the appropriate
does level. I think the health in all approach
think lend itself to some kind of a whitepaper, a
That might piece. And we can get started on that.
pick a be a product. And then, obviously, if we
to priority area to move the needle, we'll have
how we come up with some objectives and metrics in
best we want to do that. So that's probably the
could do at this point.

DR. STRECK: Other
questions or comments for --

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

DR. STRECK: -- Dr.
Boufford?

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

DR. BOUFFORD: Okay.

Thank you.

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

DR. STRECK: Thank you.
For our guests who are expecting the establishment

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project review to begin at twelve thirty, we did try to set up an agenda so that people would not have to travel early and wait long before they found their topics. We are running behind by about half an hour, so that we're going to move as a council into our final section of regulation. We are then going to break for lunch. And I am hopeful that by one o'clock, we can resume and so be about thirty minutes behind in terms of establishment and project review. So for those who need an extra thirty minutes, I wanted to make sure you're aware of it. In the meantime, we will move to regulation and the report of the committee on codes, regulation, and legislation. And I assume, Dr. Gutierrez, that will be your report. Thank you.

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

Because our regulation

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proposal for reporting, also need at our That water systems. of Title water intent to may be sources public waters coliform correct ongoing keeping to improve event

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

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recommend codes committee unanimously voted to adoption to the food council. This regulation was not taken on the June 16th food council meeting, however, but it is now before us today, and I so move it.

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

FROM THE FLOOR: Aye.

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

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

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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

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to --

DR. STRECK: Okay.

DR. GUTIERREZ: -- ask somebody who was present at the committee meeting or some members of the staff --

DR. STRECK: Ms. Lipson?

DR. GUTIERREZ: -- to answer that.

MS. LIPSON: Yes. The Department did convene a group of interested stakeholders, hospital quality management staff, and consumer 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. Is -- is there an expectation that staff will be reporting to this council from time to time on -- on statewide experience?

MR. COOK: We can certainly do that, John. I mean -- I mean, I think the context, again, it's important to recognize here, this move does two things that's very, very important.

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

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

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

DR. STRECK: Right.

MS. LIPSON: And so they'll be published in the state register, a forty-five day comment period --

DR. STRECK: Right.

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

DR. STRECK: Okay. Thank

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Are there other -- other comments or questions on the report of the Codes and Regulations Committee? Hearing none, we will adjourn until one o'clock.

(A luncheon recess was taken.)

DR. STRECK: Ladies and gentlemen, we can resume. We do have a quorum. We expect the full group will reassemble in time here, but we can begin with the establishment and project review group. I would point out that in this process, we have batched the applications so that those applications that have no objections on an argumentative basis nor any complications of recusals or conflicts with members of the council are considered first.

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

MR. BOOTH: Okay. And I promise to move, especially the early ones where there was such a consensus, along as fast as possible. But I -- I've got to tell you, I can't talk as fast as Jeff Kraut did at the end of the last meeting. The first two applications will be batched. It's 102412C, Buffalo General Hospital/Kaleida

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interest declared by Mr. Booth and Ms. Regan, and 102404C, Olean General Hospital, interest by Mr. Booth to relocate an existing Kaleida Health/Buffalo General Hospital P.C.I.- capable cardiac catheterization lab to Olean General Hospital under a joint operating agreement. A note for the record, the first year volume was three sixty-three -- equals three sixty-three cardiac procedures, and the third year volume equals seven twenty-five. O.H.S.M. recommended approval with the -- and contingency. The committee also There 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?

Thank you.

MR. BOOTH: Number 111109C, Eastern Niagara Hospital. Lockport Division d/b/a Eastern Niagara Ambulatory Surgery Center,

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multi-specialty clinic Lockport. conditions and recommended There vote. I Moved and further aye. 102363T, Mr. care and recommended and the with approval.

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

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Booth.

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. 102370T, 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

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recusal on Hearing

applications with Dr. Torres noted as a 102370T. Is there further discussion? none, those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you. Application

MR. BOOTH: Okay. 111388E, Riverside Health Care System, the corporate withdrawal of Riverside Health System from Pinnacle Care. O.H.S.M. approval. The committee also recommends

Care recommended approval.

There was no discussion. I so move it.

FROM THE FLOOR: Second.

DR. STRECK: Moved and seconded. Is there a discussion on the motion? Hearing none, 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. Application 102147B, Premium Health, establish and construct a D.N.T. 111183E, Airport Imaging d/b/a Hudson Valley Imaging, establishing four new physicians as members of Hudson Valley

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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. recommendation is also approval for a five year limited life with conditions and contingencies. The committee approved that with that same five year life with conditions and contingencies was recommended. On the Airport Imaging, there was approval with contingencies. And that was approved by the committee for recommendation here.

111220B, Healthcare Partners of Saratoga, establish and construct an urgent care D.N.T. at Route 67 and I-87 at Malta to serve Saratoga County and Washington County. O.H.S.M. recommended approval with conditions and contingencies, and the committee approved that recommendation to come here.

The final one in this batch is 111347E, C.P.R.N.C., L.L.C., d/b/a Central Park Rehab and Nursing Center. Establish Central Park as the Rehabilitation and Nursing Center, L.L.C., Residential new operator of the Vivian Teal Howard Health Care Facility. O.H.S.M. recommended

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committee all as a

approval with contingencies, and the 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

none, those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you.

MR. BOOTH: The next number is 071074E, Excellent Home Care Services. It is being deferred at the applicant's request.

We will do another batch of -- of applications. 1990L, Meadowbrook Terrace; 1966L, Chautauqua County; 2024L, Schuyler County Public Health

Health; Department; 2025L, Lewis County Public

Elderwood 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?

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FROM THE FLOOR: Second.

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

FROM THE FLOOR: Aye.

DR. STRECK: Thank you. We'll now move to category two. And there are no -- no, category two. Chris?

MR. BOOTH: Item eleven, 111076B, Q.E.A.S.C., L.L.C., interest declared by Dr. Martin and Dr. Sullivan. Establish and construct a free-standing, single specialty ambulatory care center providing gastroenterological services at 175-15 Horace Harding Expressway, Fresh Meadows. O.H.S.M. recommended approval for a five year limited life with conditions and contingencies, and that recommendation was approved by the committee without discussion, and I move it.

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

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

MR. BOOTH: Application Thank you. 111165B, Queens Boulevard G.I., establish and

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gastroenterological free-standing single specialty Queens ambulatory surgery care center at 7925 recommended a -- 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 a second. Is there discussion? Hearing none, those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Okay.

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

FROM THE FLOOR: Second.

DR. STRECK: Moved and

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aye.

Thank you.

081059B,

declared

James

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seconded.

Thank you.

102454E,

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from

recommended

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 percent of the company's membership interest Judith Grey to Bella Heching. O.H.S.M. approval with contingencies, and the

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approved that with no discussion. I move it.

FROM THE FLOOR: Second.

DR. STRECK: Second.

Discussion?

MS. HINES: Yes, I have --.

DR. STRECK: Yes, Ms.

Hines?

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

DR. STRECK: Mr. Abel?

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

MS. RUSH: I have to say

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

MS. HINES: I -- I -- I

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

MS. RUSH: Well, she's --

she's being approved as an owner of this one --

MS. HINES: Yeah.

MS. RUSH: -- and a

manager, not necessarily the C.O.O. of this one.

MS. HINES: Well, she --.

MS. RUSH: I don't --.

MS. HINES: I know. But

in the application, unless I'm reading it wrong, she will be the C.E.O. of this one. And -- and I recognize that this -- that this certificate of need is around change of ownership, but it begs the

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the - is being the -- I necessarily review an would have to we amend the we have Okay. approval on brought up a single as

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

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

FROM THE FLOOR: Aye.

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

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

DR. STRECK: Is there a second for that motion?

FROM THE FLOOR: I second.

DR. STRECK: So it's been moved and seconded that this application be referred back to the committee for -- to address the

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

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

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MS. HINES: May I? Bob, I -- I hear you and I -- I'm certainly not -- I'm not accusing this applicant of anything. I'm simply raising the question. I think it is in our purview regardless of how it comes forward to us to think through character and competence questions. And I -- I guess I -- without knowing whether or not the C.E.O. role and the C.O.O. role in these fourteen other places is the principal role, that's the only structure that I know of the -- that's the principal administrative role, then I would raise -- then my question really stands. If it's not, and beneath that C.E.O. and C.O.O. level, there are strong administrators who have the character and competence to manage a hospice appropriately, then I'm completely fine with it. I just don't know the answer to the question.

MS. RUSH: Excuse me. This is Linda again. I just wanted to point out to you guys that the person that you're talking about is the current one hundred percent owner of this agency.

MS. HINES: No, I -- I

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--.

the fact here, any I -- just is questions, would and might I -- I know if are that Advisors, that's all a have a almost

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 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

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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 staff 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 other healthcare facilities. Do we know that?

MS. RUSH: No, she does not have any other affiliations with healthcare facilities.

MS. REGAN: Well, that's where I think the competency issue is. We don't know -- how is she competent to run a hospice?

DR. STRECK: Mr. Fensterman?

MR. FENSTERMAN: Just two things I'd like to address. First of all, from a simple 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 past years, most of us around this table were at

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committee meeting, even if you were not on committee. It is typical in the State of the New York for all sorts of healthcare facilities that some folks come in as owners simply as investors, and they get established, and they don't have necessarily the experience. Here, we have someone 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 would be making an assumption to disapprove of this application if there is not an appropriate infrastructure in this facility to run the facility. But the fact that someone does not have experience in a particular business has never been dispositive of this council not approving an application when -- when there's someone that has experience.

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

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

DR. STRECK: Mr. Berliner?

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

DR. BOUTIN-FOSTER: Just - just --

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DR. STRECK: Dr. Boutin-Foster?

DR. BOUTIN-FOSTER: -- just for the record, the question that's being raised is not necessarily competence, but thinking practically, are there provisions made so that this ten percent owner with other responsibility can effectively pay attention and guide the administration of this -- you know, assuming almost -- I mean, assuming control of this, you know, is she capable of doing this and does she have -- what -- what provisions are there in place? So I think before we put this to -- to rest, we have to come up with the question that's being asked. Otherwise, it's going to come back again if the specific question isn't answered.

DR. STRECK: Ms. Regan?

MS. REGAN: This is the question I would like to ask. And I apologize. I -- I had to leave the meeting early, so I -- I would have asked these questions if I could have.

You have a situation where it's a for profit hospice. You have a hundred percent owner who is selling to a -- an investor obviously need the funds. What I would want to know is what's the governance of your -- of your

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Who's going to make clinical decisions? Who's going to make priority judgments? Who's 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 by the clinician. And to me, that's a issue for running a healthcare facility in State of New York.

And -- and we have always, 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 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

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this -- the motion that's on the floor is 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 defer this application and refer it back to establishment committee to answer the questions of council members in regard to the owners' 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?

DR. MARTIN: I'm just a 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

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deferred it first? Yes.

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

DR. STRECK: I -- as the would entertain. Did you vote -- which way who voted vote?

DR. MARTIN: I abstained.

DR. STRECK: So someone the for the motion the first time has to make voted motion for reconsideration. So someone who for approval would have to make a motion for seconded. reconsideration. That is made. That is reconsider So we are now entertaining a motion to the initial disapproval, which I think is an important point Dr. Martin has brought up.

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

FROM THE FLOOR: Aye.

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

FROM THE FLOOR: So moved.

DR. STRECK: And a second? And so in lieu of the first motion, we are reaffirming our motion for deferral. Those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Thank you. All right.

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

DR. STRECK: But I think we got there.

MR. BOOTH: I think we got there. All right. We're --.

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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 the 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, and the committee approved that without discussion. I would move them as a group.

FROM THE FLOOR: Second.

DR. STRECK: The group has been -- the group has been moved and seconded. Further discussion? Hearing none, those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

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

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

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part of Queens Commons in determined that continuing financially it. seconded in Thank you. here, 1731L, Regan; 1580L, recommended that as a

Law in 2006 to operate a nursing home as the continuing care retirement community in County that was to be known as Skyline 2009. M.T.C.'s board of directors proceeding with the development of the care retirement community was no longer feasible. We approved the certificate of dissolution without discussion, and I move

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; 1892L, interest, Ms. 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.

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second.

FROM THE FLOOR: I can

DR. STRECK: Discussion?

Those in favor, aye.

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you.

MR. BOOTH: Application 1930L, conflict declared by Ms. -- Ms. Hines, and she's leaving the room. Interest declared by Mr. Booth and Ms. Regan. Approval with a contingency was recommended and approved by the committee, and I move it.

FROM THE FLOOR: Second.

second.

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

FROM THE FLOOR: Aye.

DR. STRECK: Opposed?

Thank you.

MR. BOOTH: Ms. Hines can reenter the room.

Another batch. 1924L, interest, Ms. Regan; 1948L, interest by Ms. Regan; 1908L, interest, Mr. Fassler, Dr. Palmer, and Ms. Regan; 1722L, 1974L, 1926L, interest by Ms. Regan on all of those. Approval with a contingency was recommended and approved by the committee,

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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 now to category six. Mr. Booth?

MR. BOOTH: Application 102159B, 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 existing 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 and five opposed. The motion to defer one cycle was then adopted.

There was extensive discussion regarding the need at the last meeting for a

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facility -- recent approval of a facility in proximity and possible code deficiencies. 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 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

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categorized in -- in a -- in a few categories. 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 individual tracks in the -- in the proposed five ZIP codes that are being -- that are proposed for service. The -- the health indicators here tell us 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, provided a HEAL grant for that extension clinic to open. That -- the services provided and approved -- the services to be provided and have been approved by the Department are -- are not duplicative of the services to be provided

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

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

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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 extension clinic in the area with the exact same square footage rental. So we're -- we're satisfied with the rent that the applicant is -- is paying. It is a -- it is an arm's length -- an arm's length lease. There's no relationship between the via an applicant and the landlord. We have that affidavit by the applicant.

With respect to the budget, the -- the opposition has expressed concern over what -- what they believe is a -- too generous revenues fees for the different payers and also questions the -- the relatively low expense side of this budget. With respect to the -- the revenues and the rates, we have checked with our colleagues at OHIP, Office of Health Insurance Programs, with respect to the A.P.G. categories for the -- the program of care that the applicant is proposing in this application, and we find that the -- that the individual A.P.G.'s for the -- the sensitivity on the intensity of the weights, they -- they -

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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 -- the physical plant, that there is an incomplete certificate of occupancy, or had been an certificate of occupancy for that building,

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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

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

FROM THE FLOOR: Need.

MR. ABEL: And need, public need. Thank you. And -- and of course, we have an statutorily architectural review, which is not required, but in fact, we do that.

Now yesterday, I sent you all a memo because the -- the opposition had FOIL-ed for Medicaid information related to the current private practice Medicaid service information. What -- what the opposition is questioning is, well, how can we trust the -- the volume projections for this applicant if we don't have -- if we can't get comfortable with the current private practice volume? And the opposition is -- is challenging the applicant's basis for the projections by challenging what the private practice has

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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

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for managed providers? So and we related recipients I That's the -- give address, -- other physicians They do New away

relatively small payment for Medicaid fee service, why would they not go forward with care and contract with managed care 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. unduplicated.

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

But you should -- a couple things to walk with. The forty-one thousand Medicaid

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

In addition, we contacted care 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

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would all recognize, who all -- and all three said that they have contracts and do substantial business with Parkville Medical Care.

So with -- with those remarks, I -- I think 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 clarify need. Even with this application approved, 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, somebody 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 -- the additional

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fundamental that kind record the -- as I'm That's used a utilization by to number viability is to future of would looked 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

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private to meet experience. I have been things private capital financial -- hundred somewhere it -- there's be paint, that -- conversion rate --

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.

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those I -- I see that recommendation is development of in very -- so I was there's some us a confidence on the with review of and the to us, capital

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 --.

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

MR. ABEL: That's correct.

DR. BOUFFORD: -- requirements?

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

DR. STRECK: Dr. Yang?

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

DR. STRECK: Consider it

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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 -- 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 -- three -- okay. Over three hundred thousand --.

DR. RUGGE: And -- and am I -- am I correct that -- that -- that -- that -- that O.D.A.'s projecting twenty thousand visits annually? Is that -- is that what I saw?

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MR. ABEL: Yeah. It -- it -- that is you -- you're probably questioning whether a large enough number considering the population. I -- I'm presuming that's where you're going. And -- and I -- I mentioned at establishment and project review that -- that we believe that that is a conservative estimate of the volume this business will do. The applicant indicated to us that they similarly believe, but they did not want to put out a projection that they believed they would have difficulty achieving in operation. Clearly, as a -- as this facility, even though it's a private practice, as it rolls out as an Article 28, it expects to expand its business beyond what its 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, and I -- and I would consider that -- those projections to be conservative.

DR. STRECK: Other comments? Mr. Robinson?

MR. ROBINSON: I -- I

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just this we have demonstrated understand 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 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

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

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

DR. STRECK: Ms. Regan?

MS. REGAN: I think a lot of the -- the noise around this application was not so much controversy as an expression of -- I would even say passionate intention that we really -- that the community really needs this. I've never seen so many public officials come forward in support of an application and not a single public official opposed to it. I mean, I can

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understand why a practice, which is, you 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 loudly as this one has about the need, and when we see webcast figures like I -- I was able to see the those 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 that what P.Q.I. data is all about? I mean, it seems to me we've had now years' worth of really good 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 primary care in this neighborhood.

We're then offered a very well developed applicant who tells us that they've been operating at a very significant loss, and if we don't approve them, they will literally go

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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 the strategies of the department. And this is something that is so clearly coherent with those 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 answered every question that has been brought forward. They've really delved into the data. I don't think we're going to get a lot of new data that's going to help clarify this any more. And I also agree a hundred percent that all the demographics, all the studies of that area, that that continue to show the need. I don't know that's can be disputed. And every other comment done, I been brought up, the Department has really put it think, really due diligence. And I think to think off will only continue this, and I don't we 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?

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MR. FASSLER: We heard this morning from Mr. Cook that the area has tremendous needs. Mr. Abel just confirmed that even with this project approved, there's still tremendous need. The community needs this project. I think we have to call it to a vote already, and hopefully we'll approve the project for the area.

DR. STRECK: Dr. Gutierrez?

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

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

DR. BOUFFORD: Just to clarify the reason for the deferral. The reason for the deferral was to put the information that we've been getting in dribs and drabs today in a document so everyone would have a benefit to take a look

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And I think there -- I mean, I don't know. I think need there are issues. I -- I'm not debating the we're in the community. I think some of what underfinanced seeing here, primary care has been see for many years, and you see -- you tend to without sometimes providers that are put in place viability. adequate infrastructure, without fiscal So I think the -- in addition to need, the fiscal 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 the applicant.

But I think the deferral is not just to think in -- in the air. It was to really 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 was the -- the sense of Mr. Robinson's motion --

DR. BOUFFORD: Yes.

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DR. STRECK: -- that the -- the --

DR. BOUFFORD: Yeah. I just wanted to reiterate it.

DR. STRECK: -- the new material has not been considered by the committee nor by either party or discussed by either party. 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 important to note a couple things.

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

This application has met every need category that we can identify. It has met the financial review. It has met character and competence. There is no information that we've looked at in the last, quite frankly, seven months that has led the Department to think that

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going to shouldn't be approved. There are always be questions relating to data; it is inevitable. But there is no question here that we can look at the data forever and still not get to a perfect answer. And there is no question in our minds that this is a proposal that needs to have a decision made.

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

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

FROM THE FLOOR: Oh, yeah.

DR. STRECK: The motion did not carry. We can leave it in that limbo. Okay. Is -- is there -- are there additional

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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 as presented be approved. Is there a discussion on that motion? Hearing none, then we would ask for a vote -- again, a hand vote in favor of the motion as presented. Those in favor, please. My count is thirteen. Thirteen, the motion carries. Thank 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 construct a diagnostic and treatment center with a thirteen station dialysis service. O.H.S.M. recommended approval with conditions and contingencies. This application has been discussed over the last two cycles of meetings. At the June 10th committee meeting, the motion to approve failed with a

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of four in favor and seven opposed. At the subsequent meeting, the Department noted a correction in the need reviews projection statistics as well as reiterating the counties the proposed facility would serve. Discussion continued on the subject of insufficient dialysis stations available in the region and the length of stay in the hospital causing delayed discharges due to the limited slots.

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

FROM THE FLOOR: Second.

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

MR. ABEL: This -- this application has seen additional paper come in before -- since -- since the establishment

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

DR. STRECK: Is there discussion on the motion as presented? The is for approval, and it has been seconded. no further discussion, those in favor, aye.

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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 review committee meeting.

That -- are there other comments or questions from members of the council before we would move into executive session? Hearing none, 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 a report from the personnel committee. Thank

END SHEET