

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
FULL COUNCIL COMMITTEE MEETING
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90 CHURCH STREET, 4TH FLOOR, CONFERENCE ROOMS 4A AND 4B, NYC
TRANSCRIPT

Mr. Kraut Good morning. I'm Jeff Kraut. I Chair the Public Health and Health Planning Council. I have a privilege to call today's meeting of April 18th, 2023 to order. I want to welcome our members, Commissioner McDonald, participant and observers. Before we begin, I want to remind our audience that this is a public meeting that can be viewed via our webcast. There's a form that needs to be filled out which records your attendance at this meeting, whether it's in person or virtually. It's required by the Commission on Ethics and Lobbying in Government in accordance with Executive Order Section 166. We post this form on the department's website, which is www.NYHealth.Gov under Certificate of Need. We'd appreciate if you would email the completed forms to Colleen.Leonard@Health.NY.Gov. We appreciate your support in having us fulfill this requirement. Because we're subject to the Open Meeting Law and we broadcast over the internet, we need to make sure that we have some ground rules to make a virtual meeting successful. Members in particular, please keep yourself on mute. Rustling papers next to the microphone. When you do speak, make sure the green light is on so we can hear you and it can get picked up. Any side conversations and chatter. These are incredibly sensitive microphones. They will be picked up. We have synchronized captioning so we can't talk over each other. We just can speak in a linear fashion. Obviously, we can't do the captioning when two people speak at the same time. When you initially speak, please identify yourself as a council member or DOH staff. That'll be helpful to the broadcast company. Today, I want to encourage our members, staff and public to join the department's Certificate of Need listserv. We go to great lengths to make the public and the industry aware of all the actions of the council; our meeting notices, the information, our agenda, our dates and policy matters. We have printed instructions on how you reference table and join the listserv. What we're going to be doing today is I'm waiting for a quorum to be established in the room. We're going to start our reports. I'm going to introduce First Commissioner McDonald to give his report. Then because of certain quorum requirements, I'm going to after Commissioner speaks, go to our Codes Committee to act on two items for adoption, and then we'll turn to the Establishment and Project Review Committee to vote on actions the council needs to consider today. I'll return back to the reports from our deputy commissioners, which will include Mr. Herbst for the Office of Aging and Long Term Care, Ms. Morne will provide a report on activities of health, equity and human rights, Dr. Morley on the Office of Primary Care and Health Systems Management, Dr. Barrow on Public Health. I'll turn to committee reports from Public Health Services for Dr. Boufford to give us a report on the activities of the Public Health Committee and the Ad Hoc Committee to lead the state health improvement plan. That'll be followed by the report of the Health Planning and Policy Committee for Dr. Rugge, who will provide us with an update of the activities of the committee and the agenda as well for the upcoming year.

Mr. Kraut Before I actually start, we have the agenda set for the Establishment and Project Review members of the council. We've now organized the agenda by topics and categories, including the batching of CONs, taking into account individuals who have interests or conflicts. Please take a look at the batched application schedule that we have in front of you members. If you want any project to be moved to a different category, please let us know before we call that.

Mr. Kraut Before I introduce Dr. McDonald, I want to acknowledge Dr. Bennett. He's not in attendance today, but I want to congratulate Dr. Bennett for recently being presented from the American Heart Association, the Donald Led Duke Heart Hero Award. This award recognizes achievement in the area of health care, particularly in cardiac disease and stroke. It supports the mission of the American Heart Association and in particular the civic responsibilities in the Capital Region. We want to on behalf of all the council members, I'd like to congratulate Dr. Bennett for the efforts that led to him being presented with this award, and hopefully he'll be here. I still don't have a quorum, but we'll come back to adopting the minutes and everything.

Mr. Kraut It's my absolute pleasure. You may have heard that Dr. McDonald, who's the acting Commissioner of Health, was recently nominated by the Governor to remove that prefix from his title. We expect that that will happen in short order once the pressing budget issues are resolved. I want to congratulate Dr. McDonald, at least on the nomination. We'll have another time to congratulate you, hopefully. I just want to commit, you know, on behalf of all of us here, to working with you and the department staff. We're really looking forward to a truly meaningful and productive relationship to serve the citizens of New York, which I know how passionate you are to do so.

Mr. Kraut Dr. McDonald, I give you the mic.

Commissioner McDonald Thank you. Thank you, Chairman Kraut.

Commissioner McDonald This is wonderful to be here. I'm very thankful to be here for so many reasons. One is just it's not lost on me how just getting in a room with people and having normal conversation. It's just something we couldn't do for so long. Whenever I get in a room like this, it's just thrilling. The other thing is it's been fun to meet some of you for the first time in person. We've had this virtual relationship. Even several of my staff I've known, quite frankly, and had many meetings with and just meeting people for the first time. I'm looking around a good half dozen of my team here and said hello to them today for the first time in person, which is fun for me as well. I do want to acknowledge a number of our team is up there in Albany, our Albany team, just so you know, you're on the big screen here so I can see you. I'm very grateful that you came to join us as well. I am really honored, humbled that Governor Hochul asked me to be the nominee. I'm really looking forward to serving the people of New York. I'm very passionate about the health and wellness of all New Yorkers. I'll say this. I don't know that a Met win makes any New Yorker healthier, but it just sure makes me a lot happier. Pulling one from the Dodgers last night, coming back three times in the same game, that just did something for me. I just want to leave you that with the notion there. If there's any ambiguity about my or my alliances, like I understand there's another baseball team in New York, but I'm a Met fan. Sorry. I'm just telling you. There we go.

Mr. Kraut Well, as typical, you'll find Dr. Berliner usually has a different perspective on a lot.

Commissioner McDonald Well, that's fine. All views are welcome.

Commissioner McDonald I am very, very excited about the future of this state and about the potential the department. One of the things I want to touch base a little bit is when I was actually in February here, one of things Dr. Boufford asked, but she said, Would you mind sharing some of your priorities at the next meeting? While I'm still fleshing out all of

my priorities with my leadership team, I just wanted to share three priorities just to get a sense of where I'm thinking where I'm going. One of my main concepts is, quite frankly, rebuilding the New York State Department of Health. A second concept is making sure I improve our collaboration with local health departments. A third party, and this is not in any order, but we really need to build on our health equity work and do what we can to eliminate health disparities. When I talk about fully staffing the State Department of Health, I'm optimistic we're going to be able to do that in the next year. I'm excited about some of the changes that I've seen our Executive Deputy Commissioner, Megan Baldwin already do with our team just to do some things working within the state system, but just to optimize how to optimize our system so we can actually hire as many people as possible, but finding the right people as well, giving our staff the resources they need to succeed. This is really important to me. One of the things that I often say is we have a worthy mission at the New York State Department of Health. I think one of the best ways to fully execute the mission is to make sure we're fully staffed. That's one of my top priorities. It's been fun to work with local health departments, quite frankly. I've really enjoyed the collaboration we've built already. One thing I did last month, I was invited by the New York State Association of County Health Officers up in Saratoga to give a keynote when they did their statewide immunization conference. It was again just delightful to see all local health department immunization teams in the same room talking about something that's really important, which is, quite frankly, immunizations. It was great to see that. That's just an example of how we're really building a strong relationship with the local health departments and seeing what we can to just really make that as strong as possible. I want to spend a few minutes talking to you, though, a little bit about what I think about with health disparities and why health equity is so important to me. One of the things I've said numerous times at the department is I really feel like our goal needs to be eliminating health disparities. When I say eliminating health disparities, I worry sometimes it sounds aspirational. I really hope it is not aspirational. To me, this is a moral imperative. It's one of those things where some of the health disparities we've lived with have been going on for a century or longer,. Works been done to make progress in these spaces. Make sure that's very clear. One thing that I need to do as the Commissioner is make it really clear where I'm coming from when it comes to this. I think one of the things we saw during the pandemic in particular was how racial health disparities were far too common, but quite frankly, so problematic. We really saw how Black and Hispanic New Yorkers suffered severe or fatal COVID at far higher rates than whites. I simply can't accept that people who live in certain neighborhoods or communities should have a higher burden of chronic disease, face a disproportionate burden of environmental hazards or have limited healthy food options or live in substandard housing. Inconsistent access to advantageous social determinants of health have prevented too many people of color from living healthy lives. The cause of these disparities are complex, systemic and deeply rooted in our past. They will not be addressed successfully unless we purposely address them together and consistently. At the Department of Health it's our job not to only ensure that everyone has access to health screenings, prevention and quality medical care, but also to address the factors that are making people sick in the first place. It's interesting. I've often heard people refer to health equity as a lens, which we must set our priorities. I get what people are saying when they talk about it as a lens, but I just want you to know from my standpoint I don't look at health equity as a lens. Because you can take glasses on. You can take it off. When you talk about a lens, it feels optional to me. When I think of health equity for the New York State Department of Health, I think of it being our heart and soul. It just isn't optional. I've said around the department several times is I really think of ourselves as a health equity agency that happens to do public health because that's really where our heart and soul is. One of my jobs as Commissioner, I gave you the reference to the New York Mets earlier. It's probably time now for our football analogy is to set a goal line. What

is the end zone look like? Because as Commissioner, if I don't give people an end zone it's hard to align people towards achieving a common goal. I'm a big firm believer in organizational alignment. Whether it's people swimming in the same direction, rowing in the same direction. You just need to know where the direction you're headed is. To me, that's eliminating health disparities. It's one of those things where the issue of racial health disparities are significant, but there's also challenges with people with sexual orientation disparities, gender disparities, age or disability disparities as well. I want to just focus on one health disparity that's going to be addressed in this year's Governor's budget, and that's the ban on flavored tobacco, which includes menthol. I can just tell you I'm board certified in preventive medicine, but also board certified in pediatrics. It's just for your reference, I only stopped seeing patients in September, so it's still fresh in my mind here. I'm very knowledgeable how tobacco, flavored tobacco in particular, really does usher children into a lifelong addiction to nicotine. It concerns me. The burden of smoking in New York is significant. We're talking about 28,000 New Yorkers dying every year. The context of this next number is hard for me to say. Talking about prematurely ending the lives of 280,000 children under the age of eighteen because of the lifelong issues of tobacco use. These are very significant public health needs that we need to address. One of the things that I really am excited about working with Governor Hochul when I sat down to talk to her and her team, Governor Hochul was really committed to public health. This is really something that is right inside of her. She cares deeply about the state and understands the issues extremely well. Quite frankly, it's a delight to work with her team. They really do get public health and want to do what's best for everybody. It's inspiring. The issues I have with menthol. Menthol is pernicious. It was designed to go down easier. If you can forgive the analogy. It's like the tobacco industry spoonful of sugar. Not to help the medicine go down, but to usher children into a history of nicotine addiction. This disturbs me very deeply. As we've been talking about the value of this ban it's been a little disheartening, but not surprising to see big tobacco spreading fear that under this ban, individual smokers would face criminal prosecution if they possessed menthol products. This is just a falsehood intended to protect their profits. To be clear, the ban in the budget is on the retail sale of flavored tobacco. I could only see an upside to such a ban. Finally, I want to just mention quickly a new topic, the health equity impact assessment that's going to be discussed at the full council today. It was submitted for public comment on April 12th. State legislation requires the inclusion of a health equity impact assessment for Article 28 health care facilities, submitting a Certificate of Need applications department for proposed projects. The intent is for the assessment to demonstrate how facilities propose projects will have an impact on the accessibility and delivery of services with a particular focus on impacts to medically underserved group. The department's Office of Health Equity Human Rights is overseeing the application of the Health Equity Impact Assessment Requirement tied to the state's Certificate of Need operation. It's going to go into effect June 22nd, 2023. The Office of Health Equity Human Rights, in close collaboration with the Office of Primary Care and Health Systems Management and Division of Legal Affairs, has been regularly meeting with hospital associations, nursing homes and other member associations as well as community advocates. I do want to emphasize that I really do look forward to seeing what the public engagement on the proposed regulations look like. I just want people to know I don't read every single comment and every single regulation we get, but I definitely make it a point to read some. Just so people know that I do really see what people say. I get a sampling of comments. I read through them just so I have a sense of where people are coming from. Lastly, I know there's been some great stakeholder engagement on the next prevention agenda. I was at a meeting I attended from Albany last month. I know Dr. Boufford and Dr. Bauer were there and led quite interesting stakeholder discussion, which was great. I really do want to emphasize when we come to putting our prevention agenda together, I'm really interested in hearing what the

stakeholder discussion is. Public health is public. I love hearing from the public on what they want our future to be. I really look forward to that. Thank you. I look forward to working with all of you.

Commissioner McDonald Turn it back to you, Chairman Kraut.

Mr. Kraut Thank you very much, Commissioner.

Mr. Kraut That's a meaningful and valued agenda that you've laid out. I know that will resonate with us. We held pretty long hearings on the vaping regs where we tried to eliminate flavoured vaping products from the shelves of New York state retailers. It's something that engendered a lot of discussion, but we very clearly saw the benefit of doing that for generations to come. That and the health equity agenda that you've laid out, the prevention agenda, these are things that we wish we would spend more time on. We really look forward to it.

Mr. Kraut Let me open it up for questions to the Commissioner.

Mr. Kraut If you have any questions or comments on anything he said before we move on.

Mr. Kraut Yes, Dr. Torres.

Dr. Torres My Mother loves you in Puerto Rico.

Commissioner McDonald Thank you so much.

Dr. Torres I just want to say thank you for acknowledging the disparity rate in my community, specifically because I feel that being here, I also represent a community in need and a community that's still suffering and impacted by the disparities. I'm looking for the solution based discussions with key stakeholders around the table and beyond.

Dr. Torres Thank you.

Commissioner McDonald Thank you very much. Kind words.

Commissioner McDonald I've been to Puerto Rico. Lovely. I have very fond memories from when I was in the Navy of visiting Puerto Rico.

Mr. Kraut Any questions?

Mr. Kraut Well, Commissioner, we thank you. The Commissioner is going to stay with us for a few moments, I think, while we do some of the voting.

Mr. Kraut What I'm going to do is we have a quorum now. I'm going to return back to the agenda. I'm going to ask for approval of minutes for the December 8th, 2022 meeting.

Mr. Kraut Do you want me to do these individually?

Mr. Kraut The January 26th, 2023 Special Meeting and the February 9th 2023 Meeting. May I have a motion to approve the minutes?

Mr. Kraut I have a motion by Dr. Berliner.

Mr. Kraut A second by Dr. Torres.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut All those approved.

Mr. Kraut I also want to bring to your attention in the book. We had the meeting. We had for informational purposes, the annual report of the Public Health and Health Planning Council. This is a tremendously, chock full of a lot of information of all the projects we reviewed, the codes that we adopted, the things we discussed, the activities of our committees. When you look at it in its totality, you understand not only the work of the council, but the enormous work of the department and the infrastructure that permits us to do it. It's a significant volume of activity. I just want to make sure that everybody takes the time to take a look at that, because a lot of work goes in putting it together. Also just take the moment to thank the department and its staff for all the work that permits us to do our work. We only see the tip of the iceberg, if you will, of leadership here at the council. You have to remember that every person that maybe comes in contact with us, there has to be a dozen or ten dozen people in the public health and other areas that are working to kind of work on the agenda, the regulations that we adopt, the comments that are reviewed and the activities of the council. I just want to take that time. Please take a look at it. In just keeping with the thoughtfulness, I want to thank Colleen and Michael for our Welcome to Spring candy, not consistent with the prevention agenda, but appreciated nevertheless. It's in moderation.

Mr. Kraut Ms. Soto.

Ms. Soto I think it's a way of reflecting the work that we did in 2022. I noted that in terms of the tables, there were reductions of beds in certain areas. I don't know if we're prepared to discuss this, but I'm curious the impact and we're somewhat post-COVID that in terms of either opening or reducing beds in services, was there a remarkable change, let's say, from 2021 and now what we just finished in 2022, and basically the impact of COVID and providing services.

Mr. Kraut I mean, I'll defer to the department. We're just recognizing, certainly, in psychiatric and non med surge beds, so many beds had been converted during COVID to get them reconverted. I know that's been a subject of the Governor's agenda to reopen the mental health beds. I just don't know about the others. They can maybe put that in a discussion to bring back to us next time, because I'm not sure if anybody's prepared to delve into that right now unless I'm incorrect. I'm looking at the folks in Albany and I think I'm correct if that's okay with you. We'll come back to an understanding of that. Just put that on the to do list, please.

Mr. Kraut I'm going to now just depart from the agenda we had set out of deference to maintaining a quorum and getting the business done. I'm going to ask Mr. Holt to first initially give a report on Codes, Regulations and Legislation and to present the items for

adoption. The health equity regs for information we'll come back to after we get all the reports out from the deputy commissioners.

Mr. Kraut Mr. Holt.

Mr. Holt Thank you, Mr. Kraut.

Mr. Holt Good morning. I am Tom Holt. I'm the Chair of the Committee on Codes, Regulations and Legislation. At the March 30th, 2023 meeting of the committee, the committee reviewed and voted to recommend adoption of the following emergency regulations for approval before the full council. The first was Hospital and Nursing Home PPE requirements. Jason Riegert from the department presented the Hospital and Nursing Home PPE requirements, then proposed regulation to the Committee on Codes for Emergency Adoption. Mr. Riegert and Jackie Sheltry are now available to the council should there be any questions.

Mr. Holt Mr. Chairman, I move the adoption of this code.

Mr. Kraut I have a motion from Mr. Holt.

Mr. Kraut May I have a second from Dr. Berliner?

Mr. Kraut Other questions from the department about this regulation, which we've seen a few times before us.

Mr. Kraut If there's any additional questions, now would be the right time to ask.

Mr. Kraut Hearing none, I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstentions?

Mr. Kraut The motion carries.

Mr. Holt Thank you.

Mr. Holt The second code for emergency adoption was the investigation of communicable diseases. Jason Riegert and Dr. Emily Lutterloh from the department presented the investigation of communicable disease proposed regulation to the Committee on Codes for both emergency adoption and for information. They're available to the council should there be any questions from the members.

Mr. Holt I move the adoption of this emergency regulation.

Mr. Kraut I have a motion.

Mr. Kraut I have a second by Dr. Kalkut.

Mr. Kraut Again, any questions or discussion about this particular regulation?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstention?

Mr. Kraut The motion carries.

Mr. Kraut Mr. Holt will come back to you for the last item for information. First, I'm going to turn to Dr. Kalkut and ask him to give a report of the Project Review Recommendations and Establishment actions.

Mr. Kraut Dr. Kalkut.

Dr. Kalkut Good morning. We'll start with application 2 2 2 2 1 3 B, Staten Island GSC LLC doing business as Ambulatory Surgery Center of Staten Island in Richmond County. An interest declared by Mr. Kraut and Dr. Strange. This is to establish and construct a single specialty ambulatory surgery diagnostic and treatment center for Gastroenterology to be constructed at 2043 Richmond Avenue in Staten Island. Both the department and the committee approve with conditions and contingencies with expiration of the operating certificate five years from the date of issue of its issuance.

Dr. Kalkut I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Second, Dr. Berliner.

Mr. Kraut Does anybody have any questions on this application?

Mr. Kraut Hearing none, I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Are you abstaining? I just declared an interest because it's a backup hospital.

Mr. Kraut You're abstaining.

Mr. Kraut We're okay?

Dr. Kalkut I don't think so.

Mr. Kraut With the Commissioner vote.

Mr. Kraut The application is approved.

Dr. Kalkut Thank you.

Dr. Kalkut Next is 2 2 1 1 2 3 E, Community Inclusion Inc doing business as TRC Community Health Center of Western New York. This is in Chautauqua County. There's an interest declared by Mr. Holt to establish a Community Inclusion Inc as the operator of an extension clinic currently operated by NYSARC Inc at 8 90 East Street in Jamestown and certify a new extension clinic at 186 Lakeshore Drive West in Dunkirk Safety Net. Both the department and committee approve with conditions and contingencies.

Dr. Kalkut I so move.

Mr. Kraut I have a motion by Dr. Kalkut.

Mr. Kraut I have a second by Dr. Torres.

Mr. Kraut Any questions on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstentions?

Mr. Kraut The motion carries.

Dr. Kalkut Next is a certificate of dissolution. Dissolution by Saint Teresa's Nursing Home Inc. Request consent for filing to dissolve Saint Theresa's Nursing Home Inc. A conflict and recusal was requested by Mr. La Rue. He is not in attendance. The department and committee recommended approval.

Dr. Kalkut I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut I have a second, Dr. Berliner.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstention?

Mr. Kraut The motion carries.

Dr. Kalkut 2 2 1 1 0 8 2 C, Jamaica Hospital Medical Center in Queens County. This is to construct an addition to accommodate an emergency department expansion and two new critical care units converted for coronary care beds to intensive care unit beds and certify twenty-two additional ICU beds. Both the department and establishment committee recommend approval with conditions and contingencies.

Dr. Kalkut I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Torres.

Mr. Kraut Any questions on this application?

Mr. Kraut Yes, Dr. Boufford.

Dr. Boufford Thank you.

Dr. Boufford I just want to use this opportunity to raise again the issue of the guidance to acute care hospitals for applying for discussing the prevention agenda, their activities in the prevention agenda in relation to their CON applications. There was a good discussion there, but it did not really exactly relate to the priorities that the hospital might be involved in locally with local health departments in developing the prevention agenda. I think the language continues to be needing revision in order to get a more specific answer so that we can try to see how our local hospitals and local health departments are working together on the agenda. I know Dr. Morley's group is working on that with Dr. Bauer, and I just want to raise it for the council to say it's still on the agenda to revise that guidance relative to the prevention agenda.

Dr. Boufford Thank you.

Dr. Soffel Good morning. Denise Soffel, council member. I wanted to reiterate some of the comments that I made when this came before the committee a couple of weeks ago. It seems to me it's important when we look at emergency department expansions that we encourage facilities to think about other ways to decant crowded emergency departments rather than simply continuing to expand capacity within the emergency department, which is not necessarily the most efficient, effective or appropriate place to be providing a lot of the care that we currently provide in hospital settings. I would love that as part of the application that there's a discussion about urgent care, primary care, preventive care, community based care as part of the presentation as to why the emergency department expansion is necessary.

Mr. Kraut Thank you.

Mr. Kraut Any other questions?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstention?

Mr. Kraut The motion carries.

Dr. Kalkut 2 2 2 2 3 4 C, Atlantic Surgery Center in Suffolk County. Dr. Berliner abstained at the Establishment and Project Review Committee. This is to certify a second Ambulatory Surgery Center specialty for pain management and install a CR machine. Both the department and the Establishment Committee recommended approval with conditions and contingencies.

Dr. Kalkut I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Torres.

Mr. Kraut Any questions on this?

Mr. Kraut Dr. Berliner.

Dr. Berliner Do we have any more information on the legal dispute that came up at the Ethics Committee meeting?

Dr. Kalkut I'm not aware of any additional information.

Dr. Kalkut Shelly.

Mr. Kraut For those of you who weren't there, there was a speaker in opposition to it that I guess was from a neighboring competing ambulatory surgery center suggesting there's some legal action going, but frankly, unrelated to the CON process. That's where Dr. Berliner's question came. I suspect that's why you also abstained as well.

Dr. Berliner Yes.

Mr. Kraut There is none.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Are you going to vote affirmatively now?

Mr. Kraut Dr. Berliner will not abstain. He'll be voting.

Mr. Kraut All those opposed?

Mr. Kraut Any abstentions?

Mr. Kraut The motion carries.

Dr. Kalkut Thank you.

Dr. Kalkut The following applications are going to be bundled, so we'll go through a number before taking a vote. 2 1 2 2 2 6 O B, Surgery Care Suffolk LLC in Suffolk County. This is to establish and construct a multi-specialty ambulatory surgery center at 1050 Old Nichols Road. The department and the committee recommend approval with conditions and contingencies with expiration of the operating certificate five years from its date of issuance. 2 2 2 1 8 1 B, Bronx Vascular Surgical Center LLC in Bronx County. This is to establish and construct a new single specialty Ambulatory Surgery Diagnostic and Treatment Center for Vascular Surgery at 1733 Eastchester Road in the Bronx. The department and Establishment Committee recommend approval with conditions and contingencies with the expiration of the operating certificate five years from the date of its issuance. 2 2 2 2 2 7 B, Southern County Tier Surgery Center LLC in Broome County. This is to establish and construct a dual single specialty ambulatory surgery Diagnostic and Treatment Center for Orthopedics and Pain Management at 601 Harry L Drive in Johnson City. The department and Establishment Committee recommend approval with conditions and contingencies with an expiration of the operating certificate five years from its date of issuance. 2 2 2 0 8 6 E, Amer Home Care Corporation in Rensselaer County. This is to establish a new license Home Care Services Agency at five Springfield Avenue in East Greenbush. Both the department and committee recommended approval. 2 2 2 1 5 6 E, Right at Home Nassau North Shore in Nassau County to establish EQ Health Incorporated as the new operator of Right at Home North Shore, a licensed home care services agency. The department and committee recommended approval. Last is a certificate of amendment. This is for Glen Falls Hospital Foundation. The amendment corrects a error in Section 4B of the foundations restated certificate of incorporation. The department and committee recommended approval.

Dr. Kalkut I so move.

Mr. Kraut We have those applications. We have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Any questions on any of those applications?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstention?

Mr. Kraut The motion carries.

Dr. Kalkut That concludes the Establishment and Project Review.

Mr. Kraut Thank you very much.

Mr. Kraut We're going to turn back to the agenda for some of the deputy commissioners reports. Commissioner will stay for a little while longer and then he's going to get the Medicaid rate.

Dr. Berliner What happened to the application for the infusion center?

Mr. Kraut It was deferred. It was deferred because we had questions. This was an application that we discussed at EPRC. It was in Beacon, New York. They were asking to be established as a diagnostic and treatment center with a large number of infusion centers. Unfortunately, the clinician couldn't be present. We deferred.

Dr. Berliner Didn't we have an application from a place that wanted to set up?

Mr. Kraut We just approved.

Mr. Kraut Did you have a comment or about in general? It's a little late for that comment.

Mr. Kraut In all fairness, this is a big issue.

Dr. Berliner Let me raise the great Hannah Arendt. I thought the letter from the applicant was quite banal. How are we going to get staff for this for this agency? We'll have fairs. Nothing that would actually indicate how they were actually going to get staff without stealing them from other places.

Mr. Kraut Again, for the members who were not there, we had a conversation of establishment where we're approving licensed home care applications, licensed home care agencies, which we haven't done for a significant amount of time. Mr. Herbst might want to comment after I talk. One of the concerns we have given the shortage we have in home health care aids and in long term care in general is if we keep approving more agencies. Are they essentially going to be recruiting away and weakening the ones that are already established? It's very hard to know that. We ask for a little more specificity on their plan. I think Dr. Berliner described the response with the correct adjective. It was a little wanting.

Mr. Kraut Mr. Herbst, I don't know if you could add anything or correct me what I said.

Mr. Herbst I agree with you, Mr. Kraut. What we're trying to do is roll out some investment in this year's budget with respect to wages to promote some reinvestment in this space. That hopefully will encourage more people to join the workforce. We also have put down a new investment and RFA for training centers, particularly in home care and home care in the aggregate. This will provide access to personal care aides to home health aides, certified nursing aides, credentialing with no training cost for the students. We're putting stipends forward. We're putting travel costs forward to help people get to training sites. We are thinking about the continuum to get more people into the workforce. This way we're not robbing Peter to pay Paul with respect to additional workers coming into the workforce or from other institutions, including hospitals or nursing homes. I agree with you, Mr. Kraut. We are on top of that.

Mr. Kraut Mr. Lawrence then, Dr. Torres, please.

Mr. Lawrence Harvey Lawrence, a member of the council. I'm intrigued by the notion of not expanding services, reducing it. I think that's something that we'll probably have to apply to the health care delivery system across the board, because there is and it's really I've never seen, at least in the primary care side, such a shortage in terms of the workforce, nurses, clinicians and especially people willing to serve in underserved neighborhoods. That is the challenge I think that's ahead of us and in the delivery system to get more people, qualified people into these professions and also to expand the scope of their practice.

Mr. Kraut We've talked about this over the years that we almost need a joint task force. I'm not suggesting it's necessarily the Public Health Council, but certainly the Department of Health with the Department of Education to essentially revisit the framework we have for licensing the joining the interstate compact and things that we've talked about and coming up with may be different models to educate the next generation in a slightly different way that might produce and attract individuals into here rather than necessarily going through a four year experience or the like.

Mr. Kraut Dr. Torres.

Dr. Torres I think it would be key to understand the areas in which these companies are looking to execute a program opening it up because I think it would be counterintuitive to actually approve something where there is a high number of other competing entities. To your point, it would be taking staff from one and splitting it. One of the common experiences with the home health aides is that they're not exclusive. They tend not to be exclusive to one agency. They're split among three or four.

Mr. Kraut I think what you're hearing and I think, Mr. Herbst, you'll react to this is when we do have an applicant, particularly given the comments you've just heard, that applicant should be prepared and in the room, not necessarily just write it on a piece of paper so we can have that conversation. Unfortunately, we don't have a need methodology.

Mr. Kraut Am I correct?

Mr. Kraut Our hands are a little limited, although we can have a moratorium. We don't have a population based need methodology. Even if we did on the staffing side, it wouldn't matter because it's like diagnostic and treatment centers. It's probably an unlimited demand for primary care as Dr. Soffel just talked about. I think what we can do is just on those topics, competition, stealing from Peter to pay Paul, the applicants should be aware that when they come into this room and do apply those are questions we want answers and details at a level that we can have a conversation.

Mr. Kraut Let me go to Dr. Kalkut has a comment then Dr. Boufford.

Dr. Kalkut My comment is in support of Mr. Lawrence's. I think it's the shortage of staff is a tip of the iceberg to what's happening in the whole system. It is doctors and nurses. It's radiology technologist, it's laboratory technologist. I'm aware of several facilities who have hired pathologists to fill out their laboratory function but can't hire a person to do the dissection, which is an associate degree, two years of special training, salary has been raised multiple times and vacancies all over the city as an example.

Dr. Boufford Just two comments. It may be that Commissioner Herbst is working on this. I just want to tee it up for his presentation. This council has really asked for more of a strategic plan for long term care for a number of years, really thinking about site free, independent of what site is provided for some of the reasons that have been discussed. I think that maybe on your agenda for your overall work. The other thing I want to raise, and I'm channeling Dr. Gutierrez here. He was asking for several years for us to really look at the workforce issues. I think Jeff's raised the scope of practice questions and the sort of increasing professionalization of the workforce, which requires higher degrees is a real problem. I think there's so much data now about the ability of community health workers, peer counseling and other things where we have huge gaps. If we could address that with the commissioners, perhaps working with the Commissioner of Education, because these kinds of changes are trapped in that interface. I just want to raise it again.

Dr. Boufford Thanks.

Commissioner McDonald While I have the microphone I just want to share, I really welcome your concerns about staffing of health care in this state. It's a very deep concern of mine. One of the things I've been doing is doing a lot of listening to hospital executives. One of things they hear loud and clear from hospital executives. They really need predictable labor costs. This is really problematic. I think when you see health care workers with a fluctuating price for labor, like it's some kind of commodity, it's extremely troubling for hospitals. I just don't think it's stabilizing for the workforce at all. Dr. Morley might mention this and he does his comments, but we recently started. We hired a lead for our Center for Innovation and Workforce. I really welcome working with State Education Department just so you know. Dr. Heslin is doing some nice work with one of their Deputy Commissioner about working with State Ed. New York is different in a lot of ways. I tend to embrace the differences. One thing that's a little different about New York State is there's a core public health function which is providing a skilled, diverse workforce that's a core public health function. What's a little bit different about New York is we've delegated that to an education department as opposed to a health department. There's a fairly large amount of language in this year's budget that addresses that. Kind of what I'm quite frankly used to is working in a health department where this is the health department's responsibility. What I've noticed in my past was as the health department, we can work quite nimbly, be quite flexible and do what we can. That isn't the case here. Having said that, what we're committed to doing is working with the State Education Department to look at what's possible. I love that Jeff Kraut mentioned earlier about interstate licensure compacts in this year's budget. We're very supportive of those, the Department of Health. I think they're very important. One of things I hear consistently from hospital executives, though, is questioning why a nurse needs a four year degree. Quite frankly, when experience is one of the teachers of nurses as well. This is something else that I just feel like I hear these things and I'm going to take information in as best I can and see what we can do to be partners with the legislature and see what's possible.

Mr. Herbst Can also add one additional thing?

Mr. Herbst It's not just the individuals in the workforce. It's also their scope of practice, which is something that the department has been looking at and as part of this year's budget that we are trying to help expand.

Mr. Kraut We have somewhat of an anachronistic framework of scope of practice that was set at a certain time when we didn't have technology and other actually job titles that need to be revisited.

Mr. Kraut Yes, Dr. Berliner.

Mr. Kraut I'd love to get to the reports, but this is exactly the conversation we wanted to have.

Dr. Berliner I mean, just to say, clearly, it's important for the entire health care system that we invest in workforce and find ways to find more people who want to come into it. Whether it's changing the educational requirements or training standards or whatever. In particular, the home care workforce, you know, the lowest paid, the least trained. If we're having trouble finding workers to fill those slots, I mean, it's going to be really problematic. As the population ages, we need more home care and things like that. I think it's almost in some ways a special problem not independent of the rest of the workforce issues, but one that has to be solved almost independently. It may just require paying lots more money, buying people cars, I mean, whatever it takes, particularly Upstate, right? I mean, where that becomes an issue.

Mr. Kraut Yes, Ms. Soto, Mr. Lawrence and then I really love to get back. Actually, you probably gave your report, but that's okay.

Ms. Soto I want to encourage the department to look at already what's going on in the Department of Education. Want to bring your attention to something that is regarding STEM careers, science, technology, engineering and math. There are two programs. One is STEP, the Science technology entry program that starts working with youngsters from seventh grade to twelfth and then there's the C STEP, the collegial one. It just so happens that eight of the seventeen medical schools have a middle school program. And the other thing in terms of diversifying the workforce eligibility and so far we'll see what happens in the June Supreme Court case, but eligibility is either you're an ethnic minority and the legislature in New York State specifies Black, Latino, American-Indian, Native, Alaskan, Hawaiian, or you're economically disadvantaged. I think greater exposure, collaboration, getting these young people excited. I will be full disclosure. I have worked for over thirty years. My institution has had one of the high school middle school programs that we start developing our workforce. There's the collegiate when the young people go off to colleges, whether it's associate degrees or four year degrees. My point is there's already something established. Further down the pipeline you're not going to get these people becoming professionals in a year or two, but planting that seed and nurturing that seed. Again, Department of Education, the STEP and C STEP programs.

Mr. Kraut Mr. Lawrence and then we're going to go to the deputy commissioner reports.

Mr. Lawrence I guess the issue of workforce has been around for a number of years and there's been a lot of discussion, but I think some of the problems are structural. We can continue to talk about it, but I think at some point, if it doesn't take on the urgency, say, of a pandemic, that we are going to continue to talk about it as the problem continues to grow. We'll be left with picking up the pieces after we've have a system that is somewhat disjointed and disintegrated. I don't know how you address this from a strategic whether you come up with a strategic plan for how you're going to address the workforce issue and then put a lot of resources on it and get everybody, the legislature, the Department of Education, Department of Health. Everybody in a sort of pandemic mode of urgency to move this issue. I think what I'm afraid of there are discussions with hospitals, but on the primary care side, we have difficulty recruiting nurses because we can't compete in that labor market where it's a commodity. We get outbid at that level. The same thing with

clinicians and also entry level employees. This is a problem I think that really requires sort of all hands on deck with a sense of urgency that we have. We may be running out of time to solve it before it just explodes beyond where it is right now.

Mr. Kraut Thank you.

Mr. Kraut I'm going to now turn to the deputy commissioner reports just to point. We tried a little bit of an experiment this time around on this. Those of you who took the time to read the 400 or so pages of our agenda book, you'll notice that I had requested that the deputy commissioners, because many times they come into the room, they have prepared remarks. To share those remarks with us prior to the meeting in order to kind of streamline our meeting so we can get to some kind of questions. I had also asked some of you who had questions. What I was hoping this wouldn't happen is create more work. It's fine to ask questions. Some of the folks responded with written responses. I would just say, I think we'd like to keep this somewhat conversational. The whole point is not to add an additional burden to the report, but rather that we come with a more informed understanding of what those questions are. I'm going to encourage it. I think this is an imperfect process and we'll titrate it as we move along. What I've asked the deputy commissioners is kind of give us headlines, but don't go through the detail of the material they already gave it. For those of you, you hear the tenor of the questions. I think, you know, Mr. Herbst, we might have covered half of your comments, but let's see how this goes. It's an experiment. I would appreciate your feedback and anything we can do. We have a challenge about quorum and keeping everybody in the room. This was one of those things. It's like baseball. We're trying to speed up the game a little so we're not losing quorum for valid reasons. I'll come back to that at the end of the meeting, recognizing some of you have to leave before the end of the meeting.

Mr. Kraut Mr. Herbst is going to give the report on the Office of Aging and Long Term Care.

Mr. Herbst Thank you, Mr. Kraut.

Mr. Herbst I want to actually first start with Ms. Soto's comment, because I absolutely agree with respect to BOCES and the need for the partnership for diversity and inclusion with respect to the workforce. This is something that we are considering as part of our overall strategy for workforce investment. It's something that we have considered in terms of the Governor's State of the State and for this year's budget. I appreciate that comment. It is something that we are considering very much. I don't want to belabor the idea of workforce. I think we've covered most of the questions and certainly we'd like to come back to that in the next report with the additional information with respect to what the department is working on. High level, I'm sure everyone is aware the Commissioner referenced the executive budget updates. Negotiations are continuing. With respect to the budget, we're hopeful that an agreement will be in place soon. There are many long term care related matters with respect to this year's budget. We're very excited and hopeful that it will have a real impact in the year to come. I want to refer to Dr. Boufford's question with respect to a long term care report. Many questions that I've received from the council are centred around the activities of the Master Plan for Ageing. It's a new initiative, and I've mentioned it in the council's previous meeting several times. With respect to the activities that we're doing at a high level, I would welcome the opportunity to provide a short presentation with respect to giving you more information, helping you learn about the activities on a more granular level, understand the participants. Some people on this council are members of the Master Plan for Ageing. I would be more than happy to take

the request for a long term care report and combine that into the Master Plan for Aging Report, which is very much underway. The Governor's initiative calls for a two year plan for us to provide a final report. That should come next Summer, not this coming Summer, next Summer, 2024. Much activity is going on around the state right now. There are many people who are participating around the table right now. If the committee would like to hear about the master plan's activities, more than happy to provide that.

Mr. Kraut Great idea.

Mr. Herbst Thank you.

Mr. Herbst I want to just quickly go through the nursing home safe staffing requirements, which were in the report. This is with respect to the 7040 spending requirements in 3.5 hours per resident per day. I indicated in my report that the state provided 419 nursing homes supplemental state funding, which amounted to \$87.9 Million to assist eligible nursing homes with their staffing compliance. Once CMS does approve the Medicaid State Plan Amendment, the federal match, which will total just over \$93 Million, will be released as well. This will considerably help many of the facilities who are concerned about meeting the compliance with respect to the 7040 spending requirements while still putting out training materials at the department to share with providers in a formal way, but an informal way as well to ensure that nursing homes know how to meet the requirements of these very important laws. My team will hopefully provide some webinars and some onsite assistance to ensure that nursing home operators, nursing home facilities are fully aware of the requirements and how they can meet these requirements without potentially touching upon noncompliance.

Mr. Herbst I'm going to leave it there.

Mr. Herbst Happy to take any questions.

Mr. Kraut Great.

Mr. Kraut Any questions?

Mr. Kraut Mr. Holt, then Ms. Monroe.

Mr. Holt Thank you, Adam.

Mr. Holt We're in audit presentation season now in our world. We just had ours recently. I know how incredibly difficult ours was for us this year. As we now no longer have access to PPE and pension credits and the FEMA funding, I'm just really concerned as we go into this next year as to what's going to happen with nursing homes throughout the state, but again, particularly Upstate. We have been involved with some OCFS facilities in our organization in the past. It was probably ten years ago or so there were a couple of RTCs that closed rather suddenly due to financial issues that were unknown at that time. The states are more actively outreaching to the rest of the provider community to try to get a sense of where the provider community and the youth services side was at. I'm just curious to know whether or not the department is actively getting outreach from the provider community on the long term care side or whether or not you have the ability to reach out, because waiting for cross report data in the Summer may well be too late in some instances. I just wanted to express that concern.

Mr. Herbst I appreciate that. The short answer is yes. We have been receiving many questions. We have the addresses which are open to the public to send information and requests for information. Many questions are coming in to that. The staff has been working diligently to respond to that. The Commissioner and I will be meeting with the Nursing Home Associations today in person. We've been meeting with the association leads so they can trickle down information to their providers. We have been using every lever out there to provide as much information, including going on sites around the state to ensure that information is flowing both ways. We encourage people to continue to reach out if there are questions that are there. I am going around the state. It is that time of the year where people are asking to have speakers. I am speaking in many, many conferences, referring to these remarks and offering additional insight. I appreciate the question. We are continue to get questions and trying to meet our talking points to narrow the questions that we are getting so that everyone gets the same information the same way.

Mr. Kraut Ms. Monroe.

Ms. Monroe Thank you, Jeff.

Ms. Monroe Thanks for your report.

Ms. Monroe I had two questions. First, it's about your office, which I know is a new office in the department. Is assisted living part of your department?

Mr. Herbst Yes.

Ms. Monroe You're looking at the full range. The Master Plan for Aging will also look at assisted living. Really glad to hear that. Just quickly, what makes a nursing home eligible? These 419 that were eligible or that got some resources? Who's not eligible? Why would a nursing home not qualify for this resource?

Mr. Herbst I'm going to turn that over to my colleagues here to respond on the nuance of eligibility. Some of it has some legal ramifications. I'd ask either my colleague, Mark Furnish, or Cathy or Mark to respond to that.

Mr. Herbst Thank you.

Ms. Monroe I don't want to turn this into a long discussion. I'm just wondering why someone would not be eligible.

Mr. Furnish No footnotes.

Mr. Furnish It's in the regulation. It outlines it. I would be more than happy to share that with you and the members the specifics of the regulation that lists the methodology that states when someone is in compliance and someone is not.

Ms. Monroe What would a non eligible nursing home look like? You understand my question?

Mr. Furnish Are you talking about the 3.5 minimum staffing or the 7040 direct care spending?

Ms. Monroe I'm looking at the report that says a total of \$88 Million was distributed to 419 nursing homes.

Mr. Furnish That's the 7040. If a nursing home is not within 70% of direct care spending on residents they would be found not in compliance. There's a formula for that.

Ms. Monroe Roughly how many of them are outside that 70%? Do you have a sense? That's where we want them to be, right?

Mr. Kraut How many nursing homes are in New York State?

Mr. Kraut There's about 600.

Mr. Kraut There's a trigger and there's an incentive to comply with our regulation to get access to funding.

Mr. Kraut Thank you very much, Herbst.

Mr. Kraut I'm now going to get the report on Office of Health Equity and Human Rights. Ms. Tina Kim is going to present on behalf of Deputy Commissioner Morne and also will be coming back to the Health Equity Rec discussion when Mr. Holt provides the Code Committee.

Mr. Kraut Ms. Kim.

Ms. Kim Thank you.

Ms. Kim Good morning, everyone. My name is Tina Kim. I'm the Deputy Director in the Office of Health Equity and Human Rights. I'm here on behalf of Deputy Commissioner Morne, who sends her apologies for not being able to be here in person, but she will be dialed in virtually. She is participating in a CDC advisory committee meeting at Atlanta. I will be delivering kind of just brief verbal updates on what we shared in writing. Just really quickly, the advisory bodies that we are convening as the Office of Health Equity and Human Rights, we are overseeing three advisory bodies. One is an internal DOJ staff only Health Equity and DEI Advisory Committee, Diversity, Equity and Inclusion Committee. One is a community external facing Community Stakeholder Council on Health Equity and Human Rights. The third one is an Interagency Health Equity and Diversity Equity and Inclusion Committee. Two of those three advisory committees have been launched. The inter-agency committee will be launched in the next several weeks. The written report includes an overview of the goals and the purpose and the meeting frequency of each of these bodies. I think what I wanted to kind of expressly say is, we as the Office of Health Equity and Human Rights, are intentionally creating structured spaces and forums where these important conversations can happen not only for others to learn about the work that the Office of Health Equity and Human Rights and the Department as a whole are undertaking, but also to get recommendations and community voices and the input of organizations that are on the ground doing this critical work to be able to inform us and to give us recommendations to further our programming. I just wanted to explicitly say that. I know from Dr. Soffel there was a question about the community stakeholder meetings and whether they are available to the public. The Community Stakeholder Council, it consists of organizations from the committee that can provide valuable insight into issues on the ground and help the department identify ways to advance health, equity and human rights across the state. If there is a community based organisation that would like to participate,

we do have a BML OHEHR, which is the abbreviation of our office at Health.NY.Gov. We'll circulate that over email as well, but just wanted to say that if there is an organization that would like to participate, we are open. I'd like to just quickly touch on the Congenital Syphilis Elimination Strategic Planning Group. Just as a reminder, as a strategy to stem increases of congenital syphilis and support equitable access and care to potentially eliminate congenital syphilis, the AIDS Institute in the Office of Health Equity and Human Rights is convening a congenital Syphilis Elimination Strategic Planning Group with external partners. Dr. McDonald participated as a keynote speaker in our March 31st orientation meeting that we had with members across New York State. It was a really great conversation and a productive meeting. The overall goal is to collaboratively develop a comprehensive congenital syphilis elimination framework and action plan through a health equity lens. We will continue to report back on key developments as that group continues this important work. Lastly, on community vaccination sites. To enhance vaccination efforts in response to the COVID pandemic, the department works tirelessly towards the goal of vaccinating all New Yorkers against COVID-19. There was a dedicated, cross-disciplinary team of department staff that developed pop up vaccination sites across the state to further target communities of need when it came to vaccinating against COVID-19. There were 1,700 pop up vaccination sites and over 162,000 shots administered across ten regions of the state. The pop up vaccination sites ended as of March 31st, 2023. Although the pop ups are ending, the relationships built through this effort remain. Further community trust has been established. The intention is to remain involved with the communities in order to maintain those relationships. We are working on final evaluations of the pop up programs to develop new trainings and document lessons learned from the work in these smaller communities across the state. Just wanted to briefly report out on those.

Ms. Kim Happy to answer any questions you may have.

Mr. Kraut Thanks so much, Ms. Kim.

Mr. Kraut As I said, we'll talk a little about the health equity regs in a little while.

Mr. Kraut Any questions?

Mr. Kraut Thank you so much.

Mr. Kraut I'm now going to turn to Dr. Morley to give a report on the activities of the Office of Primary Care and Health System Management. Dr. Morley is in Albany. If you just watch the screen he'll give his report.

Mr. Kraut John, we don't hear you. The sound is muted up in Albany.

Mr. Kraut Still muted.

Mr. Kraut Thank you.

Mr. Kraut I just want to point out the age difference on the people who can master the technology.

All (Laughing)

Mr. Kraut Go ahead, John.

Mr. Kraut It's up to you.

Dr. Morley Thank you.

Dr. Morley It would have been much faster if we had a 12 year old here.

Dr. Morley Good morning, Mr. Chairman, members, DOH staff and New Yorkers here and across the state. I sadly begin my report with the news of the passing of Dr. Patricia O'Neill on February 17th of this year. Dr. O'Neill is the Vice Chair of the State Trauma Advisory Committee and the Vice Chair of Surgery at One Brooklyn Health. She passed away as a result of a motor vehicle accident on Long Island. Dr. O'Neill was a huge advocate for improving the health, the public health and trauma care of all New Yorkers. She will be missed by her colleagues, her patients, and most especially her family. I asked Mr. Chairman, if we could take a moment of silence now to remember Dr. O'Neill and her husband, who both lost their lives in the fatal accident of February 17th.

Mr. Kraut Let's have that moment in silence, in her honor and in honor of her life's work.

Mr. Kraut Thank you, Dr. Morley, for doing that.

Dr. Morley Thank you, Sir.

Dr. Morley The Task Force met for the first time February the 28th. The discussion at the first meeting centered on the unique challenges they face in the rural communities and the development of the subcommittees that they will be bringing forward. Our Bureau of Narcotic Enforcement continues to track developments at the federal level by the DEA with regard to allowing the prescription of controlled substances, and in particular, those medications used to treat substance use disorder via telemedicine. The goals are to align with the federal requirements as much as possible and to keep medical and community patient communities aware of the requirements and hopefully avoid any confusion created by the different regulatory agencies. Finally, in my summary, as mentioned at last meeting, the Planning Committee met in February, had a great discussion on the current situation in which the degree of crowding in EDs across the state is having an impact on EMS and the ability to respond to 911 goals. Since that time under Dr. Ruggie's leadership, we've been talking to multiple stakeholders about what opportunities exist. Dr. Ruggie, Dr. Heslin and the staff at DOH have met several times to discuss their approach going forward. We will be sending out a survey to members asking for best dates to hold a couple of workgroups. We've identified two workgroups to begin with. One would focus on opportunities in the area of dental patients who visit the ED, and the second would focus on behavioral health.

Dr. Morley I would like to turn this over now to Dr. Heslin for some additional comments on the workgroups.

Dr. Heslin We picked two work groups, particularly for their use cases. We could pick anything in health care and it could be a work group. We looked at dental and at mental health and specifically dental because there's a large amount of oral health care that goes on in emergency rooms. It's a huge equity issue. It is something that we felt was a fairly narrow topic, relatively speaking, to many of the other topics. It really involved us and State Education Department. To Chairman Kraut's comment earlier and Dr. McDonald's comment at 12:30 today meeting with the Office of Professions as part of their partnership gathering to meet with three of their Regents and Sarah Benson to look at student

engagement, officer professions, modernization, some stakeholder surveys and some discussion. We've already started that process of trying to come together with the State Education Department to start to look at how we can collaborate. In terms of the mental health, our second subcommittee that use case is much more complicated and involves multiple agencies and is very regulatory. We are controlled both at federal and at state and local levels. It's complex in terms of its funding. We felt that using those two use cases would give us the ability to establish some processes of how we start to address issues. As opposed to doing one offs for each issue, we want to be a little more thoughtful and try to establish a way to mechanism to be able to take an issue and move from beginning of planning through to an action step that must happen.

Dr. Heslin I'll stop there.

Dr. Morley If there were any questions, we'd be happy to take them.

Mr. Kraut Thank you. Dr. Morley.

Mr. Kraut Are there any questions for Dr. Morley?

Mr. Kraut Yes, Dr. Boufford.

Dr. Boufford I wanted to kind of revive the discussion that Dr. Soffel introduced earlier about the issue of alternatives to emergency room service and in your work groups, which sound really exciting, just to remember that the Planning Committee had and the council had in fact taken a good look at a better integration in primary care of behavioral health, mental health and primary care. There's some work that was done on that with actually recommendations on regulations and or legislation that might advance that a couple of years ago. I'm sure that's informing your discussion now. It would be really important to engage with it again. Also on the dental and oral health area, it's very exciting. One of the things I wanted, we have invited the... It may be shaming or asking, inviting in a positive way. The New York State Dental Association to join the Prevention Agenda Committee for a while. It's becoming a huge issue and it's obviously a huge issue in public health and also in aging in terms of cost savings.

Dr. Morley We thought that dental was certainly cross-sectional. In terms of the third workgroup, it was actually primary care involved, but we wanted to start with two. We didn't want to get our bandwidth blown up initially and not have something productive come out of our initial meetings, which is why we picked two groups and two different types of use cases to be able to develop the processes.

Mr. Kraut Thank you, Dr. Morley.

Mr. Kraut Before I turn to the committee reports, there was a leftover issue that you had asked about the status of the 1115 waiver. We did reach out to the state Medicaid Director. Obviously, the state's a little preoccupied with the budget right now. I'm sure hopefully we'll hear about the 1115 waiver by the time of our next meeting. Assuming that occurs, we are trying to harmonize our schedule with that. Hopefully, he'll be here in June to give us an update directly. That's the update that we have. Hopefully, if it gets approved.

Mr. Kraut Go ahead, John.

Dr. Morley I'd just like to point out that we missed the report from the DC for public health.

Mr. Kraut Oh, that's right. I have Dr. Bauer next. I just wanted to do it under your thing, that's all. Because it came up last time you spoke. I'm sorry.

Mr. Kraut Now, I want to go to Deputy Commissioner Dr. Bauer to give a report on the activities of public health.

Dr. Bauer Thanks very much, Chairman, and thanks for the opportunity to speak to you today.

Dr. Bauer I'll just call out some opportunities for public health in the executive budget, including proposals to increase access to safe abortions, expand Medicaid coverage, implement a registry for residential dwellings to help track and remediate lead based paint hazards. As Dr. McDonald mentioned, a ban on flavored tobacco products to safeguard young people. I'm pleased to share with you that we have a new director for our Center for Community Health. Mr. Travis O'Donnell was appointed to the position on March 16th. The Director leads four large and complex divisions with broad programmatic policy and fiscal portfolios. These are the divisions of chronic disease prevention, family health, epidemiology and nutrition. We have a fifth division that we are standing up focused on immunizations that's currently under development. We look forward to sharing those developments with you. I'll also note from the written report, the Division of Family Health has successfully awarded \$24 Million to support access to abortion services through expanding Safe and Supportive Medical and Procedural Abortion Access Program, and also within the Division of Family Health, the Maternal Mortality Review Board and the New York State Maternal Mortality and Morbidity Advisory Council's work together to review pregnancy associated deaths and issue their findings and recommendations to advance the prevention of maternal mortality. We will have an update on our maternal mortality prevention efforts at the next meeting of the Public Health Committee, which is scheduled in June. As you know, planning for the 2025 to 2030 cycle of the New York State Prevention Agenda is now in full swing after the launch in February with the Public Health Committee. Since then, we have met with an internal DOH steering committee, the Health Equity Council, and the Ad Hoc Committee. Common themes that we are hearing across these stakeholders are the importance of highlighting structural drivers of poor health like poverty and economic inequalities and disparities in education and housing. Also learning from other states and from our own counties that have made progress toward improved health outcomes. Finally, engaging and empowering community voices. I'll just quickly call out a couple of updates from our Center for Environmental Health and our Wadsworth Center Laboratories. CEH is advancing several initiatives involving legislative or regulatory changes that will better safeguard New York State's drinking water from contaminants and prevent children from being exposed to lead paint hazards in their homes. CEH is also administering new federal funding from the bipartisan infrastructure law focused on removal of lead service lines and emerging contaminants from drinking water, as well as upgrading our aging and inadequate water supply infrastructure. Finally, a bit of a feel good story from our Wadsworth Center. On March 17th of 2023, the first child was treated for cerebral Adreno Luca dystrophy or called using a Food Drug Administration approved gene therapy. This baby was detected as an infant by New York's newborn screening program as possibly having disease was monitored over time. When symptoms presented, as they usually do, between four and seven years of age, that child was able to be treated with this new gene therapy. There was a story about it in the Boston Globe. In public health, we think of ourselves as treating the community, not the individual, but it's always gratifying to see the specific impacts of our work.

Dr. Bauer Thank you.

Mr. Kraut Dr. Bauer, I'll open it up for questions, but I know, you know, justifiably proud about that achievement. For people who don't necessarily follow this, the Wadsworth Lab is a national... It's a state gem, but it's really a national resource. I know you have, I think, funding, at least for the design and some of the construction of the consolidation of the laboratory. Is that proceeding? Because you're kind of in disparate labs up in Albany. I think you're consolidating on to the Harriman campus. You're still in design, right?

Dr. Bauer That's correct.

Dr. Bauer Hopefully, when we have an enacted state budget we'll have full funding for that consolidated building, which brings together our facilities on five campuses across the Albany area. We expect to have a concept design in May. We'll proceed with the full design and construction. The Governor has requested that that consolidation be completed by 2030.

Mr. Kraut Wonderful. Congratulations. The pride of New York State to so many points in the public health infrastructure. We just need more funding to support it because we woefully.... What was it last year? \$4.3 Trillion, I think the federal health care budget was. A little less than 5%, was devoted to public health activities. It went from 3 to 5. Everybody said, why do you see that as a negative? We want to deal with health equity and other things we better invest more in that infrastructure.

Mr. Kraut Any questions for Dr. Bauer?

Mr. Kraut Thank you.

Mr. Kraut Thank the other deputy commissioners for the report.

Mr. Kraut As I said, we'll work on our process, but hopefully this went reasonably well.

Mr. Kraut Yes, Ms. Monroe.

Ms. Monroe I appreciate these reports greatly and getting them in advance, being able to read them and highlighting things that I would be interested in is exactly the direction I hope we keep going.

Mr. Kraut Thank you very much.

Mr. Kraut Dr. Berliner, I want to attribute this comment to him, because it's as usual, very insightful. He points out that this is the first meeting we've had where we've not mentioned COVID in maybe three years.

Mr. Kraut You did a little PPE at the beginning.

Mr. Kraut Thank you.

Mr. Kraut We should only be so lucky to continue in this direction.

Mr. Kraut I'm now going to turn to the committee reports, and now I'll ask Dr. Boufford to give the report on the activities of the Public Health Committee.

Dr. Boufford Thanks.

Dr. Boufford I just want to, first of all, thank Dr. Bauer and her team for reactivating our work. We had not met as a Public Health Committee since the 1st of March 2020. As she mentioned, we were able to have a Public Health Committee meeting and others are planned. Similarly, the Ad Hoc Committee was about to meet in March of 2020 and that meeting was cancelled. It was great to get them back together on April 3rd. It was a big job. We had to renew and revise the list of all of the group, the members of the Ad Hoc Committee, took a lot of work and also putting the meeting together. I just want to thank her for that. I thought because... The only thing I wanted to spend my time on this morning is because there are a number of new council members and it's been three years is to remind people the structure and function of the Ad Hoc Committee. It is a sort of instrument of this council of the core members are the Public Health Committee. I was delighted at the number of members of the council that attended the last meeting. It's called Ad Hoc, because the members are really statewide nonprofits, professional associations and advocacy groups that take a broad interest in prevention. Our focus is on health. We only work on the health care side when we're concerned about the benefits people need to take advantage of on preventive services. We try to sort of, as we say, stop at the threshold of the health care system because there are others working on that. The work has been strongly supported by the 2018 Executive Order calling for an interagency council to ask state agencies to identify the impact on health and aging of their policies, programs and their purchasing. This has been in place. I see the models of interagency councils are being sort of used as well in the master plan and also in the equity work. I think that it would be great to see the integration, I guess, of those efforts as much as possible, but also perhaps the reviving of the group that was really focusing on the evidence base for changes that could be made in transportation, housing, other agencies and that were very active energy and markets. The other quality of the Ad Hoc Committee has been a real commitment to this cross-sector and cross-departmental approach. The core members of the group have included the Office of Mental Health and Oasis, who have been sort of core partners since the last round of the prevention agenda. We're in the third round. Some of their staff were able to attend. I hope we'll be hearing from their leadership in future meetings of the Ad Hoc Committee. Similarly, obviously, very important in this work. There are objectives for aging in each of the priority areas of the current prevention agenda. We're hoping that one of the working groups that is part of the Master Plan on Aging, the Health and Wellbeing Working Group will really align with the revision of objectives within the prevention agenda to have a population focus coming out of that Master Plans work. Just the last member I want to mention is the New York State Department of State. They have been incredibly supportive. Paul Byer and the Commissioner, Robert Rodriguez, who has a history at East Harlem, but being very committed to both aging and health, which is very exciting. They have been really, very involved from the beginning and bringing in, I think, as Dr. Bauer mentioned, the focus on socioeconomic equity and environmental justice. Both of those, the sort of smart growth and environmental justice initiatives are led out of the Department of State. We're just excited to have had them involved and increase their activity. Similarly, was well represented as well as Greater New York and Haines. Some of the really important statewide groups were at the meeting or will be very involved in, as Dr. Bauer said, what was a very rich discussion of ideas and thoughts for the revision. The evidence base for the prevention agenda has not really been revised since 2019. It's a real opportunity. An opportunity to think about what are the priorities, what are the objectives, what are the metrics that we want to use going forward. We got off to a very good start. I just also want to say I really appreciate the commitment of the local health departments and hospitals

and hospital systems that are working together at the local level. We have about 41% of the local health departments working actively with their hospital partners in developing two of the five goals up to now and looking at a health disparity going forward. We hope that will increase in the future as we sort of revise that evidence base and revisit the structure and process for the most effective activities. The local health department in the face of COVID continued to report on the prevention agenda for 2021 and 2022. I want to thank them very much for that commitment. The last thing I'll just say is we do plan three additional meetings of the Ad Hoc Committee going forward, as well as additional meetings of the Public Health Committee. We'll be sort of going back and forth and try to maximize our meetings with Dr. Rugge's committee as we have worked to jointly and will continue to do so on a lot of these overlap areas. Just special thanks to Deputy Commissioner Morne, who has been at the Ad Hoc Committee and the Public Health Committee. We're really looking to her office to help us with developing a robust agenda on the prevention agenda for eliminating health disparities and addressing health equity, both race and ethnicity as well as economic.

Dr. Boufford Thank you very much.

Mr. Kraut Thanks so much.

Mr. Kraut I want to thank the committee. I want to thank the department, Dr. Bauer and her staff and the staff for helping us restart and refocus. As we've said before, between the Prevention Agenda, the Public Health Committee, the Planning Committee. We'd rather spend more time on these issues than, I think almost anything else. Certainly, with the focus on health equity and trying to come at it from the variety of ways that you heard today. It's a robust number of activities. We just hope we get, as Dr. McDonald said, we've got to be aligned with an actual measurable goal. That's really the challenge and stuff.

Mr. Kraut Are there any questions for Dr. Boufford?

Mr. Kraut Thank you.

Mr. Kraut I'll turn now if we pass the mic to Dr. Rugge, who will provide the report on the activities of the Health Planning Committee.

Dr. Rugge Not to be redundant, we want to start by thanking the Department of Health for so much work, so much focus these last few months. As I think everybody remembers that at our last council meeting before that the last planning committee meeting, the State Emergency Service Services Council brought to the department problems with delays.

Mr. Kraut Could you hear him in Albany?

Dr. Rugge The State Emergency Services Council brought to the department issues with long delays and ambulance offloading times that resulted in Dr. Morley, as Deputy Commissioner, making a referral to the Planning Committee of the council, a referral. The first such referral in years by way of how can we assist with policy development in a fast changing world. Many thanks. What this has led to is lots of work, as you've heard by the department in terms of understanding what the nature of the problems is. Again, with Dr. Heslin taking a deep dive into the data, finding actually the number of ER visits has not been increasing in recent years. The number of rides has, the number of EMS staff has dropped dramatically. Again, this led in turned to Jackie Sheltry, especially digging deeper and deeper into the data to find of course what this indicates that offloading delays

indicates emergency department problems with overloading and boarding, and that in terms leads to acute care problems in the hospitals with too many patients to take care of and not the ability. That in turn leads to delays in appropriate discharge because of nursing homes not being available and home care not being available in an appropriate way. We have a system crunch. Again, as you've heard already from Dr. Morley and Dr. Heslin, we're beginning to work on identifying those issues, which we in a timely way can address with some of these problems. These are major system issues across the board. I would make the observation that what I've been hearing and reading and feeling myself is more system stress than we've ever had, more risk of program failures, facility failures than we've seen previously. I think we've heard some of this regarding workforce issues and stress on individual facilities been coming to us. This is at a time when state leadership understandably has said we simply can't invest more money, spend more state expenditures on solving individual problems around the state. There needs to be a more systematic approach to this and hopefully the work at the Planning Committee is the beginning wedge on looking into those issues. Again, already I'm encouraged that with the many work already underway with mental health in dealing with the E.R. problems we're engaging through Dr. Sullivan, the Office of Mental Health, reaching out to Oasis with the dental issues, the Dental Director. Of all places DFS, Department of Financial Services is being engaged, so that we can take a look at how on a government wide basis we can address health care stresses that are significant and severe. A few questions for the council members. One is, do we share those perceptions? Do we share the feeling that we're under system stress like always, but maybe more than ever? If we are, what can we do to address it? What can we do to express appreciation to the Governor, to the Commissioner for pulling together the energy and the work necessary to achieve such a reform? Again, one of my thoughts is one of the worst things that can happen to a hospital is have the nursing homes in the area go under and no longer be available. One of the worst things that's already been happening, a lack of primary care so that we have by state data 70% of our emergency room visits more appropriately delivered elsewhere. Somehow we have to have the sectors coming together. This can't simply can't be the government dictating new solution or new set of regs. It has to be a collaborative effort where across the spectrum we're looking at how can we improve the delivery of care? How do we revise the reimbursement system to make that improved delivery possible? The question is, am I crazy? Are we not under this kind of stress? I think we are. If we are, can we use this council as a forum to express those concerns, to help to mobilize and show appreciation to those in government who are leading the way and bringing the collaboration that we need together?

Mr. Kraut Thank you, Dr. Ruggie.

Mr. Kraut I think both of these are examples of we don't control necessarily, certainly statute. We do have impact on regulation. We don't have the financial. We don't have things. We do have a venue where we can expose and shine light on an issue to the degree that we come up with thoughtful solutions that at least might stimulate the development of good policy. I always am a believer that good data drives good policy. Understanding and defining in a post-COVID environment. A lot of our baseline assumptions, even about E.R. utilization has shifted dramatically. We need to refresh that in light of the labor headwinds, the financial headwinds, regulatory and let's face it, that government's inability to fully maybe fund aspects of our health care delivery system. They fall on the provider environment and the providers almost have to return back to social services beginnings, because if you're going to be in health care, you almost have to be in housing, you have to be in social services. That's where I think there's great promise if inter-governmental agencies that truly work. When you put out requests for housing that

you give that housing applicant a bonus if they're working with a local FQHC to provide space to expand diagnostic and treatment centers. We take all the economic forces of investments that the state makes in different agencies and try to coordinate it with strategy. I think, you know, to the degree both committees can do so we might come up with some good ideas that start germinating that and making its way through. I think you have an aggressive... Not an aggressive, but I think you have a realistic agenda in the coming weeks that you'll schedule meetings. We're looking forward to the participation not only of the committee members, but all the members to be able to watch and observe because the first sessions will be educational more than they will be in dealing with policy.

Dr. Ruggie Even in small ways we're trying for reform.

Mr. Kraut Yes.

Dr. Ruggie Because we now have Zoom meetings available, are looking at beginning with educational informational sessions by Zoom, including the public.

Mr. Kraut Within the context of the open meeting laws and the regulations that we have.

Dr. Ruggie Leading to committee meetings where we can consider recommendations, take action for the council to do and turn to recommend action by the department. Along with that would suggest that as we deal with mental health issues in the E.R., we should go beyond the Planning Committee itself to looking at Dr. Lim and Dr. Yang to say, we certainly need your inclusion and your involvement in those Zoom meetings and in the committee meetings so that we can work because over time if we're addressing system reform, we need everybody on this council with all those perspectives coming together to say, here is one place where reform can be aired and tried.

Mr. Kraut Dr. Kalkut has a comment, and then we'll turn to Mr. Holt and his report.

Dr. Kalkut John, thank you for that.

Dr. Kalkut I don't think craziness enters into this. The depth of.

Dr. Ruggie It was a rhetorical question.

Dr. Kalkut I'm a clinician, so it's the depth and where the solutions are is daunting. The comment about 70% of the visits clinically could be done in a primary care office. Have you tried to get into a primary care office recently as a new patient? Mr. Lawrence said earlier. I don't remember. Dr. Torres said something similar about how difficult it is to hire people. That's true of community organizations, FQHCs, high quality FQHCs and it's true of big academic centers. One thing that happened that I don't know if is widely known is the resident match occurred about a month ago, 25% of I think about 800 slots for emergency room medicine residencies. Some in very good places went unfilled. That's a dramatic change over two years ago. That's a workforce issue. To me, it's about the magnitude of how a vision of health care or how people see themselves in health care, whether it's about an ultrasound tech or a physician, will interact with the system. E.R. was one of the most popular residencies for quite a while, and I think it will be again. This may be transient, but it shook up a lot of people, including the American College of Emergency Medicine. The depth of what you're stepping into, I think, has to be recognized.

Dr. Rugge This may be another craziness, but I think having our systems collaborate in new ways. Again, some people argue it's not 70%. It's only 50% of volume that should be handled elsewhere. We don't have that capacity. What are we going to do about it when there's no new money? Here's a crazy idea. The hospitals come together with the primary care people and say, no new money. Let's take all the money we're now committing to that E.R., send some of it into the primary care settings to those that are patients are diverted. Other parts of that money stay with the hospital, even though those services are not being delivered there, because those funds are necessary to maintain those facilities. We need to bring new thinking and new formulas together. That's going to be much more complicated than any of us can do alone. We need to bring the resources to the table to make it possible.

Mr. Kraut Patient will actually do what you think it will set up a policy. They will not. In fact, you have to remember, a lot of those visits occur at a time when no office is opened. That is a major... I mean, you know, and again, it's not us to dissect a problem that has been fairly dissected. There's no simple answer. It's very situationally specific in our geographies because they have different ecosystems that are functional.

Mr. Kraut Ms. Soto and then Mr. Lawrence.

Ms. Soto You've touched on basically what usually comes under health disparities. Whether the access is, you know, you said housing and whether it's transportation. Listening to today's report and listening to the report from the Office of Health Equity in Human Rights. One of the committees that is being formed and about to start meeting. I would imagine it's going to be education and housing and transportation. The other one is Dr. Boufford's report on the health agenda. I think we're moving in that direction. A lot of work still has to be done. One of my concerns is who can afford to get access to this care? I'm glad that oral and mental health is included, one of the initiatives and so forth. Again, who has access? Who can afford it? I think those are sort of key things. Now, I may understand that I have mental health needs or oral needs, but can I afford to access that care

Mr. Lawrence Dr. Rugge, I guess I'm committed insane because this has been an issue for me a long time. It's just the sense of craziness also brings you to a dose of reality. That at some point, you know, sort of the urgency of how you get from where we are to where we need to be. I don't know if there's a role for the council to sound the alarm bell or to draft a letter going to the department, to the legislature, to the various health committees of the legislature, basically outlining what we see as some of the potential system failure that's on the horizon and doing it in a manner which is identified a sense of urgency. We hear all of the talk in all of the discussion work groups and everyone is continuing to do their little part of it. I don't know if it's all being coordinated in the way that it needs to be to effect real world and real time change.

Dr. Rugge I mentioned how appreciative I was about the referral to this council and realizing we have, I think now an emerging partnership between the Department of Health with the regulatory and legal responsibilities and with this council with some legal responsibilities, but also an advisory capacity and a division thing. We need to become aware there are some things we can do as the council in partnership with the department that the department itself cannot do. One of those is to communicate in just the way you've suggested. Should we be drafting memos or letters to the state leadership, to the Governor, to our legislative leaders, expressing our perceptions based upon the diversity that this council represents, the range of services we provide, the geography we embrace,

knowing that this is going to take a new level of activity, a new level of effort that up to now has not been possible. Because of funding shortages and the level of need and the workforce issues have to be achieved.

Mr. Kraut We talked about that and I said, well, let's get the work of the committee done so we actually have something tangible. I don't think it's helpful to point out there's a problem unless you have solutions that are reasonable. We're hoping is when the committee conducts its work it will have some sort of written white paper. It could go Dear Commissioner. It would be widely distributed. We're hoping it would result in some of the things that you do.

Dr. Rugge Knowing that this committee and this council can't do it all. Part of what we need is patient education. Dr. Kalkut suggested that's why the linkage between planning and public health.

Mr. Kraut You also have the industry, you have the provider associations, the dental association, you have the organised labour. Everybody is trying to focus, but they see it from their perspective.

Mr. Kraut Please, I'd like to get Mr. Holt. People have to leave and they want to have this last conversation.

Dr. Heslin I think that what Dr. Kalkut said was really important, which is that our hospitals are our ultimate safety net. We saw that through COVID. What we're trying to do is to look at the system in really a simple way, which is sort of three boxes; pre care, hospital care, post care, circular back. Think about it as an accordion. When either end doesn't function correctly, the metal catches everything. What we have to start to figure out how to do is to strengthen either side of that because as those areas function better on the outpatient side, pre-post care never getting to hospital prevention, then that centre area functions better and to the point it really is all hospitals are a safety net in the respect of access. Because if we don't have them then we're in real trouble. We do have to strengthen the areas around them and fund them and build the proper policies and procedures to make sure that we can offload the stress so that we're able to have them function when they need to.

Mr. Kraut We certainly saw that in March of 2020.

Mr. Kraut Thank you.

Mr. Kraut Mr. Holt, would you introduce for information the last code?

Mr. Holt Yes, Sir.

Mr. Holt Thank you, Mr. Kraut.

Mr. Holt Also at the March 30th Code's Committee meeting, Ms. Morne and Ms. Kim and Mr. Riegert from the department presented the inclusion of a health equity impact assessment as part of the CON process, regulation for information to the Committee on Codes and all are available to the council should there be any additional questions at this time.

Mr. Holt Mr. Chairman, that completes my report.

Mr. Kraut On the health equity regs there was a fairly robust conversation. It's out for public comment, as you heard was being referenced. We have the ability. You have the ability also to individually comment on those regs and the organisations that you represent. It's going to come back, Tina, into the room for the next cycle, correct.? It'll be for adoption at that juncture. We'll see. The only thing I think we asked as part of that, there were a lot of questions about how there was going to be guidance accompanying the regs as to which applications are in scope, which ones are out of scope. I believe you'll have that ready when the regs come back into the room, because that's where the substance of a lot of the questions were not so much what we were doing, but how we were doing, what we were doing. I see Deputy Commissioner Morne is on as well. You finished your CDC meeting.

Mr. Kraut Is there any questions here?

Mr. Kraut Mr. Lawrence, then Ms. Monroe.

Mr. Lawrence I guess I just wanted to respond to somewhat. The hospitals are really important. I think as the pandemic demonstrated they were critical in saving lives. When I look back and I think there was a recent New York Times article on premature death and the reduction in life expectancy. In neighborhoods where they had access to medical services, I think during the pandemic it was heart disease and cancer remain the number one, I guess, cause of death. In poor neighborhoods and among people of color, it was the COVID. Part of that was because they had underlying chronic conditions. How do you treat underlying chronic conditions? You first treat them with primary care care and with access to primary care. That's how you treat those conditions. Conceivably, you could have had a better outcome in those neighborhoods if they had greater access to primary care. This system has to work completely for everyone.

Dr. Heslin Mr. Lawrence, I 100% agree. As a primary care doctor who actually still sees patients, I agree 1,000% with you, which is why what I said was, is that we have to focus on the pre care box and the post care box in order to decompress the system. Because if we don't fix those two the whole system breaks.

Mr. Kraut Ms. Monroe.

Ms. Monroe Yes.

Ms. Monroe Thank you.

Ms. Monroe I was not able to be at the last meeting, so I didn't hear the discussion. I want to talk about what I hope comes out of the regulations and the guidance. We had a chance to talk a little bit about that this morning with the good staff from that department. I want to equate it to the discussion we just had. Both of those things. We're saying this equity report will be in the CON recommendations that come to us. In fact, a report without it's being measured against the set of standards to determine whether this particular entity is stronger than others or has a sufficient equity program has to be there for us to evaluate it. It's just like when we talked about if we see a workforce report from an applicant, how do we evaluate whether that's sufficient or not? It has to be evaluated against some set of standards or some independent set of information that says this report with this equity report or in the case, this staffing proposal meets certain criteria and we can be confident that it will happen the way it says it's going to happen. I'm concerned that a report that just

stands on its own and comes in as part of the CON material with no evaluation against what is to be expected or what we want to have happen is not going to give us much help in evaluating the CON of which this is going to be upheld.

Mr. Kraut That's exactly where we had the conversation.

Ms. Monroe I'm very sorry I missed it.

Mr. Kraut That's not the point saying sorry you missed it.

Mr. Kraut I think that is exactly the questions we ask because there's so many things come before us will have no impact. None whatsoever. Certain construction projects, certain things we do. That's where we're hoping those, only those things that are meaningful. Even in those, and Dr. Boufford kind of made the point no one entity will move the needle. None. Because it's so complex of all these other determinants. We're committed to having that conversation and particularly understanding where we think there's a negative impact. In my opinion, from what I've read, we will not be black and white. It will not be very quantitative necessary. It will be more qualitative, but there should come up where it truly has a negative impact. That's part of what this is, that you should have pause for thought. Again, knowing that this regulation is here and we're going to talk about it, it'll self-correct because people will not submit applications that have a negative impact. I mean, it'll be interesting to see. If you think about it, the logic of how we constructed CON. Nobody puts in a CON that they don't think is going to get approved. Nobody. You spend hundreds of thousands of dollars sometimes to put a CON just to get here to do a health equity analysis. We're not choosing alternatives. We're only looking at this particular project and we're waiting for the department to issue the regs on which projects are substantive to that question.

Ms. Monroe Just to pick up on that and what I said, I think that the real question for me is how are we going to know whether something is impactful or not?

Mr. Kraut Well, we'll ask the department, because they're going to be the arbiter they have to collect the data.

Ms. Monroe What I would like to have before a single project comes to us and we have to make that decision is an understanding of what the criteria are for determining whether something is impactful or not so that we're fully informed.

Mr. Kraut Recognize there will be many applications that will not be impactful. They'll just make that statement. That's all.

Ms. Monroe When they decide or when the department says this is impactful, I think it's important for us to be able to say, why are you saying that? What are the criteria that you're using to make that decision? That's not part of a regulation. I assume it's going to be maybe not even in the guidance.

Mr. Kraut Ms. Kim, maybe you want to address that.

Ms. Kim Thank you for your comments so far.

Ms. Kim I just quickly want to step back and acknowledge that like public need financial feasibility and character and competence, it is significant that now that with this legislation

and with statute, we now are going to have a health equity impact assessment component that's going to be now considered as part of the CON application. I think that's just simply kind of an acknowledgement that there is now a space in which the considerations of the independent assessor, which will make an objective assessment of the impacts of a project will now be considered for the CON application. We did discuss at the last meeting that we are working with our colleagues in OPCHSM with the CON team with respect to how this will be evaluated. We are currently developing a dedicated unit here in the Office of Health Equity and Human Rights with subject matter experts who will be evaluating the information. We are going to be hiring for a data analyst so that the information is not just getting lost in a black hole, but we will actually be able to do some on the ground and as well as macro level analysis of the data. Much of this is in development, so we can't speak to everything that we are thinking about. Very significant to the ways that the committee considers the other components of the CON application. The Health Equity Impact assessment will offer considerations for the committee to consider when evaluating the overall CON application, which we want to just acknowledge is instrument. It's pretty critical.

Ms. Monroe I'm very happy to hear that.

Ms. Kim Yes.

Ms. Monroe The only thing I'm asking is that before an application comes to us that has that and there's been a determination about that application that we have some orientation and training to what you're looking at, how that's going to work, what kind of criteria you're using for determining whether there's an impact or not so that we have context. When we see it in an individual application there's never any context for us to be able to place that in our own thinking. I really want to see an orientation, as I said, to how this is going to work and how your internal unit, which is fantastic to hear how that's working, and therefore that when an application does come to us, we can say, this is how they looked at it. This is what they've done. We can make an informed decision. I'm really happy to hear that.

Dr. Soffel I want to once again express my delight that we actually moving this forward on this health equity assessment. I think it's a huge step forward for the State of New York. I'm hoping that we can be a national leader on how we think about including health equity as we look at our health care delivery system. At the last session you all talked about the template that you were developing that would be the tool that these independent assessors would be using as they develop their review. Can you give us any sense of when we are likely to see that template? It seems to me that that's the meat of the process. I think a lot of us are really eager to see exactly how the department will as Ann just asked how the department will be assessing what does it mean to be moving the needle on health equity either positively or negatively.

Mr. Kraut I would second that because if the first time we see it is when we have to approve it, chances are if we have comments we won't approve it. In fact, I guarantee, because we need that cycle to get feedback.

Dr. Soffel Just to quickly respond. The program documents, including the template are in development and are in draft form. As we have been, We have been regularly meeting with the different stakeholders for the Health Equity Impact Assessment Unit and are regularly engaging them. those conversations are informing what we are developing. We also look forward to what we're getting from the 60 day public comment period. that is a great opportunity for folks to weigh in and offer recommendations on what the department

can be asking. so far we've done an extensive study of the area of health equity impact assessment. It's not a widely practiced practice. We have been doing the study. We are following closely what the legislation and the statute asks for when it comes to the scope and content of the health equity impact assessment. I don't want to bore you with like reading. There's a lot of different components that are articulated in statute. We are closely following that language.

Mr. Kraut Since we're sharing it with stakeholder groups, I would argue that we are the most important stakeholder group in light of the comments you just heard. Why don't you go back and confer. We would like it before. It would be treated in the same way that a draft is circulated to us. Maybe you'll get our comments even before it becomes into the room for the Code Committee. Because I would argue, given what Ms. Monroe said and Dr. Soffel said that we have an interest in this. This is our reg. How you administer it, I think we will avoid issues if you hear it. Whether you respond to it another issue, but at least hear what they have to say.

Mr. Kraut That's all.

Dr. Soffel It also sort of strikes me as how do you respond to the regulation? It is now out for public comment?

Mr. Kraut Yes.

Dr. Soffel It is.

Dr. Soffel it doesn't have the guidance or the template. It's lacking the substance. How are people supposed to respond in the public comment period when in fact, the meat of the assessment has not been laid out for us yet?

Ms. Kim Just want to quickly point out that a lot of the scope and the contents are actually articulated in the statute. We've discussed that with legal counsel. There's really no need to kind of repeat it in the proposed regulation. We feel that the proposed regulation, it furthers what is already articulated in statute. We feel that we have what we need in statute in order to move forward. Our commitment and our intent is that the programme documents will be done by the time the requirement is in effect.

Mr. Kraut Let's get it to us in draft. Because we're meeting on the 15th. The deadline is the 23rd. The council doesn't meet till the 29th, so it can't go into effect until we vote. If we don't vote, it won't go into effect.

Ms. Kim We'll not the request.

Mr. Kraut Thank you.

Mr. Kraut Last comment, Dr. Kalkut, and then I just want to have one last comment.

Mr. Kraut Go ahead.

Dr. Kalkut The bulk of the questions you're hearing, including what Ann just asked and Dr. Soffel and I think all of us in the last meeting really about how to operationalize this. I think you have the tools you need in the legislation. I think what it is giving all of us pause is how we get it out, whether there's a template, whether there's a benchmark. Is the independent

assessor going to make a judgement that this increases health equity or increases health disparities? Is that going to be part of their judgment? The term that's used in the legislation is the department, the Commissioner and the council should consider this impact. As you said, it's not that different from financial wherewithal, character, competency and need.

Mr. Kraut If you think about it's like when we brought stars ratings. We figured out how to use it. We'll do the same here. We will.

Dr. Kalkut I think we will over time.

Mr. Kraut Remember, we are the decision maker. We can take this information, discount it, give it central thinking. We'll have a lot of options.

Mr. Kraut Mr. Lawrence.

Mr. Lawrence I guess in some respects it's almost like the prevention agenda that we've been struggling with and promoting. The question is, how do we get the applicants on board? How are they informed? How do they come in and are prepared and understand the expectation? I guess that goes to communication strategy, marketing strategy to get this out so that it is broadly known across the state that this is a new criteria and so everyone is aware of it.

Mr. Kraut I think a lot of people are asking the same question. I think there's a high level of awareness. Now, you may correct me based on the conversations you're having. I think there's a very high level. The question will be iis the bigger players, the ones that follow this. It's some of the little niche players we have to make sure similarly will be aware of this. That is going to require communication.

Mr. Lawrence We don't want the applicants being here and then looking like a deer in the headlights.

Mr. Kraut You're exempt.

Ms. Kim Deputy Commissioner Morne would like to comment.

Mr. Kraut Deputy Commissioner, we'll give you the final comment.

Deputy Commissioner Morne Are you able to hear me?

Mr. Kraut Go ahead.

Deputy Commissioner Morne I apologize for my video. I'm trying to get the best...

Mr. Kraut We have your audio.

Deputy Commissioner Morne I want to say I have listened to the comments and certainly nothing that's been said is something that isn't aligned or consistent with what we have been discussing as well. Our goal here, and I hope we've been consistent in our messaging is that we are looking to work with the facilities that are impacted by this legislation in order for us to do the due diligence as it relates to community input upon a facility's need to make a substantial change. I think that in our discussions we're on the

same page. The details are what will help us determine that as we move forward. I also just want to comment as it relates to orientation, I think that that certainly as we continue to do our collective work around health equity orientation on the specific spaces and areas that we are looking at for the council makes absolute sense. We will work on doing that so that we have a place of starting on the same page. I just want to say thank you for that recommendation. Certainly, as we continue to look forward and look at our timeframes, we will make sure that all relevant information is shared in a manner that will allow for comment in addition to us being able to utilize the public comment to help inform the documents that we're preparing as we put this into motion.

Mr. Kraut Well, I think I speak for all of us. We look forward to working with you and the team in the most constructive of ways to make this meaningful and valued. We all have the same objectives.

Dr. Kalkut Are we allowed to adjourn?

Mr. Kraut No.

All (Laughing)

Mr. Kraut The next meeting of the council is going to be on June 15th and that'll be the committee day. On June 29th will be the full meeting. We're going to hold them in New York City. I'm pleading with everybody and this is like the group I don't have to plead with because you're all here. We have difficulties of acquiring a quorum and maintaining a quorum to do our business. I really ask that you try very hard to make sure that you can attend. We easily achieve our quorum.

Mr. Kraut With that, may I have a motion to adjourn even though we are lacking a quorum to do so?

Mr. Kraut We are adjourned.

Mr. Kraut Thank you very much.

Mr. Kraut Thank you, guys in Albany. Thank you here in New York.

Mr. Kraut Both are in New York City in June.