

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
FULL COUNCIL MEETING
April 10, 2025, 10:15 AM
ESP, CONCOURSE LEVEL, MEETING ROOM 6 ALBANY
TRANSCRIPT

Mr. Kraut I'm Jeff Kraut. I have a privilege to call to order the April 10th meeting of the Public Health and Health Planning Council. I'd like to welcome our members, Commissioner McDonald, participants and observers. You have heard from Mr. Holt about the importance of a record of appearance and the rules that we have for webcasting. I will just add that we want to encourage members of the public to join the department Certificate Of Need Listserv. The PHHPC regularly sends out important council information and notices such as our agenda, our meeting dates and policy matters. There are printed instructions at the reference table how to join the Listserv. We'd encourage members of the public also to reach out to the Council Secretary, Executive Secretary Colleen Leonard for any assistance if you will in joining that list. In addition, from Commissioner McDonald, we're going to hear from Dr. Whalen about the Office of Public Health, Dr. Fish about the Office of Primary Care and Health Systems Management. Dr. Torres will provide us an update on the Public Health Committee and the Ad Hoc Committee to lead the State Health Improvement Plan, followed by Dr. Rugge with a report of the activities of the Health Planning Committee that met yesterday. You will hear again from Mr. Holt who will present the regulations for council action. Mr. Robinson will be reporting on a number of CON applications that were reviewed at a previous meeting of the Establishment and Project Review Committee. I just want to remind the council that we've organized the agenda and the topics and the categories, particularly those of the Establishment and Project Review that captures our roles and responsibilities. We're planning to batch Certificate Of Need applications for adoption here today. Members in particular, please take a look at how we've batched those applications. If you have any thought that you'd like to request to remove a project out of a batch category into taking up singly, we will do so. You just please let Ms. Leonard know of your desire for us to do so, and we'll modify the agenda.

Mr. Kraut First, I'd like to start with a motion to adopt the February 6, 2025, minutes of the Public Health and Health Planning Council.

Mr. Kraut May have a motion?

Mr. Kraut Dr. Torres.

Mr. Kraut A second, Mr. Robinson.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Thank you.

Mr. Kraut The next is we have printed a schedule of our 2026 meeting dates. I'd like a motion to accept and adopt and print the schedule of those meeting dates.

Mr. Kraut Dr. Torres.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Watkins.

Dr. Rugge Jeff, are these different than we already had?

Mr. Kraut No, these are the ones that we had reviewed previously. I don't believe we changed the 2026 dates, right?

Unknown Speaker No.

Mr. Kraut I would just encourage everybody to take a look at them. We will send them out to everybody to make sure that they're appropriately calendared for the year. You have the location where they're being held so you can plan appropriately. What I'd like to do is once the Commissioner arrives we'll stop doing whatever we're doing. The Commissioner has a very tight schedule today. We'll will allow him the privilege of giving his report, speaking to us, and then we'll resume our regular thing.

Mr. Kraut Let me just turn right now to Dr. Whalen to give a report on the activities of Public Health.

Dr. Whalen Thank you, Mr. Kraut.

Dr. Whalen Good morning, everybody. I'm happy to be here this morning to provide this update from the Office of Public Health. I'll start with some good news. We are joined by Michelle Davis, who is going to be the new Deputy Commissioner of the Office of Public health. She has just started this morning. She is doing all the wonderful things that go with the first day of work, onboarding, and getting her picture taken. Is not with us but will certainly be here at the next meeting. She is joining the Office of Public Health as an experienced civil servant with over twenty years Public Health experience at all levels of government in the United States, as well as the Caribbean and on the continent of Africa. She most recently served as Special Advisor for the former Health and Human Services Assistant Secretary for Health. Over the span of her career, she's served in leadership roles with city, state and national professional public health organizations and has received awards for her public health service. She received her academic training in the fields of basic science, epidemiology, statistics, health policy, maternal and child health, infectious disease, and has certifications in DEI.

Dr. Whalen I will pause now as we are joined by Commissioner McDonald.

Mr. Kraut Thank you, Dr. Whalen.

Mr. Kraut We're looking forward to your being joined here.

Mr. Kraut It is my pleasure to introduce Dr. James McDonald, our Commissioner to give his report.

Dr. McDonald Good morning, everybody. It's great to be with you today. I just want to share a couple updates. One, I do want to acknowledge this is National Public Health

Week. I think one of the things about National Public Health Week, I think most people probably don't know it's National Public Health Week. I think actually most people really don't what public health does for their lives anyways to be quite straightforward with you. One of things I just wanted to share with folks is nobody goes into public health for fame or fortune. You do it because you care deeply about other people. Our staff in particular, I have so much respect for my staff. I'm thrilled with the ones I see here, but there's another 5,400 scattered throughout the state right now. I have a really great team at the New York State Department of Health. I have people who work long hours. They're dedicated to the mission. Some of them work every day. They just care very deeply about the people of New York. I just don't think New York understands how good they have it, that we have such a venerable, historic Health Department with such great people. Anyways, I'm really glad to be here today, but I want to just thank my staff for everything they do during National Public Health Week. I want to talk about a couple things. The first I want to start with is the federal transition. This has been a lot for us, just to be really straightforward. I want to just give you a little bit of what it's like to be me for a little bit here. March 25th, it was a Tuesday morning. I quietly came into work, like I usually do, and then received three letters that said, effective the day before March 24th, we had lost over \$350 million worth of grants, for cause, no less. That was just a lot for us to absorb. I think many of you know that Health Research Incorporated is an important partner to New York State Department of Health. They're the ones who accept our federal grants and actually carry out the work. There's a number of people who we value very deeply who work for us with HRI. It took us several days to just absorb the impact of this and just try to minimize the impact on our staff. Regrettably, we had to lay off fifty-three Health Research Incorporated staff. Just so you know. I don't like laying off people. I want to be very clear about that. When you lay somebody off, you don't just take away their job. You don't just take their income. You do damage their workplace identity. It's really awful for somebody to be laid off. You also take away their workplace friends. It is really awful for someone to be laid off and to have to do that was terrible. I just think this could have been done in such a different way where that didn't have to happen. Having said that, I was very happy to see the Attorney General of New York State, as well as other states and jurisdictions get involved with litigation that did cause Judge McElroy in Rhode Island to issue a temporary restraining order last week. Those fifty-three laid off HRI staff come back to work tomorrow. Lest we start celebrating that, there's ongoing litigation until it's uncertain what the future will entail. I'm very glad the legal team of the New York State Department of Health worked with the Attorney General in these other states are working hard. Just so people know, when you think about what the work was happening. In the three grants, one was called the COVID Disparities Grant, one was called the COVID Epidemiology Laboratory and Capacity Grant, another was called the COVID Immunization Grant. The work was ongoing. The work didn't stop because the pandemic was over. I'm very thankful the pandemic ended in May of 2023, my friends, but the work was ongoing. Just examples of some of the work. In the COVID Disparities Grant, my team was working with small community-based organizations that, quite frankly, had never received grants before. 25% of those organizations from working with my team learned how to actually get money from other grants. They were working on things like improving nutrition, helping people to see the value of exercise, helping other people see the values of breastfeeding. These are things that are very consistent with Make America Healthy Again. It's very consistent with really one of the big reasons why the United States did so poorly during the pandemic. It's because we were so unhealthy in the first place. There was a lot going on to prevent chronic disease. With the Epidemiology Laboratory and Capacity Grant, again, a lot of work going on to make us better able to handle a pandemic, not just from a preparedness standpoint, but really just from healthier standpoint. With the Immunization Grant, again, very good work to help people be more likely to get immunizations of all types. I think it's just important to understand... I

understand why the federal government did what they did only to the extent of it's just the pattern that's been going on. I just certainly do hope we prevail in court, and again very thankful for the legal teams that's helping us. I want to go next and talk a little bit about something I think I just want to make sure you know we still are vigilant about H5N1. Every time I come in front of you, I talk about avian influenza. It's something where I think we've achieved a bit of a detente with this virus right now. There hasn't been a human case in the United States in the last two months. There has yet to be a case in New York State. Local health departments have done a really good job of evaluating people who are exposed. What you've seen for exposure is someone's exposed to a dead bird. It's typically what we're seeing in New York State. One of the things that I just think is important is when you think about what's seasonality of H5N1 among birds, and how does that affect us in North America? The migratory patterns of birds are such that the Spring is when you'll see more activity among birds because they're migrating here. And then the Summer, it's traditionally waned off. We're keeping a close eye on all this. The department's very vigilant about this. We work closely with Health and Human Services. I was on a call yesterday with Health and Human Services, where all the relevant federal agencies are involved. I've worked very closely with Commissioner Ball from New York State Agriculture and Markets. I've work very closely with Department of Environmental Conservation on this. We're seeing a lot of local health department partnership as well. We remain vigilant on this to make sure this is something that we can mitigate in New York State. I want to shift a little bit to measles. Measles is a very interesting topic for so many reasons. One of the things we did last week though that was kind of different for us, was last Thursday we issued a travel advisory. Now, the New York State Department of Health doesn't usually issue travel advisories. Why did we do it this time? I think everybody's very familiar with the outbreak of measles in Texas. It's terrible that over 500 children are affected by that. One of the things our epidemiologic team really did, and brought to my attention a couple weeks ago, was that it's really the Southern Ontario outbreak that concerns me more. There are over 600 cases, but Southern Ontario, we share a border with them. The Western New York counties are right there. People were going back and forth. It really brought to my attention just the need to make sure New Yorkers knew when you travel measles is literally a car ride away. I was surprised how much the media picked this up, not in the United States, but in Canada. I don't usually read the Toronto Star, but it showed up there. It showed up in some of the other things. I think what was interesting is just seeing how the Canadians looked at this. They welcomed it. I think the Canadians generally are very polite people anyways. It was just nice to see that everybody's saying the same thing. The best way to prevent measles, as you know is to use the measles mumps and rubella vaccine. It's been around since 1971. One of the challenges we're doing at the Department of Health is how do we partner with others to figure out what's the best way to dispel the misinformation, persuade people, but do it in a civil and kind way. We're the Health Department. We're polite all the time. That's just who we are. We're your Health Department. We are not interested in getting in conflict or arguments with anybody. I can tell you, as a pediatrician for many years, one of things I learned a long time ago is the exam room is not the place for an argument. It just doesn't work. It's not how you persuade people and win friends and get people vaccines. It's important work that we have going on in the department. I'm going to talk a little bit about flu. We still see flu in New York State, still widespread, but Dr. Lutterloh has been doing a great job with her team. We're seeing flu start to decline in New York. What a flu season this has been for New York. It's still lingering. We're still seeing a number of people in the hospital. We're still widespread. We're seeing progress here. As typical during the end of most flu seasons in New York, you see more influenza B than A. We're starting to see that now as well. Hoping by May, this actually goes away for us. The only thing I'll mention about COVID vaccine is we do hope that the Food and Drug Administration meets in mid-May to approve the

strains for the new vaccine. It's not lost to me. There's been some significant changes in the Food and Drug Administration. You know, I actually knew Dr. Peter Marks, worked with him during the pandemic, met him in person only recently, just last month. What a brilliant physician this man is, what a loss for the Food and Drug Administration. I'm very sorry to see his resign. I'm hoping the Food Drug Administration understands the importance, though, of making sure that the next COVID vaccine is on time. I want to just talk a little bit about a new topic. I don't talk to you about our overdose work in the Department of Health, but I'm going to have Dr. Holtgrave join the rotation of people who come address you from time to time. Dr. Holtgrave is our Senior Policy Advisor in all of our overdose work. I'll share this with you. You know, many organizations engage consultants from time to time on things. Last year we did at one point, just to look at all the overdoses work we were doing. One of the things that consultants said to me that was really interesting was, you know he said, there's an old saying, "if Hewlett Packard knew what Hewlett Packard knows, they'd be bigger than Microsoft." He said, "If the New York State Department of Health knew what the New State Department of Health knows about overdose work, boy, you would make a difference." It was a lovely and honest way of saying to us we got a lot going on here, but it would do better if there was one person leading it and one person aligning it. I was thrilled when Dr. Holtgrave became available from the Office of National Drug Control Policy. What just a real inspiration he has been, a great leader. New York is making some progress with the overdose epidemic. You know, when you look at the most recent numbers across the United States, if you look in October to October twelve month period ending October 2024. In New York State, we're down 28% for overdose deaths. That trend is continuing month over month. I think that's very important. Again, a lot of good reasons why I love having Dr. Holtgrave here. He's a biostatistician at heart. That translates to 1,908 lives that were saved in New York State. Over 1,900 people are with us now. There's an enormous amount of work going with the Office of Addiction Services and Supports, with the Office of Mental Health, the Department of Health, all the hundreds of community-based organizations, all the healthcare providers. I mean, there's so many people working on this. The overdose problem in New York State is really a shared experience for all of us. I won't ask anyone to raise their hands, but almost everybody knows someone who struggles with this terrible disease. It's great to see this. One of the challenges we still have though is the racial disparities persist. We don't see the same progress in people of color, which represents a concern of mine in an area that we're focused on in the department. I want to end on one note. I want to welcome a new staff member to the New York State Department of Health. Her first day of work is today. She is not with you in front of you though. We have a new Deputy Commissioner of the Office of Public Health. Her name is Michelle Davis. Very thankful to my staff who had a welcoming breakfast for her on the 14th floor of Corning Towers. She's sitting with Human Resources right now doing the endless amount of onboarding paperwork it is to be a new employee of the New York State Department of Health. I'm really glad to have Michelle Davis here. She's a very accomplished Public Health professional. She comes to us from Health and Human Services, Region 2. I really value her federal experience. She's a former State Health Officer of the United States Virgin Islands. She was also a State Health Officer in the City of Philadelphia. It's just great to have her on the team. I want to make sure I thank our Deputy Director, Laura Trolio, who just did a splendid job for seven months stepping in and really serving that role. I also want to thank Dr. Liza Whalen, who's with me today who really did a lot as well and Dr. Eli Rosenberg as well, who just really stepped in and did a beautiful job with the Office of Public Health during that time. With that, let me stop and see if folks have questions.

Mr. Kraut Thank you so much, Commissioner.

Ms. Soto Good morning. Nilda Soto, council member. My question is, what are the projections of the possible cuts in Medicaid funding from the federal side? Do you think that the New York State and particularly the legislature, which hasn't passed the budget yet can offset those costs?

Dr. McDonald You're asking, what are we going to do if there's cuts in Medicaid? Let me talk about what we're doing. I was down in DC last month. I met with three members of Congress on the Republican side with our Medicaid Director, Amir Basiri, trying to make it really crystal clear to them that we really aren't going to well if there is a cut in Medicaid. Just to make sure you understand, the conversation isn't just Medicaid, my friends. It's the Affordable Care Act. In other words, if you look at our Essential Plan product, we have a 90% federal, 10% state contribution to that. If there's a substantial change, that impacts us as well. One of the things that I heard from them is they feel like there's a lot of consensus about a work requirement. Concerns me, because I'm just not sure how that would work, but we made it really clear that if we see cuts to Medicaid, this hurts everybody. I think this is really important for people to understand is that when you make cuts in Medicaid, this hurts everyone. To answer your question though, Is the legislature and the Governor able to It deal with the offsets? The answer to that is I don't know. It depends on what they are, but they could be substantial. Now, just to give people a frame of reference, the amount of money we have in Medicaid in New York State is \$93.3 billion projected for next fiscal year. The other thing I'll share with you is our Affordable Care Act program is a \$13 billion project. This is not the type of money that a state like New York can just all of a sudden materialize. New York has a great financial reserve. One of the things Governor Hochul did was when she was in office or the reserve was four billion, it's \$21 billion now. We're not in a position to offset substantive cuts here. What we're focused on is trying to look for how do we save money on administrative aspects of Medicaid, as opposed to looking at things that reduce eligibility, quality, or access to care. That's what we are focusing on. That sounds simple, but my gosh that's been hard to do. Because even when we find the administrative savings, it's amazing that there's interested stakeholders who oppose us on that every step of the way. I think we need to look at Medicaid as a very vital public health program that needs to be preserved and protected in New York. We're doing what we can. I'm answering your question as honestly as I can, but I didn't give you a specific answer because I don't have one, my friend.

Mr. Kraut Any other questions?

Mr. Kraut Yes, Dr. Eisenstein.

Dr. Eisenstein Good morning. Larry Eisenstein, council member. Thank you, Dr. McDonald. Question, since we're talking about Medicaid, I know I keep bringing up the Medicaid waiver. Has there been any discussions about keeping any changes being made, or are we expected to consistently work through that because there's still a lot of work going forward until we hear otherwise?

Dr. McDonald The 1115 Amendment, the New York Health Equity Reform Waiver is set to expire March 31st of 2027. That's my understanding. I haven't heard anything from the Senate for Medicaid and Medical Services that would change that. We're blazing forward. I don't know why there would be a change in that. When you think about what the waiver is spent to do, just so people understand the purpose of the waiver. The waiver is to try to look at how can you find demonstration projects that help achieve better health outcomes generally at a lower cost. The federal administration should be very much aligned with what we're doing. When you look at some of the work we're doing, for example, like some

of the work is encouraging more people to go into healthcare, right? We have a big national healthcare workforce shortage. I don't understand anybody opposed to that. When you look at our social care networks, half of our investment almost is in that social care network. It's really trying to improve individual social determinants of health, which, again, very consistent with what Make America Healthy Again is about. I'm hoping this just moves forward and politics doesn't get in the way.

Dr. Soffel Good morning, Commissioner. First, I want to say I really appreciate the uncertainty that you are operating under. I do not envy you navigating these waters. It's hard enough to do it for a personal family situation. I can't imagine doing it for the New York State Department of Health. Godspeed to you. My question has to do with how much money does the state Health Department currently receive in federal grants that could potentially be at risk? My ongoing concern about the workforce in the department and how much of that might. I know we've just been inching our way back to pre-pandemic levels of staffing. I worry that that could erode dramatically if we see the kinds of cuts that potentially could be coming down the road. Have you had we started to think about how to approach if you need to do staff cutting how that could be managed in a way that does the least damage to the functioning of the department? I feel like attrition is the easiest, but it's also the clumsiest. Just whatever thoughts you have, and I appreciate that they will be preliminary at this point.

Dr. McDonald Thank you.

Dr. McDonald When we looked at what happened to us with the three COVID related grants that we had, we actually had too very... It's interesting. We could have just simply laid off 250 people the first day. Obviously, we didn't do that. We ended up at fifty-three because we were able to go through and methodically analyze everybody's situation personally and then work through the process and only lay off fifty-three. I say only layoff fifty-three, but I want to make sure you know that was heartbreaking for me. Everyone should know that if someone ever gets laid off in New York State Department of Health, I looked at your name, I understood your situation, and it bothered me deeply. I care about every employee of the New York State Department of health very much so. We have roughly 1,300 people who work for Health Research Incorporated. That's the group that is funded by federal grants. Not every federal grant is vulnerable though because some are for different periods of time than others. Also, though, we have other people who work for different grants. We get grants from all kinds of agencies, but most are from the federal government. What we're doing, though is move people to different grants as best we can. We are trying to find other ways to find funding. Like diversifying funding, it sounds simple, doesn't it? Most state health departments like ours are very dependent on the federal government on federal grants. When you think about who the main benefactor of grants across health departments it is the federal government for every state health department. Just to give you context though, if you look at our \$113.6 billion dollar budget proposed for next year, 65% of it is federal funds. Now, most of that's Medicaid and essential plan. You know, you asked an honest question. I can't give you a straightforward answer. What I'm saying is we are looking at where we think there's high risk situations Just so you know, I meet with every state health officer Tuesday at 4:30pm. Every state is struggling with the same issue. Health and Human Services is being restructured. One of the things we're seeing right now is we aren't getting great communication from Health and Human Services like from CDC, because of all this restructuring. We think that will abate in two to three weeks because of what we learned from when the Department of Education was restructured. There was a period of people had to be reassigned work. There's so much uncertainty in the federal transition right now that it's really hard to answer your question

more specifically. I don't mean to sound critical. I really think the federal transition could have been more deliberate and thoughtful. When you think about what's going on right now in our country it doesn't need to be this way. Had things been done in a deliberate, thoughtful manner, it would have minimized harm. For example, had we been told we were going to lose these grants in ninety days, we could have done things that would have maybe not afforded anyone being laid off. We could have done some other things too. The whole federal transition just seems so chaotic. It's creating a great deal of under stress, not just for us, but as you said, for your family. I just don't think this is healthy for the country to be going through something that's so chaotic right now. I just think it's healthy at all.

Mr. Kraut Any other questions for the Commissioner?

Mr. Kraut Yes, Ms. Mazzacco.

Ms. Mazzacco Good morning, Commissioner Michelle Mazzacco, member of the council. I'm not sure if you've had an opportunity to see a letter that was sent to the Public Health Council and the Governor from Leading Age regarding the nursing home hours per patient day regulation. The letters that were issued recently to nursing homes across the state. I wonder if we could speak for a moment about that. The current letters were issued a day after we received notice that somehow the data had shown that in the rear-view mirror, quarter three, 2023, that we did not have a staffing shortage in most of the state, which from a boots on the ground standpoint weren't really what it felt like. While overall at a high level, the concept of minimum staffing standard sounds good, as with everything in life, sometimes it all comes down to the details. In the details of this regulation, hours per day that count from a federal perspective are discounted from a state perspective; CNA trainees, nurse administrator positions that are actually providing some of their day in patient care, which happens routinely if someone gets COVID and calls out that morning, right? You jump in and do what you need to do to care for residents, but those don't count. They exacerbate the issue that we face because they then apply penalties for not meeting the standards. I wonder if we could speak a little bit about that.

Dr. McDonald Sure.

Dr. McDonald I think just to make people should notice the issue is the New York State Department of Health is enforcing a state law, which really addresses hours per resident day, a minimum staffing law. There's a methodology that we put together that's been constructed with the Department of Labor to address this. There are areas of the state that are no longer under staffing shortage. Executive Order 4 mitigated all of this during the pandemic, but that expired. That wasn't meant to go on forever. One of the things that I think we have to acknowledge is I did read the letters. One of the thing I think that people should understand is that the numbers that were in the letter about worrying about fines. I don't think the people who understand that their department has some ability to mitigate that. I don't want to get too much into the other, but it doesn't necessarily have to be the maximum fine every day. There's some room for us to mitigate that. Again, don't want to give too much detail about that. The other thing I just think we just have to acknowledge is one of things I've learned by going to nursing homes across the state is it would be nice if there was some legislative activity to help scope of practice change in New York State to be a little bit more aligned with other states. One of the things I hear from every nursing home is if we could have the interstate medical license or compact for nurses, forty-two other states are on board, it would help us. I'm a little more optimistic this year. This may not help nursing homes directly, but one thing I see in New York is we're the only state where a medical assistant cannot administer a vaccine, but I was heartened that Chair

Amy Pollen from the house has before the bill that medical systems could give a vaccine. Senator Toby Stavisky was very interested in helping us with that as well. I'm heartened that that might happen. If we can get things like that happen, we might be able to mitigate some of nurses being in more appropriate clinical environments. It's a complex issue. We're enforcing the law. This is really probably all I can say in that topic today for now. It's an ongoing process. Obviously, we all want the same things, which is safe, dependable care in our nursing homes in New York State. As the regulator, we're in the uncomfortable position of just enforcing laws, but we understand that there's issues here that are larger than just the moment.

Mr. Kraut Commissioner, I think there are no other questions, so I'll just close with I marvel at your patience. In the face of uncertainty, it generates an enormous amount of fear and where you're leading an industry here that has a lot of pressures on it, as you just heard, staffing and cost. We're very dependent obviously on federal funding for Medicaid in addition to the state funding. We just know with your thoughtfulness hopefully you will help those people in the state in policy making positions and the ledge to make good decisions generated by good data. Thank you. None of us want your job.

All (Laughing)

Dr. McDonald Well, I want my job.

All (Laughing)

Dr. McDonald Thank you for the kind words. Just so people know, it's funny. I'll share this really quickly. It's a little bit odd to walk around the Department of Health and hear people saying, we're praying for you.

All (Laughing)

Dr. McDonald I'm fine. I am fine. Just so that people know we can fight multiple wars at the same time, but I am fine. We're going to get through this, my friends. We are going to get through this. I do want to let you know that I normally like to sit and linger. I have to actually hop in my car real quick and head down to the city for a meeting later on today. Thank you so much. I appreciate all the work you're doing. It's a difficult time for all of us. Thanks so much, everybody.

All (Clapping)

Mr. Kraut He knows people are praying for him. He knows what a Met fan feels like. We're going to do good this year. Very good this here, hopefully.

All (Laughing)

Mr. Kraut Dr. Whalen, I'm going to return to you to give the report. Dr. McDonald talked about public health. Of the last year, I think we spent five trillion dollars in health care in the united states and about five percent of that on public health. People don't recognize the quality of science that occurs particularly in our Health Department in the Wadsworth Laboratories in the evidence-based approach that your group has led the nation, frankly. I just wish we get to talk more about it. I hope one day that I will still be on the council that we will host a meeting in the new laboratory for Wadsworth. I'd love to have a Public Health Council meeting held when that building becomes operational.

Dr. Whalen That sounds like a great idea. I think we all need something to look forward to. I'll start my updates for the centers with Wadsworth. I want to share with you two of the wonderful employees at the Wadsworth Center have been asked to be on national committees. The first of these is Dr. Kurunthachalam Kannan, who is a research scientist. He's been invited by the National Academy of Sciences Engineering and Medicine to serve as a member on the Committee of Clinical Follow-Up and Care for those impacted by JP5 release at Red Hill. This is something that occurred in Hawaii. There was a jet propellant aviation fuel spill in November 2021. He is going to be part of a committee that is going to evaluate the risk of long-term exposure, look at clinical guidance, and provide a final report. Dr. Kannan is a globally recognized leader in exposure science and biomonitoring, has authored over 900 research papers in environmental health sciences, and is one of the most highly cited researchers in his field. His appointment to this prestigious committee underscores his expertise in leadership and exposure science and reinforces the Wadsworth Center's leadership in environmental research. The second is Wadsworth Center's CLEP, Clinical Laboratory Evaluation Program, Director Beverly Rauch joins the National Panel on Laboratory Developed Tests Regulation. A bit of background on that. The CLEP's program within the Wadsworth Center provides regulatory oversight for clinical testing laboratories in New York State. As part of its regulatory responsibilities, CLEP reviews and approves laboratory developed tests to ensure both analytical and clinical validity. While most tests are FDA approved and sold by manufacturers, some laboratories develop their own tests for patient testing without FDA approval. These are known as the laboratory developed tests. CLEP is the only regulatory body in the United States that requires this review and has done so for over thirty years. However, in a major policy shift, the FDA recently amended federal regulations to assert oversight of these laboratory developed tests. This new final rule has triggered industry wide discussion and led to at least one lawsuit. Given CLEP's unparalleled expertise in LDT regulation, Beverly has been invited to serve as a panelist for the American Clinical Laboratory Association's annual meeting in Washington. She will be participating in advocacy. She did participate in a panel discussion on clinical laboratory developed testing services, litigation, legislation, and regulation. Her participation highlights CLEP's, national leadership, and LDT regulation and reinforces, again, the Wadsworth Center's critical role in shaping the future of clinical laboratory oversight. Finally, from Wadsworth, the New York State Newborn Screening Program at the Wadsworth Center has a long history of pioneering newborn screening advancements. I'm sure you were all aware of babies get a heel stick when they're born to test for a number of heritable conditions. We were the first state to screen for sickle cell disease, crab disease, and adrenoleukodystrophy. Adding a condition to the federal recommended uniform screening panel requires nomination to the advisory committee on Heritable Disorders in Newborns and children. Currently, there is a pilot for fourteen conditions, including metachromatic leukodystrophy through the Screen Plus Study, which is led by Dr. Joseph Orsini, Deputy Director of the New York State Newborn Screening Program. This is important, MLD or metachromatic leukodystrophy, particularly in late infantile form, historically led to death before the age of 5. However, in 2024, the FDA approved a novel gene therapy for pre-symptomatic individuals, which will significantly improve motor function and survival benefits when administered early. From the Center for Community Health, I know Dr. McDonald just gave an update on H5N1. We have received positive tests in wild birds from fifty-six counties in New York State, including New York City since 2022. We know the virus is undoubtedly in wild birds throughout the state. This is not something unusual and not necessarily of concern. We have been working to advance the message to the public not to handle wild birds, including ill or dead birds, and encouraging people to report dead birds to the Department of Environmental Conservation, specifically when they find more than several. DOH has

provided guidance for local health departments following detections of H5N1 by commercial and backyard poultry flocks based on the degree of human exposures. We have not identified any H5N1 cases in humans to date. We provided updated information on our website and continue to work with local health to closely monitor the situation. The Department of Ag and Markets has not confirmed any cases in dairy cattle. Obviously, the landscape has changed in the past nine months or so for the consideration from dairy cattle to wild birds. We continue to monitor dairy cattle. There is also a continued monitoring of raw milk at milk processing facilities since the end of January. There have not been any detections of HPAI in raw milk at these facilities. Expanded access to vital nutrition programs for mothers and children. Governor Hochul announced in her 2025 State of the State commitment to expand access to the Special Supplemental Nutrition Program for Women, Infants, and Children. For more than fifty years, this program has been essential in promoting and safeguarding the health of women and children. Since 2020, special supplemental nutrition program has increased by nearly 25%. It currently serves more than 445,000 participants and counting, which is approximately 66% of the eligible population in New York State. Through this investment, the Governor plans to expand the programs reached to 70% of the eligible populations and increasing access to healthful foods and essential nutrition for thousands more women, infants, and children. We anticipate that the caseload will increase here, and the current rate is expected to reach 500,000 by September of 2026. With the hunger prevention and nutrition assistance or HIPNAP program and Nourish New York, HIPNAP and Nourish New York have proposed budgets in this year's state budget. Nourish New York is proposed to receive five million one-time executive, which is \$750,000 more than the prior year. Hunger Prevention and Nutrition Assistance Program is proposed to receive \$23.25 million in a one-time executive maintaining the funding level. It's important to note with the nutrition program that uncertainty about continued availability of federal funding for the programs is something that we are aware of and monitoring. Program areas like SNAP, it could affect our Division of Nutrition Programs. Federal funding is very important for WIC, child and adult care food programs, obesity prevention. HIPNAP is state funded. Update from the Office of Science and Technology, New York State Division of Science updated eight major public facing data dashboards and reports. We hope these dashboard applications will be useful tools for all our state and local partners. We would like to thank those who contributed data and support in the development update of these applications. The first of these is the Prevention Agenda Dashboard. It's been updated with the most recent data and is available on a link that's provided in your remarks. This is an interactive visual presentation of the most current tracking indicator data to track progress of New York State's Health Improvement Plan at state, county, and sub county levels. It serves as a key source for monitoring progress that communities around the state have made regarding the Prevention Agenda objectives. In addition, the Community Health Indicator Report was updated and is available. This dashboard interactively displays data for over 350 indicators at state and county level. It is designed to be a key resource for Community Health Needs Assessments, Community Health Improvement Plans and Community Service Plans. It's integral to local health departments and hospitals in their planning process. There is other six specific dashboards. One is on opioid data, asthma dashboard, maternal child health dashboard, leading causes of death dashboard, county health indicators by race and ethnicity report, and county and state zip code perinatal data profile report. From the Division of Public Health Infrastructure, interviews are underway for two director level vacancies. These include leadership in the Office of Local Health Services and Associate Director of the Division. The Public Health Infrastructure Grant, which is a CDC funded federal grant has entered year three and is working collaboratively across the Office of Public health to execute deliverables described in the CDC work plan. The community engagement and outreach unit and public health continuing education unit have increased

regional office co-location by hiring staff in each of the regional offices. The Office of Local Health Services will release the State Health Improvement Plan and the State Health Assessment this month which will support local health departments and hospital development of their community health improvement and service plans. The Office Of Local Health Services in collaboration with the Office of Health Equity and Human Rights launch the Prevention Agenda Inter Agency Task Force to strengthen implementation of the Prevention Agenda between 2025 and 2030. Task force members represent state agencies, are in leadership and liaise positions who can draw alignment of the Prevention Agenda to the work of their agencies. The division is also working collaboratively with the 1115 waiver team to draw alignment between the Prevention Agenda, social care networks, workforce investment organizations and the Public Health Infrastructure Grant. The New York State Public Health Corps. This is a program that I know we've spoken at this meeting before. It is unfortunately one of the programs that has been hit by the federal cuts. It was due to be funded through next year but is going to be prematurely terminated May 30th of year unless alternate funding source can be organized. The program launched its second phase in August 2024. In total, there's 199 hired fellows. These are placed in fifty-four host organizations across the state, including local health departments, state health department and several community-based organizations in forty-eight counties. There are currently 170 active fellows and twenty-nine inactive fellows. They continue to work on projects and participate in professional developmental activities. All fellows are either enrolled in a Cornell University or University of Miami professional certificate training program. Again, this is a hope that the fellowships will be able to contribute to the public health workforce going forward. Public Health Continuing Education Unit has made progress and continues to move work plan deliverables forward by piling leadership and management training, promoting public health capacity building programs with Cornell and SUNY Albany, developed a public health live webcast and completed training consultations with all the Office of Public Health centers and has begun to analyze data to identify core competency and training needs across the Office Of Public Health. Office of Local Health Services, the yearly state application consisting of local health department budget and responses to the program questions were due for submittal in February. The Office of Local Health Services working closely with the LHDs to ensure that these are accepted and approved so that state aid may be provided for the local health departments. From Public Health Infrastructure, Pathways to Public Health Internship Program kicked off recruitment for Summer internships. The program will feature fifteen public health internships across disciplines across New York State. It will also feature emerging leadership program, up-skilling new supervisors to lead interns, developing both supervisory and public health leadership skills. Academic partnership develop has kicked off their Spring Career Fair by partnering with regional offices to support college and community career fairs and promoting careers in public health. Finally, from the Center for Environmental Health, addressing childhood lead poisoning through protective rental inspections. This is a Public Health Law, 1377, which set the stage for the Center for Environmental Health to implement a proactive rental registry and identified communities of concern to combat childhood lead poisoning. The Center for Environmental health drafted regulations to administrate, coordinate, and enforce lead safety inspections and remediation of conditions conducive to lead poisoning. These regulations will require lead safety inspections of all pre-1980 multi-dwelling rental units in communities of the highest risk across the state starting in Fall 2025. Draft regulations were published in the state register. The public comment period ended in February. The department is currently reviewing the public comments and continues to work with the advisory committee on Lead Poisoning Prevention to ensure the regulations and associated guidance will support effective implementation of the program.

Mr. Kraut Thank you very much for a wide range of topics.

Mr. Kraut Are there any questions?

Mr. Robinson Thank you for the report. Very comprehensive.

Mr. Robinson You and Dr. McDonald alluded to the changing landscape at the federal level with regard to the collection of public health data, infectious disease data and how that is, at least it seems that we have less access to it. They're either not producing it or not sharing it. What is New York State doing to sort of replace that deficit... If anything, in order to sort of continue to monitor the public health of the state?

Dr. Whalen Thank you for that question.

Dr. Whalen There is a tremendous amount of work that's going on in the department right now both from a staffing perspective from analyzing the federal grants where cuts could occur and potential fiscal and staffing impacts and looking at data. One of the things when we were concerned about the transition the CDC website had been archived. Information that may have been taken down remains available to us. In addition, we're very carefully, you know, as I reported out from the Office of Science creating new data dashboards and making sure that we can have the information that our stakeholders need including the local health departments and the hospitals to make their plans based on data for community health improvement across the state.

Mr. Robinson Are there any efforts at sort of direct interstate collaborations to replace what's kind of disappearing at CDC and other settings?

Dr. Whalen We have had informal conversations with several state health departments across the country and discussing with them how we will kind of continue to move things along should there be additional challenges. I imagine that those conversations will be ramped up as the need occurs.

Mr. Robinson Thank you.

Mr. Kraut Any other questions?

Dr. Soffel Good morning. I have a comment and a question. I am delighted that the Prevention Agenda Interagency Task Force is happening, especially that you guys have reached out to the 1115 waiver team. I have been very troubled by the lack of communication. There's so much knowledge within the department. There hasn't been enough of the right hand and the left hand talking. I'm really delighted to see that. kudos to all of you. My question is on the WIC program, you said you're hoping that you'll be able to reach 70% of the eligible population. Obviously, many of us would like to see 100% of eligible population reach. How does that 65, currently 70 potential, who decides who gets in and who doesn't get in?

Dr. Whalen I think that the goal is obviously to get everybody in that needs to get in. A lot of what has been the blockage here has been administrative to be able to process applications as they come in. I don't think that there's a hierarchical decision of someone gets in and someone doesn't get in other than utilizing the criteria that we have. It is just expanding the ability to process more of these applications.

Dr. Soffel You don't have a wait list?

Dr. Whalen I'm not aware that we do. I can check on that.

Mr. Kraut Thanks so much, Dr. Whalen.

Mr. Kraut I'm now going to turn to Dr. Fish to give a report on the Office of Primary Care and Health Systems Management.

Dr. Fish Good morning, everyone. Doug Fish, Deputy Commissioner for the Office of Health Care Delivery. I'll be reporting out, as Mr. Kraut said, on the Office of Primary Care Health Systems Management. April is Donate Life Month. It's a time to raise awareness about organ, eye, and tissue donation and encourage registration and honor our donors. Yesterday, the department had a very productive meeting of our Transplant Council, which is in Public Health Law, so this council advises and makes recommendations to the Commissioner of Health on matters related to organ donation, procurement, bank storage facilities and other matters. It was a very, very productive meeting that we had. To follow on Commissioner McDonald's remarks related to federal actions, on February 18th of this year, the department issued a Dear Administrator Letter on continuity of care in response to the Presidential actions concerning gender affirming care. This communication serves as reminders to our hospitals and diagnostic and treatment centers must ensure equitable continuity of care for patients whose care is discontinued or paused in any way. On March 19th, we issued a third letter, patient abandonment and equity in care as guidance to hospitals and diagnostic and treatment centers regarding, one, meeting the requirements, a professional licensure, as well as the Emergency Medical Treatment and Active Labor Act, what we know of as EMTALA, two, holding a license to operate a hospital in New York State, and three, regarding participating in federal and state reimbursement programs. This Dear Administrator Letter serves as a reminder that healthcare providers must treat all patients equally when seeking care and treatment. On our hospital capacity direct access rollout that I mentioned last time as a reminder. This is our health data modernization effort to relieve hospitals of manual reporting requirements by automating the submission of data to the department. We're near completion of this project to build out and onboard our hospitals for this automated reporting of data such as their daily bed census, ICU bed census things were very, very relevant and helpful during the pandemic. We anticipate this final group of hospitals being onboarded within the next few weeks to a month. Hospital at home, just thought I would mention this because the Centers for Medicare and Medicaid Services extended the Acute Hospital Care at Home Program through the end of September of 2025 with the extension of the federal budget. CMS launched this Hospital Without Walls program in March of 2020 under the authority of the 1135 Social Security Act. It was extended again through the Consolidated Appropriations Act of 2023. This act also required CMS to conduct a study to evaluate several aspects of the Acute Hospital Care at Home Initiative. This was published on September 30th. Reported on findings of early lessons the patient experience, quality and cost of care with generally positive findings. Lastly, just as a reminder about our state emergency medical services, as our team has been moving through the next phase of creating the Emergency Medical Services task force and are currently onboarding staff to continue operation of our state operation surge center which is open 24-7 for our hospitals on health care facilities across the state. With that I'll conclude and happy to take questions.

Mr. Kraut Thanks so much, Dr. Fish.

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

Mr. Kraut Thank you so much for your report.

Mr. Kraut I'm now going to turn to, we're going to hear four of our committee reports. The first of whom is going to be led by Dr. Torres, who's going to give us a report on the Public Health Committee activities of the council.

Dr. Torres Good morning. Dr. Whalen, thank you for the collaboration. On February 18, the New York State Department of Health's Prevention Agenda team updated the Public Health Committee on the progress of the 2025 to 2030 New York State Prevention Agenda, which has a new framework incorporating the social determinants of health consistent with the CDC's Healthy People 2030 Initiative. This includes five domains; economic stability, social and community context, neighborhood and built environment, health care access and quality, including twenty-four statewide priorities and eighty-eight measurable objectives and indicators with an overarching goal to reduce disparities and inequities using evidence-informed interventions with ability to track progress over time. The State Health Assessment and the State Health Improvement Plan documents have been finalized and are set for release, immediate release. New to this cycle of planning is establishment of an interagency task force. The Social Determinants of Health Interagency Work Group which will be comprised by in part members of the Establish Interagency Task Force of Health Equity and Diversity and Inclusion. These are experts in social determinants of health, health equity, health disparities, economics, and vulnerable populations. The purpose of the work group will be to lead collaborative efforts at the state level. The Prevention Agenda team has also administered a survey on cross-sector coordination to identify external organizations outside New State Department of Health. That plan to support the Prevention Agenda priorities and goals to engage additional organizations, strengthen coordination and track implementation efforts. Hospital community benefit has also been discussed as an important potential mechanism to fund efforts of the Prevention Agenda. It was reported out that the New York State Fiscal Year 2026 Executive Budget includes a community benefit spending proposal as an amendment to Article 7 legislation that would require hospitals to report spending and how this funding aligns with efforts, including the Prevention Agenda. The New York State Prevention Agenda Dashboard will be updated to reflect the new Prevention Agenda later this year. Post-release of the SHA and the SHIP will anticipate community health assessments, community health improvement plans, and community service plans from local health departments and hospitals throughout our great state.

Mr. Kraut Thanks, Dr. Torres.

Mr. Kraut Any questions for Dr. Torres or any of the committee members want to make a comment?

Mr. Kraut Thanks so much, Dr Torres.

Mr. Kraut I'm now going to turn to Dr. Rugge, who's going to give a report on the activities of the Health Planning Committee.

Dr. Rugge Thank you very much.

Dr. Rugge The Planning Committee met yesterday afternoon. We're pleased to see numerous council members who had not been officially on this committee. The expectation now, of course is each of them join all of our sessions for the next topic, starting with

Marcus. This meeting represented for us a refresh start. It is not a fresh start. The Planning Committee has been active for a long time. Our charge, if you will, is contained in statutory language regarding our responsibilities to think and make recommendations regarding our ever-changing healthcare delivery system. In response to that, this committee, the members of the committee brought forward lots of policy issues that really needed to be looked at and investigated, again, in this fast-changing world of ours, both delivery of care and payment for care. I like to believe that this stimulated our leaders in DOH, Dr. Jean Heslin, Ms. Jackie Sheltry to really look at. How can we assess top priorities for now that may also serve as a model for how we proceed? The recommendation was to take a look at PCI, percutaneous coronary interventions. Not just doing cardiac cast to see what's there, but to be prepared to fix the problems, especially coronary artery problems. As we did that, we realized that the responsibility is to look carefully at the safety for patients, the outcomes for patients in this kind of setting, and also understand and review the cost effectiveness of moving yet another service from the inpatient setting to the ambulatory setting. As we know, many services in the ambulatory setting have now moved into the home setting. We need to keep up and sometimes help to stimulate those advantages. The presentations that we received yesterday were extremely helpful, one on quality and analytics from our DOH specialists and also from the Cardiac Advisory Committee. Another presentation was given regarding reimbursement overview for PCI. Now, after a pretty vigorous discussion, we feel prepared to undertake a three-part process. Phase One, more learning for us so that we are truly educated about the process and the implications of doing all this on an ambulatory basis. Number two make sure that we receive input from key stakeholders and other experts, and of course Phase Two and Phase One are very closely linked. All that should then lead to our ability as a committee to develop an understanding and then develop recommendations for how to go forward, what kind of standards should be, what are the guidelines that every program needs, etc. Those recommendations would then go as appropriate to the Codes Committee, and also, of course, to the council for review, improvement, and adoption. We then concluded with a discussion about how do we go from here? What kind of meetings do we need? How often? How long should they be? All that is now in the works. Really do feel that this is an introductory session, introductory course in the larger issue, of course of this movement of care from one setting to another. Hopefully, we'll set an example of how to do this kind of work and produce the kind of outcomes we hope for, which are good and helpful to all. Thank you.

Mr. Kraut Thank you very much, Dr. Rugge. I want to just thank you and Ann Monroe for chairing the committee. I don't think Dr. Rugge was joking when he said if anybody is attending the meeting, you'll now become a member of the committee. So, if you're not and you'd like to be, you will just let us know. We certainly want to encourage everybody to attend. You're certainly able to participate and contribute to the conversation.

Dr. Rugge To be clear, that was a serious joke.

All (Laughing)

Mr. Kraut It's a serious joke, but we already had one person who came forward and we will be appointing that person.

Mr. Kraut Any questions for Dr. Rugge or any members of the committee who wanted to make any comments on it?

Mr. Kraut Thank you.

Mr. Kraut I'm going to turn now to Mr. Holt, who will give us a report on the Codes, Regulation and Legislation committee.

Mr. Holt Good morning. At the April 10th, 2025, meeting of the Committee on Codes, Regulations, and Legislation, the committee reviewed and voted to recommend for adoption the following regulation for approval before the full council. Amendment of Section 405.45 of Title X, Trauma Centers and Nurse-Reviewer. Mr. Greenberg of the Department of Health presented the Trauma Center's Nurse-reviewer proposal regulation to the Committee for adoption, and they're available to the council should there be any questions from the council or the members. I move the adoption of this regulation.

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

Mr. Kraut May I have second?

Mr. Kraut Second Dr. Berliner.

Mr. Kraut Are there any questions from the council members?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Holt Following regulation, amendment to Section 405.4 of the Title 10 NYCRR, 12-week rule for foreign medical school graduates and limited permit allowances was presented to the council for information only and will be presented to the committee and the full Public Health and Health Planning Council for adaption at a later date. This completes the agenda of the Codes, Regulations and Legislation committee.

Mr. Kraut Thanks very much, Mr. Holt.

Mr. Kraut I'm now going to turn to Mr. Robinson to give the report on the actions of the Establishment and Project Review Committee.

Mr. Robinson Thank you, Mr. Kraut.

Mr. Robinson As Mr. Kraut mentioned earlier, I do intend to batch these applications, so please weigh in if you want to have an application pulled out and addressed separately. Beginning with this first category, which is applications recommended for approval with no issues or recusals, abstentions or interests, I will batch the following applications. Application 251013C, Montefiore Mount Vernon Hospital in Westchester County to perform renovations to upgrade and expand the Emergency Department, Surgical Department, and Outpatient Wellness Center. The department and the committee recommended approval with conditions and contingencies. Application 242333C, Endoscopy Center of Western New York LLC in Erie County. This is to certify a single specialty extension clinic for

gastroenterology to be constructed at 250 Windward Road in Orchard Park and transferring 11.035% membership interest from a current member LLC to another current member LLC and add three members to that member LLC. Both the department and the committee are recommending approval with conditions and contingencies with an expiration of the operating certificate, five years from the date of issuance. Application 251016C, Markey Certified Home Care LLC in Albany County. This is to acquire the certified home health care or CHAA operated by Community Health Center of St. Mary's Health Care and Nathan Litour Hospital and add additional counties and services. This amends an out earlier and supersedes an earlier application numbers 241119. The department recommends approval with a condition as did the committee. I move that batch.

Mr. Kraut I have a motion by Mr. Robinson.

Mr. Kraut I have second Dr. Torres.

Mr. Kraut Are there any questions on any one of these applications?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson This next application is separate 242268C, Hospital for Special Surgery in New York noting an interest by Dr. Lim to construct Article 28 space in a new twelve story building on the main campus to include imaging services and inpatient beds with no change to total certified beds. This to amends and super season earlier CON, this one is number 191311. Department and committee recommend approval with conditions and contingencies. I so move.

Mr. Kraut I have a motion by Mr. Robinson.

Mr. Kraut A second by Dr. Berliner.

Mr. Kraut 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 Motion carries.

Mr. Robinson This is application 242324C, Long Island Jewish Medical Center in Queens County, noting a conflict and recusal by Mr. Kraut, who's left the room, and an interest by Dr. Lim, who remains. This is to certify eleven bone marrow transplant beds and perform renovations to create a new bone marrow transplants unit.

Mr. Robinson May I have a motion?

Mr. Robinson Dr. Berliner.

Mr. Robinson Second, Mr. Thomas.

Mr. Robinson I'll call the question.

Mr. Robinson All in favor?

Mr. Robinson Any opposed?

Mr. Robinson Motion carries.

Mr. Robinson Have Mr. Kraut return.

Mr. Robinson This next batch involves applications recommended for approval. This is where I'm supposed to be. Application 222053E, VS Servicer at Beacon LLC doing business as the Taconic Rehabilitation and Nursing at Beacons in Dutchess County. This is establishing VS Servicer at Beacon LLC as the new operator of Taconic Rehabilitation and Nursing at Beacon, formerly known as Wingate at Beacon, a 160-bed residential healthcare facility at 10 Hastings Drive in Beacon. Department and committee recommend approval with a condition and contingencies. Application 222054E, VS Servicer at Fishkill LLC doing business as Taconic Rehabilitation and Nursing at Hopewell in Dutchess County. This is to establish VS Servicer at Fishkill LLC as the new operator of Taconic Rehabilitation and Nursing at Hopewell, formerly known as Wingate of Dutchess, a 160-bed residential health care facility at 3 Summit Court in Fishkill. Here the department recommends approval with a condition contingency as did the committee. Application 222055E, VS Servicer at Ulster LLC doing business at Taconic Rehabilitation and Nursing at Ulster and Ulster County. Establishing VS Servicer at Ulster LLC is the new operator of Taconic Rehabilitation and Nursing at Ulster, formerly known as Wingate of Ulster, at 1 Wingate Way, Highland. The department, as did the committee recommends approval with a condition and contingency. Application 231043E, Meadowbrook Operating LLC doing business as Meadow Brook Healthcare in Clinton County, establishing Meadowbrook Operating LLC as the new operator of Meadowbrook Healthcare, an 87-bed residential health care facility currently operated by CGSR Inc at 54 Prospect Avenue in Plattsburgh. The department and the committee recommend approval with a condition and contingencies as well. Application 241267E, Morningstar Residential Care Center in Oswego County, transferring 10% ownership interest from one existing shareholder to one new shareholder. Both the department and the committee recommend approval with conditions and a contingency. I move the batch.

Mr. Kraut I have a motion, Dr. Torres.

Mr. Kraut Second, Dr Watkins.

Mr. Kraut Any questions on any of these applications?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson Now, batching certificates, a certificate of amendment of the certificate of incorporation for the Bethel Springvale Nursing Home, Inc. Department and committee recommend approval. Certificate of dissolution for the International Center for the Disabled doing business as Institute for Career Development. Both department and committee recommended approval. VNS Choice Community Care, the department and committee recommend approval. Presbyterian Senior Care of Western New York department and committee recommend approval. I move the batch.

Mr. Kraut I have a motion.

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

Mr. Kraut Any questions on these certificates?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson It takes these individually now 242292E, Crystal Run Ambulatory Surgery Center of Middletown and Orange County noting an interest in abstention by Dr. Friedrich transferring a 40.10 membership interest in the center to eighteen individual physician members. Department and committee recommend approval with a condition. I so move.

Mr. Kraut I have a motion.

Mr. Kraut I have second, Dr. Berliner.

Mr. Kraut We're not batching these, right, or we're not batch any?

Mr. Kraut Any questions on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson These next two are batched. 251014E, Atrium Endoscopy in Suffolk County noting an interest by Mr. Kraut to establish and construct a single specialty ambulatory surgery center for gastroenterology at 775 Park Avenue and Huntington Station. Department and committee recommend approval with conditions and contingencies with an expiration of the operating certificate five years from the date of its issuance. Application 242221B, Ambulatory Surgery Center of Williamsburg in Kings County, noting an interest by Dr. Lim, to establish and construct the Multi-Specialty Ambulatory Surgery Center to be constructed at 1 Maspeth Avenue in Brooklyn. Note that there are revisions to the application on Pages 1 and 2 under the financial summary and Page 13 under capability and feasibility regarding the project's funding. With that said, the department and the committee recommend approval with conditions and contingencies with an expiration of the operating certificate five years from the date of issuance. I move that batch.

Mr. Kraut I have a motion.

Mr. Kraut I have second, Dr. Torres.

Mr. Kraut Any questions on these applications?

Mr. Kraut Hearing none, all those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson These will run individually now. 242-263B, Medical Center of Williamsburg in Kings County, an interest by Dr. Lim, to establish and construct a Diagnostic and Treatment Center to be located at 1 Maspeth Avenue in Brooklyn, noting again a revision to the application made on Page 1 under the financial summary, and Page 11 under Capability and Feasibility regarding the project's funding. The department and the committee recommend approval with conditions and contingencies. I so move.

Mr. Kraut I have a motion.

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

Mr. Kraut Any questions on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson Again, I'm going to be taking applications individually here, 231220E, CLRNC Operating LLC doing business as Clinton County Nursing Home in Clinton

County. I want to note here that this application was opposed by Mr. La Rue and Ms. Mazzola. Did I say it right? Thank you. Ms. Monroe abstained. This is an application to establish CLRNC Operating LLC as the new operator of Clinton County Nursing Home an eighty-bed residential health care facility currently operated by Clinton County as 16 Flynn Avenue in Plattsburgh. The department recommends a condition approval with a condition and contingencies and as noted the committee recommended approval with the condition and contingencies with two committee members opposed and one abstaining. I make the motion.

Mr. Kraut I have a motion.

Mr. Kraut I have a second Dr. Torres.

Mr. Kraut Would any committee member have any questions or want to make any statements about this?

Mr. La Rue Good morning. Scott La Rue, member of the council. First, I'd say that my comments are going to be relevant to all three applications I voted against. It's more important, the theme that I think I'm sharing than these specific applications. I certainly don't mean to search the proposed owners of this, rather identify what I think are flaws in our character and competency revisions that we did as well as structural issues with the funding of the nursing home. There are several nursing home applications before the council today for the first time in a while. I assume that's partially because of the pandemic, partially due to the changes made to the character and competency review. From my perspective, these changes have positively disrupted the historical approval process and has shed light on opportunities to improve the outcomes for those that we serve. As with any new process, given sufficient time, those who use the system will find a way to work it to achieve their desired outcome. With today's applications, I'm concerned what I see as a pattern across several applications, having a new owner being presented for approval with no prior ownership history, and at the same time a tangential relationship to an entity with a long history of nursing home ownership, resulting in my concern that this may be a way to avoid the criteria we established for character and competency review. Additionally, there are applications before us today for small nursing homes with less than 100 beds, and I have serious questions regarding the financial performance included in the applications. I believe it is impossible to operate a nursing home of this size profitably under existing Medicaid reimbursement levels and meet the requirements of the New York State staffing mandate of 3.5 hours per patient day and have an application for an eighty-bed nursing home, staffing at 3.5 hours with at least 75% Medicaid and a 25% combination of managed care private pay and Medicare. I believe it is just not financially feasible. The only way this becomes feasible is to either not meet the 75 percent Medicaid requirement or not meet 3.5 hours per patient per day or to sacrifice either quality or compensation and benefits for the staff. There is a structural reimbursement problem for nursing homes, which is why there is a continued trend of not-for-profit selling to for-profit ownership or the closing of homes. Most recently, the reduction in the operation of licensed beds in the state. When I first joined the Public Health Council, I shared that I thought long-term care was transforming due to inadequate reimbursement. I did not believe anyone would be happy with the outcome at the end of this transformation. Unfortunately, I think today we're seeing those consequences. If we solve these issues, there would be a line of qualified applicants who want to obtain ownership of these homes and operate them with superior quality and financial success. Approving particular applications that fall into these two categories without reform ignores the root cause of the underlying problem and perpetuates the existing problem. For these reasons, I voted no

on specific applications being presented today. I look forward to working with the council and the Department of Health and the legislature to continue improving the review process for nursing homes. I hope the legislative branches will acknowledge this crisis and adequately fund the Medicaid program for nursing home.

Mr. Kraut Thanks, Mr. La Rue.

Mr. Kraut Anybody else have a question or a comment?

Mr. Robinson I think the committee really fully understood Mr. La Rue's comments here. I think and respect the vote that he took on this and the other applications. I do think that there is a need for us to take a new look at these processes both in terms of character and competence and financial feasibility as we look at our own processes within the department and then the way the Public Health Council essentially oversees that process, but you're also correct that some of this goes beyond the scope of the department and the council and requires legislative solutions. Our response was that we didn't want to act against the applications that were before us because at this point, there is, those options aren't available, but I think it does call for us to initiate a process both within the department and the town.

Mr. Kraut I think we agreed on doing that and I'll come back to that at the end.

Mr. Robinson That was my comment.

Mr. Kraut I'm going to mention what we agreed to.

Ms. Mazzacco Hi. Michelle Mazzacco, member of the council. I think that what Mr. La Rue articulated was very well said. I agree with everything that he shared. What I struggle with and still struggle with today and why I voted against those applications was we clearly conveyed in the character and competence regulations what our intent was. The applicant came before us transparently stated that because of that they changed how they applied in order to get through on a technicality. I can't ethically support that type of an application or process.

Mr. Kraut For those who weren't at the council, we had obviously, you've got a flavor of a good substantive conversation. I think what we've come out at the end of this is we're going to separate the policy issues with funding with the process issues that are under the purview of the council. We'll put a subcommittee together, or an Ad Hoc Committee, I guess of asking Mr. La Rue and Mr. Holt, given their experience to sit and we'll invite other members of the council who are so interested to sit with DOH staff and take a look at the issues that this raised from a process of one, how do we invite in new ownership if you can only approve people that are already operating nursing homes and we have issues with some of those groups, how do we invite in and permit new people to step forward who may certainly have a skill and the individual that appeared here, in my mind, had significant years of experience. As Ms. Mazzacco just stated, you know, there were certain issues that were brought because even though, and I believe she will act independently, she's still an employee of the group that couldn't qualify. We have to figure out how do we do that, the financial issues, and then I think it's just a discussion about process of what we look at, the criteria, and how applicants prepare the application, frankly, that would respond to those things, maybe a little more clarity on our expectations. I'm not going to go through the list of agenda, but I will leave it up to the two of you working with the department staff to essentially set up some meetings, notify us of doing them. If any else

wants to join, we'll open that up. Obviously, that to some degree has to get open. I think we could do an educational session and then open that to the public after you have some clarity about how you're going to approach that. That's how we're going to deal with it. I was moved by the comments. I'll just say particularly on the application before us. This is a county nursing home and of a county that is going to divest, wants to divest itself of that financial obligation. At the same time, has members of county government came here, went through the process of how they selected the applicant, and also made a point of the importance of maintaining access to those beds in their community. Given the challenges of this application, I and I think several others voted yes. We do have a motion for approval. You've heard the whole story. Unless there's any other questions, would like to call the vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Mr. La Rue, Ms. Mazzacco and Ms. Farrell.

Mr. Kraut We have three opposed.

Mr. Kraut There's no abstaining.

Dr. Rugge Yes.

Mr. Kraut Oh, you're abstaining.

Dr. Rugge I'm abstaining.

Mr. Kraut Dr. Rugge and Dr. Soffel is abstaining, and then we had three no votes. The motion doesn't pass.

Mr. Kraut What you have in fact, now this is not a recommendation. This is an establishment. Those of you who abstained, you have essentially said the nursing home gets closed.

Dr. Rugge On those conditions.

Mr. Kraut I just want you to be clear about what an abstention meant for this community.

Dr. Rugge Given that information about the vote, I would change to a yes. I would like the ministry to reflect this is reluctantly so.

Mr. Kraut I understand.

Mr. Kraut We are still one vote short of approval. I need fourteen affirmative votes.

Mr. Kraut Do I have to call the Commissioner to return?

Mr. Kraut We're going to do a roll call vote because the shifting of the voting because they're already doing this.

Mr. Kraut Go ahead and do a roll call vote.

Ms. Leonard Dr. Berliner?

Dr. Berliner Abstain.

Ms. Leonard Dr. Eisenstein?

Dr. Eisenstein I vote in favor.

Ms. Leonard Dr. Friedrich?

Ms. Leonard Mr. Holt?

Ms. Leonard Mr. La Rue?

Ms. Leonard Dr. Lim?

Ms. Leonard Ms. Mazzacco?

Ms. Leonard Mr. Robinson?

Mr. Robinson Yes.

Ms. Leonard Dr. Rugge?

Dr. Rugge Reluctantly, yes.

Ms. Leonard Dr. Soffel?

Dr. Soffel Abstain.

Ms. Leonard Mr. Thomas?

Mr. Thomas Yes.

Ms. Leonard Dr. Torres?

Dr. Torres Yes.

Ms. Leonard Dr. Watkins?

Dr. Watkins Yes.

Mr. Kraut I'll cast a vote.

Mr. Kraut Let me state how many affirmative?

Mr. Kraut There are thirteen affirmative votes, there are three no votes, and how many abstentions? Three abstentions. I'm just perfecting the record.

Mr. Kraut How many affirmative votes?

Mr. Kraut Use the use the microphone so I can hear it.

Mr. Kraut We need how many affirmative votes for this to pass?

Mr. Kraut We are missing one vote. The motion fails.

Mr. Kraut I'd like to consider an alternative motion to bring this back for consideration at the next council meeting, the next full council. We do not have all the council members present. They can hear the discussion again. If we had Dr. McDonald in the room today we would have had the fourteenth vote.

Mr. Kraut I'm just going to go off to talk to our lawyer.

Mr. Kraut I'm informed we have all the council members so I'm going to make another motion to disapprove the application. We're doing this for the record. You can vote the same way.

Mr. Kraut Dr. Berliner is going to second.

Mr. Kraut We're going to have another vote to disapprove. If you voted yes for the other one, you might want to vote no on this one or not abstain.

Dr. Rugge Can you explain the rationale for this?

Mr. Kraut I'm perfecting the record, the applicant has certain rights, and I'm asking everybody to declare their vote for the record as the applicant pursues all of the rights they have to seek an approval in the appellate hearings.

Dr. Rugge Appellate hearings are conducted by?

Mr. Kraut Those are Article 78 hearings. Am I correct? Any action of state as we are in this matter, because we are the final say, not the Commissioner is subject to review as those of you who have been on the council for years know, those periodically come forward and I'll just say shining star.

Dr. Rugge Again, just to be clear, what is the implication of a majority voting no?

Mr. Kraut Well, I'm just getting clear that there may not be a disapproval. The applicant has certain rights. That's all I'm trying to be clear about. The applicant has rights and the clarity. We need to show that the council has been unable to get fourteen affirmative votes in a meeting that there's a legal quorum for. There is a motion to disapprove the application.

Mr. Kraut All those in favor of disapproving the application, we're going to do a roll call vote.

Ms. Leonard Dr. Berliner?

Ms. Leonard Dr. Eisenstein?

Dr. Eisenstein No.

Mr. La Rue I do want to grant the applicant every opportunity, so I support the disapproval. Did I vote the right way there?

All (Laughing)

Dr. Rugge Once again, I think not to the fault of anybody or any committee. In this complex situation, we were given two bad options. Can I abstain?

Mr. Kraut You can't ask us. You can do whatever you want.

Dr. Rugge I abstain.

Ms. Leonard Ms. Soto?

Ms. Soto No.

Ms. Leonard Mr. Thomas?

Mr. Thomas No.

Ms. Leonard Dr. Torres?

Dr. Torres No.

Ms. Leonard Dr. Watkins?

Dr. Watkins No.

Mr. Kraut Well, I'll vote no.

Mr. Kraut Four affirmatives, twelve nays, and two abstention. The motion fails.

Mr. Kraut We'll move on with the agenda.

Mr. La Rue Yes. I was attempting to vote consistent with what you wanted to do. I wanted the applicant to have every opportunity.

Mr. Kraut Well, they will. They still do. We wouldn't have had enough. Scott, it's fine.

Mr. Robinson Application 233241E, WRNC Operating LLC doing business as Wells Rehabilitation and Nursing in Fulton County. Noting on this application at the committee, Mr. La Rue and Ms. Mazzacco oppose the application and Ms. Monroe abstained. This is to establish WRNC Operating LLC as the new operator of Wells Rehabilitation and Nursing Center, a 100-bed residential healthcare facility currently operated by Wells Nursing Home Inc at 201 West Madison Avenue in Johnstown. The department recommends approval with conditions and contingencies. Again, as I noted, the committee voted approval also with conditions and contingencies with two members opposed and one member abstaining. I move the application.

Mr. Kraut I have a motion.

Mr. Kraut May I have second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Any comments on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Anybody opposed?

Mr. Kraut Three opposing.

Mr. Kraut Any abstentions?

Mr. Kraut Motion fails.

Mr. Robinson We will try to make a motion for disapproval now, and I make that motion.

Mr. Kraut I have a motion to disapprove the application.

Mr. Kraut Let's get a second before we open it up.

Mr. Kraut Dr. Berliner.

Mr. Kraut Mr. Thomas.

Mr. Kraut Oh, you were just seconding. I thought you had a question.

Mr. Kraut I have a motion to disapprove the application.

Mr. Kraut Let's do a roll call vote, please.

Ms. Leonard Dr. Berliner?

Dr. Berliner Yes.

Ms. Leonard Dr. Eisenstein?

Dr. Eisenstein No.

Ms. Leonard Mr. Holt?

Mr. Holt No.

Ms. Leonard Mr. La Rue?

Mr. La Rue No.

Ms. Leonard Dr. Lim?

Ms. Leonard Ms. Mazzacco?

Ms. Leonard Mr. Perry?

Ms. Leonard Mr. Robinson?

Mr. Robinson No.

Ms. Leonard Dr. Rugge?

Dr. Rugge Once again, I abstain.

Mr. Kraut We have three yays, thirteen nays, and three abstentions.

Mr. Robinson Let's move on. Application 202251E, Hoosick Falls Center LLC doing business as Hoosick Falls Rehabilitation and Nursing Center in Rensselaer County. This again is an application at committee level that was opposed by Mr. La Rue and Ms. Mazzacco and Dr. Torres, and this application establishes Hoosick Falls Center LLC is the new operator of the Center for Nursing and Rehabilitation at Hoosick Falls, which is an eighty-two-bed residential healthcare facility located at 21 Danforth Street in Hoosick Falls. The department recommends approval with a condition and contingencies. The committee, as I noted, voted for approval with a conditioning contingencies with three members opposed. I move the application.

Mr. Kraut I have a motion.

Mr. Kraut May I have second?

Mr. Kraut Dr. Torres.

Mr. Kraut Any comments on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut I have four people opposed and abstain. I have three people abstaining. The motion does not carry.

Mr. Kraut Let's go through it again.

Mr. Robinson I will now move to oppose the application, motion for disapproval. Disapproval, thank you.

Mr. Kraut I have a motion for disapproval.

Mr. Kraut May I have a second?

Mr. Kraut Mr. Thomas.

Mr. Kraut Let's do a roll call vote just to be clear on the disapproval.

Ms. Leonard Dr. Berliner?

Dr. Berliner Yes.

Ms. Leonard Dr. Eisenstein?

Dr. Eisenstein No.

Ms. Leonard Ms. Farrell?

Ms. Farrell Yes.

Ms. Leonard Dr. Friedrich?

Dr. Friedrich No.

Ms. Leonard Mr. Holt?

Mr. Holt No.

Ms. Leonard Mr. La Rue?

Mr. La Rue No.

Ms. Leonard Dr. Lim?

Dr. Lim No.

Ms. Leonard Ms. Mazzacco?

Ms. Mazzacco No.

Ms. Leonard Mr. Perry?

Mr. Perry No.

Ms. Leonard Mr. Robinson?

Mr. Robinson No.

Ms. Leonard Dr. Rugge?

Dr. Rugge Abstain.

Ms. Leonard Dr. Soffel?

Dr. Soffel Abstain.

Ms. Leonard Ms. Soto?

Ms. Soto No.

Ms. Leonard Mr. Thomas?

Mr. Thomas No.

Ms. Leonard Dr. Torres?

Dr. Torres No.

Ms. Leonard Dr. Watkins?

Dr. Watkins No.

Mr. Kraut Just give me the numbers.

Ms. Leonard Same numbers.

Mr. Kraut The motion fails.

Mr. Robinson Let's continue. Next application is 242133E, Delmar SNF Operations Associates LLC doing business as Delmar Center for Rehabilitation and Nursing. This is in Albany County. Ms. Mazzacco opposed the application at the committee level. This is to establish Delmar SNF Operations Associations, LLC as the new operator of Bethlehem Commons Care Center, a 120-bed residential health care facility currently operated by Good Samaritan Lutheran Health Care Center Inc at 125 Rockefeller Road in Delmar. The department, as I noted, recommended approval with a condition and contingencies. The committee did as well with one member opposed. I move the application.

Mr. Kraut I have a motion.

Mr. Kraut I have second, Dr. Torres.

Mr. Kraut Any questions on this?

Dr. Soffel I don't mean to put you on the spot, Mr. La Rue, but can you explain what's different about this application than the previous three that led you to change your vote during the committee?

Mr. La Rue Not putting me on the spot at all. The larger, I felt that the financial feasibility of this home had a more probable chance of success.

Mr. Kraut Any other questions?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Ms. Mazzacco?

Mr. Kraut Abstentions?

Mr. Kraut The motion passes.

Mr. Robinson That concludes the very interesting report from the Establishment of Project Review Committee.

Mr. Robinson I'll turn it back to the Chair.

Mr. Kraut Yes, I'm going to make some comments, but go ahead.

Dr. Eisenstein We heard some compelling comments from Mr. La Rue, Ms. Mazzacco. When this goes forward, could we perhaps just like to really know how this is going to impact the residents, the residents of the nursing home and the community as a whole, just maybe to give broader context? Because I think the comments were important and need to be taken into account. I also want to understand what the impact of this vote is, if possible.

Mr. Kraut I am going to depending on how this gets publicly reported, I would say this is either a cry for help, but we're in a no-win situation. Unfortunately, we have patients in the middle of an issue where there is a desperate need for nursing home beds. We have a distrust of for-profit owners. We have a decreasing pool of not-for-profit organizations that can operate nursing homes. No attention is being paid from the legislature as best as I could see. What are the options for current owners? Bankruptcy? Diminished services? You know, potential quality? I don't know. It's not fair. I mean, our job is to try to move these things forward. As much as it distresses me that we couldn't come to consensus here, and I'll come back to our process. I don't know. Maybe some good will come out of this in that we've turned down these applications. I don't see it that way. It's not immediately clear to me. I think we've created some unintended consequences that unfortunately it's going to be patients that are going to suffer, not the political process necessarily. The second issue I'll make a point here of is that you got a chance of hearing some of the reasons why Mr. La Rue and the others voted against it. Unfortunately, in this venue, you did not have the same opportunity that convinced the majority of us who approved this application to come here to say why you should have approved it. You had to vote the way you intended to. Typically, we've never used an abstention here in the last six years. We do not include it. I mean, it's available, but we have as an organization and maybe for the newer members we didn't do that properly at orientation. You rarely use it. Only when you cannot have the facts to make a decision. Sometimes you rely on the others who were present for those facts but be that as it may didn't have the opportunity. I would suggest that when we are having nursing home applications at the Establishment Project Review, I would like all of the members to be present for the discussion so you're affording the applicants the same opportunities that the rest of us have heard so you can make a decision. You voted the way you had to vote. There was no problem with that in my mind. It's just that it's unfortunate you couldn't have heard the arguments of why you should have approved this, and that might have been compelling. That's our process and we have to live with the process we have.

Mr. Kraut Yes, Dr. Rugge.

Dr. Rugge My rationale is that we have two bad choices, not allowing the switch to for-profits or going to certain organizations that deliver unacceptable care. My hope is that this block will call the legislature's attention to this issue. Be it by changing the reimbursement rate, changing the qualifications. If we proceed with this, I'm afraid we're going downhill to the destruction of long-term care in this state.

Mr. Kraut I don't disagree with what you've said. I would just say that unfortunately we were the final word. It is our job to make hard decisions. I'm hoping what you said in fact happens. I'm going to hope for that. While we're hoping, we have people in these nursing home beds that we have to be very concerned about the availability. That's all.

Dr. Rugge We have two bad choices and put at risk a few long-term care beds. We're trying to save the nursing homes across the state.

Mr. Kraut But in all fairness, you had the government of Clinton County who did due diligence, met with different people, and they even said they didn't have great choices. They made the best choice they could in the interest of patient care.

Dr. Rugge Yes, because we have an unacceptable environment.

Mr. Kraut The majority of the members of the Establishment Committee did likewise. We chose today not to do that. That's all I'm saying.

Ms. Soto My question is committee process. I noted that in one of the applications, three of the members opposed it, but it was contingently approved. What is the process? I mean, when we went back and we voted, it was at the majority that voted yes or no. When I see three oppositions out of how many?

Mr. Kraut The committee was... How many members was the committee? Eighteen members of the committee, fifteen voted affirmatively, or whoever was present voted. I would also argue that the Department of Health recommended that we should approve this. We needed how many? We needed eight. We have fifteen members of EPRC. We need eight for an approval. We got twelve votes, I believe. I'll confirm that. The majority of those presidents voted for it, and we had enough affirmative votes for the application to move forward based on the recommendation also of the Department of Health suggesting it was an approvable application.

Dr. Watkins Well, my question is, coming from a county that owns two nursing homes, and we are really in a sticky situation when it comes to reimbursement for these nursing homes, Medicaid, low reimbursement, and of course, private pay, low reimbursement as well. The impact hearing from another county nursing home that is having these same difficulties but have found a buyer. What happens? They no longer accept patients into the nursing home and the nursing home closes down because they can't sell it. They'll just close it.

Mr. Kraut We were told that if we didn't approve this application, the county would close the nursing home. That's why we had partly, at least I voted in part. Now remember, we just voted down three applications. I'm talking about Clinton County, but I'm not talking about the other two. Just to be clear, we're doing this more for education and clarification. The vote is the vote. I'm not going backwards right now.

Dr. Rugge Once again, I see this as an effort to call the attention of the ultimate decision makers, the legislature. We have an unacceptable environment and either choice is unacceptable. We need change. We can't do that change. We should perhaps make a formal statement to the legislature that we need change.

Mr. Kraut I think you just made a formal statement.

Dr. Rugge Good.

Mr. Kraut You voted down three nursing home applications.

Mr. Kraut Let's see what happens.

Dr. Rugge I also want to understand the rationale.

Mr. Kraut That may be the case, Dr. Rugge, but it's not coming back. If it's done, it's done. It's not going back here. It's up to the applicant. Well, it is up to applicant to decide what to do. We voted.

Mr. Robinson Article 78, it could come back.

Mr. Kraut It could come back to us to reconsider it, and we'll see what happens.

Mr. Robinson I think the other thing that I think we need to be practical about here, and it's reflecting back on Mr. La Rue's comments about the financial feasibility of many of these plans, which it's a significant component of what influenced your decision and your very eloquent comments on this topic. I think looking forward, the likelihood that Medicaid funding is going to be available to not only cover what's currently being paid, but actually the to put in place the kinds of increases that we think may be necessary in order to be able to make these nursing homes financially feasible. It doesn't look optimistic that that's likely to happen. For us to think that the legislature is going to somehow resolve this at the moment, I think is being maybe very hopeful.

Dr. Rugge I concur, and I think that the nursing homes are the most vulnerable of all, but these cuts being proposed by the federal government put at risk many, many practices, medical practices, and put at the risk the shrinking of available services in many of our hospitals. And that's unacceptable, and we need to call attention to it rather than briefly go forward.

Mr. Kraut Okay, I get it. We can call attention to it, but we're dealing with real life people in those beds right now. That's it.

Mr. Kraut With that, I would still encourage Mr. La Rue, Mr. Holt, you know, there is that process issue with the... Notwithstanding the votes we took, I think it's beneficial to kind of sit with the department and look at some of the issues that you raised and how in future application reviews we could improve the information that would allow us to make better decisions. I would encourage you to sit with the department to do that and we'll follow up.

Mr. Kraut Well, I think we have an Ad Hoc Committee. We just appointed whatever we'll call the Ad Hoc Committee to review character and competence and financial feasibility of nursing home transactions.

Mr. Kraut The next regularly scheduled committee day is going to be on Wednesday, June 4th, and the full council's going to convene on Wednesday June 18th. It's Wednesdays, not Thursdays. Both those meetings will be held in the New York City location. I want to just thank everybody, the committees that met yesterday and all the work that's been done. You can see there's a lot of work to be done. I want just to thank everybody for all of the work. Wishing everybody a happy holiday, however you celebrate it.

Mr. Kraut May I now have a motion to adjourn the Public Health and Health Planning council meeting?

Mr. Kraut Dr. Berliner.

Mr. Kraut All those in favor say, "aye."

All Aye.

Mr. Kraut Any abstentions?

Mr. Kraut Motion passes.