

**NEW YORK STATE DEPARTMENT OF HEALTH**  
**PUBLIC HEALTH AND HEALTH PLANNING COUNCIL**  
**ESTABLISHMENT AND PROJECT REVIEW COMMITTEE MEETING**

**November 13, 2025, 10:00 AM**

**90 CHURCH STREET, 4TH FLOOR, CONFERENCE ROOMS 4A AND 4B, NYC**  
**TRANSCRIPT**

**Mr. Robinson** Good morning, everyone. The moment you waited for has arrived. We are about to get started. I'm Peter Robinson. I'm the Chair of the Establishment and Project Review Committee. Welcome you all here. I got the privilege to call to order the committee meeting today and welcome all of you, members, participants, and observers. I apologize while I have to read through the order of the day here. First of all, to remind council members, staff in the audience that the meeting is subject to the Open Meetings Law and is broadcast over the internet. As you all know by now, the webcasts are accessed at the Department of Health's website. The on-demand webcast will be available not later than seven days after the meeting for a minimum of thirty days, and then a copy retained in the department for four months. A few ground rules that you've heard at every meeting, I think. We use synchronized captioning, so it's important that we don't talk over each other so that we get the captioning correct. The first time you speak is members of the staff, members of the council, and certainly members of the public that are being invited to speak, to please state your name and briefly identify yourself so that we can properly record your attendance. Mics are hot, so just assume that everything that you say is being picked up, so be aware of that. In terms of the record of appearance form, I think all of you know by now, but if you haven't, there are forms on the outside. We're required to have you report your attendance here so that we have a record of it. Those forms will also be retained by the department. We appreciate your cooperation on all of this.

**Mr. Kraut** Just before we start, I know we have a lot of people here. I don't know if we can bring in more chairs or we're at maximum capacity. Well as we get the applications done, people will walk out, so hopefully you'll get a seat in a second.

**Mr. Robinson** As you may note, the order of the applications has been revised for this meeting, and so we're going to be starting with the nursing home applications first. Beginning with application 231002E, JCH Operations LLC doing business as Sands Point Center for Rehabilitation and Nursing. This is in Nassau County, to establish JCH Operations LLC as the new operator of Sands Point Center for Rehabilitation and Nursing, a 180-bed residential health care facility currently operated by AGMA Inc at 1440 Port Washington Boulevard in Port Washington. The department recommends approval with a condition and contingency.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** It's a day of transitions. It's exciting to appear here for the first time in my new role as the Director for the Center for Long-Term Care Licensure Planning and Finance at DOH. We have four residential facilities we'll be presenting today. On the first one, Sands Point Center for Rehab and Nursing. You covered a lot of the points that I had in my script here, so I'm jumping forward. The applications that transfer the entire ownership interest in the facility from a for-profit operator, AGMA Inc to another for-profit operator, JCH operations LLC. The members of the applicant are Alan Stein at 85% ownership and Israel Nachfolger, who holds 15% ownership. Both applicants have

satisfied requirements for character and competence. The application has satisfied reviews for need and for financial feasibility with contingencies. There are no anticipated changes to beds or services as a result of this application. The Department of Health is recommending approval with contingencies, and the contingencies include submission of a plan to enhance access for Medicaid residents. They additionally include submission of documents that will be subject to the Department of Health's review and acceptance, all executed, a consulting services agreement, a working capital loan commitment, a lease agreement, and a consulting agreement.

**Mr. Robinson** Questions from the committee or other members of the council?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** You did have a question. I'm sorry, Mr. La Rue.

**Mr. La Rue** I have questions for the applicant.

**Mr. Robinson** For the applicant. Could we ask the applicant to come forward?

**Mr. Robinson** Please introduce.

**Mr. Robinson** Is there a mic there?

**Mr. Black** Yes.

**Mr. Blatt** Andrew Blatt, consultant to the applicant.

**Mr. Nachfolger** Israel Nachfolger, applicant.

**Mr. Stein** Alan Stein.

**Mr. La Rue** Good morning. My first question is around the valuation of the real estate versus the valuation of the nursing home operations. It seems five hundred thousand for the nursing home operations and fifty-two point five million for the property. How is that determined or evaluated?

**Mr. Blatt** That was determined by actually the parties between the seller and the buyer and the allocation that the seller really wanted all the purchase price allocated to the real estate. Traditionally, and I know we've had this conversation in the past globally not about this application, when it comes to the acquisition of skilled nursing facilities, lenders won't prefer to lend to the real property entity because it's a tangible asset. Most of the allocation of the purchase price, as you noted was allocated to the real estate.

**Mr. La Rue** The lease payment is how much?

**Mr. Blatt** Seven million dollars, which includes the real estate taxes.

**Mr. Kraut** Is that valuation validated by a third-party appraisal?

**Mr. Blatt** Yes, we received two third party appraisals as part of the CON that we reviewed with the Bureau of Financial Analysis.

**Mr. La Rue** My second question is it's a non-arm's length transition transaction and there are of multiple consulting agreements, etc. Is anyone involved in the related entity contracts and consulting agreements ever failed character and competency before this committee before?

**Mr. Blatt** The individuals that are members of those consulting agreements are sitting right here, and they've all passed character and competency.

**Mr. La Rue** The related companies that they're contracting with.

**Mr. Blatt** Yes, Nachfolger and Alan Stein are the related entities.

**Mr. La Rue** No one has ever failed character.

**Mr. Blatt** No, Sir.

**Mr. La Rue** In the quality assessment it caught my eye that you had a seventy-bed nursing home that had seventeen surveyors that came in on survey. It seemed like we were saying that the reason the facility had a low star rating was that there were uneducated surveyors and the volume of surveyors that came in. That strikes me as really odd that seventeen surveyors would come in. Is there further explanation?

**Mr. Blatt** I believe you're referring to one of the related facilities in Connecticut and that is correct. I had the same questions of how many surveyors and from what I've spoken to, Mr. Stein is one of the operators there and spoken with his partners. They said they brought in seventeen surveyors and in the state of Connecticut I could tell you that the state of Connecticut has revamped their survey process, and I think they're also shadowing other surveyors for on the learning process as well.

**Mr. La Rue** Was it the volume of deficiencies or the severity?

**Mr. Blatt** I can't answer that question. I don't know that.

**Mr. Blatt** Does Mr. Stein know?

**Mr. Stein** I don't think there's any special deficiencies over there. Maybe some kind of small harms, no harms at all. Maybe some, a few deficiencies over there. I'm not actually the runner actually of the facility over there. I'm owning the facility, but I'm not actually I'm not operator.

**Mr. La Rue** Thank you.

**Mr. Robinson** Other questions of the applicant?

**Mr. Robinson** Anything that the applicant wants to offer?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 241018E, Kirk haven SNF OPCO LLC doing business as Kirk haven Nursing and Rehabilitation in Monroe County to establish Kirk haven SNF OPCO LLC as the new operator of Kirk haven, which is a one hundred and forty-seven bed residential health care facility currently operated by Genesee Valley Presbyterian Nursing Center at 254 Alexander Street in Rochester. Just a note on this application. The need summary on Page 1 of the exhibit has been revised and should read as follows. There will be no changes to beds or services as a result of this application. As of September 30th, 2025, the facility reported 96.5% occupancy of its staffed beds, and Monroe County had 94.5% occupancy of staffed beds. Please note that the occupancy rate chart on Page 4 of the exhibit has been revised, and all of you that are members should have had it in your email. With that modification, I will note that the department recommends approval with a condition and contingency.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** Thank you.

**Mr. Lebwohl** The application is a transfer of the entire ownership interest in the facility from a not-for-profit operator, Genesee Valley Presbyterian Nursing Center to a for-profit operator, Kirk haven SNF, OOCO LLC. The members of the applicant are Bernadette at 10% ownership, Pesach Brown at 45% ownership, and Faga Chapler, who holds a 45% interest. Bernadette is the only member of the ownership group who has satisfied the experience requirements for character and competence with at least five years of involvement in the management or leadership of skilled nursing facilities. Because at least one member of the ownership group satisfies the experience requirement and the applicants otherwise passed a character incompetence review, the ownership group as a whole is deemed to have passed character incompetence review. The application has satisfied reviews for need and for financial feasibility. There are no anticipated changes to beds or services as a result of this application, and the Department of Health is recommending approval with standard contingencies.

**Mr. Robinson** I could just a comment on this on the remarks regarding character and competence and the ten percent, the person with the ten percent interest being the one that has all of the experience. We believe that this approach is probably the best way to bring new people into the nursing home business and begin to get them the experience they need so they become themselves future qualified operators going forward. I think that this approach by the department is one that we are pleased with.

**Mr. Robinson** With that said, let me open it up for questions from the committee.

**Mr. Robinson** Mr. La Rue.

**Mr. La Rue** Questions for the applicant, please.

**Mr. Blatt** Andrew Blatt, once again, consultant to the applicant.

**Applicant** Bernadette.

**Mr. La Rue** Good morning. I'm going to ask similar questions that I asked the previous applicant. How was the value of the lease and the operations determined.

**Mr. Blatt** That was once again determined by the current operator, which is Genesee Valley Presbyterian Church. They own or Nursing center, I apologize. They own as a single asset entity, so it didn't make a difference for them on how they allocated, but it was nine point five that it was allocated on the PropCo property sale and five hundred thousand dollars on the operation sale. At the end of the day for them, it's all going into the same pot of money.

**Mr. La Rue** Fo Ms. Roche, did you ever work for or be employed by the any of the others who are involved in any related party contracts or consulting agreements that are submitted with this application?

**Mr. Blatt** Just as a point of clarification, there's no other administrative service agreements that the applicant's going to have upon the change of ownership. This is going to be operated by its members directly with no service agreements.

**Mr. La Rue** Thank you.

**Mr. Robinson** Other questions?

**Mr. Robinson** Mr. Thomas.

**Mr. Thomas** Good morning. Hugh Thomas, a member of the council. Just a quick question regarding your experience in particular in Orchard Park. It just stands out in terms of quality scores and stars. Can you not the two of the three look like they're very good, but there were some specific issues with the home in Orchard Park. Could you get into that? Could you explain where that is?

**Applicant** Could you ask that question? You asked about Orchard Park and when I was the administrator there?

**Mr. Thomas** I'm just reading the character and competence materials from the report. It relates to what's it called. Crest Manor absolute care of Orchard Park and some less than stellar performance numbers.

**Applicant** As far as a facility?

**Mr. Thomas** Mm-hmm.

**Applicant** Orchard Park I was asked to go over there. I worked for absolute care. I was at three of their facilities. I went from Allegheny to Westfield to Orchard Park and I came in following a poor survey.

**Mr. Thomas** You were brought in after the problems were developed by an external management company.

**Applicant** Yes.

**Mr. Thomas** Presumably.

**Applicant** Mm-hmm.

**Mr. Thomas** That's all I needed to know. Thank you.

**Mr. Robinson** Other questions?

**Mr. Robinson** Anything the applicant wants to add?

**Mr. Robinson** Thank you.

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Calling application 251167E, Eger Healthcare.

**Mr. La Rue** I have a recusal on that application.

**Mr. Robinson** Yes, as does Dr. Eisenstein.

**Mr. Robinson** Eger Healthcare and Rehabilitation Center doing business is Arch Care at Eger Health Care and Rehabilitation Center in Richmond County. Noting, as you heard, an apple conflict and recusal by both Dr. Eisenstein and Mr. La Rue. This is to establish Catholic Health Care Systems as the sole member and active parent of Eger Health Care and Rehabilitation Center, a 378-bed residential health care facility at 120 Meisner Avenue in Staten Island and rename it Arch Care at Eger Health Care and Rehabilitation Center. The department is recommending approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Robinson** Andrew, how do you pronounce your last name?

**Mr. Lebwohl** Lebwohl.

**Mr. Robinson** Thank you. I'll do my best.

**All** (Laughing)

**Mr. Lebwohl** Again, the application is for the transition of a passive parent and sole owner to an active parent. The facility is currently owned by Catholic Healthcare System, DBA

Arch Care. The application seeks to assert Arch Care's involvement as an active parent and transition the name of the facility to Arch Care at Eger Healthcare and Rehabilitation Center. The officers of the applicant have satisfied requirements for character and competence. The application has satisfied reviews for need and for financial feasibility. There are no anticipated changes to beds or services as a result of this application. The Department of Health is recommending approval with standard contingency for completion of the project within one year.

**Mr. Robinson** Questions from the committee?

**Mr. Robinson** Other members of the council?

**Dr. Friedrich** Thank you.

**Dr. Friedrich** Dr. Friedrich, member of the committee. Is there any money flowing? Is there any money from that? Is it just writing over you mentioned from a passive to an active?

**Mr. Lebwohl** There's no change of ownership. I don't think that this application looks at whether or not there's going to be capital investment.

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

**All Aye.**

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Have our colleagues return. Yes, thank you.

**Mr. Robinson** Application 252050E, Maplewood Senior Care Inc doing business as Maplewood Nursing Home in Monroe County to establish Maplewood Senior Care Inc as the operator of Maplewood Nursing Home Inc, a seventy-two-bed residential health care facility currently operated by Maplewood Nursing Home Inc and change the name of the facility to the Maplewood Nursing Home. Department is recommending approval with the conditioning contingencies.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Robinson** Mr. Lebwohl.

**Mr. Robinson** Did I get that right?

**Mr. Lebwohl** You did.

**Mr. Robinson** Yes.

**All** (Laughing)

**Mr. Lebwohl** An arrangement we don't usually see that I'm sure will please some of the members of this committee. The application is for a transfer of the entire ownership interest in the facility from a for-profit owner to a not-for-profit owner. The current operator is anticipated to continue to provide administrative services to the applicant under a consulting and administrative services agreement for an additional two years after the completion of this project. The officers of the applicant have satisfied requirements for character and competence. The application has satisfied reviews for need and for financial feasibility. There are no anticipated changes to beds or services as a result of the application. The Department of Health is recommending approval with standard contingencies as well as a contingency requiring the applicant to submit a bond resolution acceptable to the department.

**Mr. Robinson** Just a note that this is fairly unusual where we see a for profit converting to a not for profit and very interesting to see this development.

**Mr. Kraut** One in a row.

**All** (Laughing)

**Mr. Robinson** Are there any questions?

**Mr. Lawrence** Since it's so unusual, can we have sort of the story behind it?

**Mr. Robinson** Why don't we have the applicant come up and give us a little bit of history here?

**Mr. Kraut** Particularly a small one.

**Mr. Robinson** This is less that we are asking you to probe questions, but we are actually kind of curious as to how this develops. If you could share that with us, we'd appreciate it.

**Mr. Cooper** Glenn Cooper, President and CEO of Friendly Senior Living and Maplewood Senior Care. Roughly about a year ago, Friendly Senior Living was approached by Greg Chambery, who is here with us today, sitting two people to my right about the purchase of Maplewood. Maplewood is a third-generation family-owned, extremely high-rated nursing home in Monroe County. After several months of due diligence with our board, it was decided that we would move forward with an offer. Currently, Friendly Senior Living operates one other nursing home, assisted living and independent living in Monroe County. We thought that Maplewood would fit nicely into our portfolio.

**Mr. Robinson** Mr. Lawrence, does that satisfy your curiosity?

**Mr. Lawrence** I think I'm a little more curious on the other side going from for profit to nonprofit.

**Mr. Chambery** I thought there might be a question about that.

**Mr. Robinson** Could you please introduce yourself, Sir?

**Mr. Chambery** My name's Greg Chambery. I own, currently own and am the administrator of Maplewood Nursing Home. I've prepared a couple of remarks to respond to your question, if you don't mind. First I want to thank the panel for allowing us to come here today and tell you why this transaction is critical to continue the five-star service Maplewood provides to the Rochester community. I'm part of a multi-generational story that began in 1947. My grandparents started the Maplewood that year and ran the home for twenty years. My Mother and Father took over after them and moved the operation from the Maplewood section of the City of Rochester to Webster in the seventies. They served as administrator and Director of Nursing for thirty years and in 1998, I bought the operation from them. I've been the operator and the administrator since that time, and over these years and generations, we've worked very hard with a hardworking staff. We've continually invested and changed the facility to meet the changing needs and wants of residents and families. As I sit here and meet with you today, the residents of Maplewood are enjoying the outstanding care that is the center of all we do. Several years ago, the reality of retirement began to set in. My children have pursued other interests. It became clear that the story of the multi-generational Maplewood ownership would be ending with me. As I considered what that would look like one fundamental element of a transition to another owner was to preserve the heritage of service and excellence that Maplewood holds in the area and state of New York. After interviewing several organizations who showed interest in buying the Maplewood, it became clear to me that the best fit for a new owner would be the Rochester Friendly Senior Services. Like Maplewood Friendly Senior Services has a long and established reputation in the Rochester area for excellent care and quality service. After several years of discussions and planning with Friendly Senior Services, we're here to today to ask that you approve the Friendly Senior Services as the new owner of Maplewood Nursing Home. Our two hundred employees, our residents and family members were all relieved when they heard the news that Maplewood was seeking approval to transfer to the Friendly organization. I share in those feelings as I've had the opportunity over the last couple of years to get to know the board and CEO of this well-regarded organization. Their approach to the care of seniors in the Rochester area has provided them with a reputation that puts them at the top of the list when people look for help and caring for a loved one. And now as we stand before you, I'd ask that you approve this application. It will represent a continuation of something my family started so long ago and will enable the high standard of care in the community to continue and thrive. Thank you.

**Mr. Robinson** Well, you and your family deserve the thanks of the people of New York for running such an exemplary organization for such a long time. Just a heartwarming story and really so glad to hear it.

**Mr. Chambery** Thank you, Sir.

**Mr. Kraut** You know, to maintain a seventy-two-bed nursing home in the face of the challenges here is exemplary as Peter said. We can understand why you wouldn't delay retirement till the grandchildren might have an opportunity. It's a remarkable story and given the quality that you maintain and the insurance that you handed it off to somebody who will keep your tradition to be commended. It's a story when we hear talk about nursing homes today, these stories don't get told. We just have to remember there is a balance here of other operators that we maybe don't get the headlines, and hopefully we will be able to repeat that story, and we'll look for other applicants just like you.

**Mr. Robinson** Questions of the applicant?

**Mr. Robinson** Any commendations and bouquets anybody wants to throw?

**All** (Laughing)

**Mr. Robinson** We thank you very much.

**Mr. Robinson** Is there anybody from the public that wishes to speak on this application?

**Mr. Robinson** Hearing none, I'm going to call the question.

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you all very much.

**Mr. Robinson** From nursing homes to home health agency licensures, mainly in the domain of changes of ownership. Beginning with application 231227E, No Limits NYC Corp. The application has its geographic area defined. This is to transfer a hundred percent ownership interest to no shareholder. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Robinson** Who gets this one?

**Mr. Robinson** You do as well?

**Mr. Robinson** You getting the nursing homes too?

**Mr. Lebwohl** I am in the hot seat completely.

**Mr. Lebwohl** No proposed changes to the counties served or the services provided. The new owner has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** We're having too much fun here today. 231279E, Exclusive Home Care Services Inc. Again, reference the geographic area in the materials, transferring 90.1 percent ownership interest from one withdrawing shareholder to one existing shareholder. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** This is for an existing LHCSA currently located in Kings County. There are no proposed changes to the counties served or the services provided. Proposed sole owner has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from the public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee or council members?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Looking for a nod from somebody. Thank you.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 232007E, Crocus Home Care LLC, again referencing the geographic service area and the materials, transfer forty-six-point eight six percent ownership interest equally from one existing member to two existing members. The department is recommending approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The proposed zoners have passed a character and competence review, and one of the proposed owners was already previously approved by the Public Health and Health Planning council. This applicant has attested the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Questions from the committee, council?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 232067E, Affirmed Home Care referencing geographic distribution in the materials. Establish Affirmed Home Care Inc as the new operator of a licensed home care services agency currently operated by DMV Home Care Inc at 70 West 36th Street on the 6th floor in Manhattan, New York. Department is recommending approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the counties served or the services provided by this application. The proposed operators have passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from public need review. The applicant has

satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 232107E, Agi care Home Care Services Inc doing business as CNT Home Care. I sorry to be repetitive, but the geographic service area is in the material. To transfer ninety-point one percent ownership interest from a withdrawing shareholder to the remaining shareholder. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the counties served or the services provided. The proposed sole shareholder has passed a character and competence review. This applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the committee or the council?

**Mr. Robinson** Public, anybody from the public pushing to speak?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 232114E, Expert Home Care Inc. Geographic service area as noted in the material. Transfer one hundred percent ownership interest from two withdrawing shareholders to two new shareholders. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The new owners have passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 232161E, Constant Care 247 LLC geographic areas noted in the materials. Established Constant Care 247 LLC is the new operator of a licensed home care services agency, currently operated by Integrity Home Care Services Inc st 813 Fay Road in Syracuse. Department recommends approval of the condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The sole owner of the proposed operator has passed a character and competence review. The applicant has been providing services under a management agreement since June of 2023. This applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee, council members?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anyone from the public wishing to address this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 232210E, B-Well Home Care Agency Inc with the geographic service area referenced in the materials. Transfer ninety-point one percent ownership interest from one withdrawing shareholder to the remaining shareholder. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** We skipped Silver Lining.

**Mr. Robinson** I skipped it. I'm sorry.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The proposed sole owner has passed a character and competence review. This applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** I'll go back to putting this in order. Application 232174E, Silver Lining Home Care Agency Inc geographic service area as referenced in the exhibit. Transfer fifty percent ownership interest to a new shareholder. Department recommends approval with a condition.

**Mr. Robinson** Dr. Berliner makes a motion.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the counties served or the services provided. The new shareholder has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 241001E, Efficient Health Careers Inc doing business as Unicare Home Care. Again, the geographic service area as noted in the exhibit. Transfer one hundred percent shareholder interest to a new shareholder LLC. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The officers of the proposed the shareholders of the proposed owner have passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so this application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Opposed?

**Mr. Robinson** Abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 242154E, Bayshore Home Healthcare Inc geographic service area as noted in the exhibit, transferring one hundred percent shareholder interest to a new shareholder LLC. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the counties served or the services provided. The principal of the new owner has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of the application.

**Mr. Robinson** Questions from the committee or council members?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 2422338E, Accent Health Care Services Inc geographic service areas noted in the exhibit. This is to transfer one hundred percent shareholder interest from one withdrawing shareholder to a new shareholder corporation. Department recommends approval with a condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the county served or the services provided. The principal of the new owner has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of the application.

**Mr. Robinson** Thank you very much.

**Mr. Robinson** Questions from the committee or council members?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

**All Aye.**

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** The final one on this particular list is 251172E, Meadow Hills Assisted Living LLC geographic service area as noted in the exhibit. Established Meadow Hills Assisted Living LLC as the new operator of the existing licensed home care services agency operated by Midway AL LLC doing business as Castle Senior Living at Forest Hills, which serves the residents of the assisted living program. The department is recommending approval of the condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Lebwohl** There are no proposed changes to the service area or to the services provided. The sole owner of the proposed operator has passed a character and competence review. The applicant has attested that the agency serves more than twenty-five patients, so the application is exempt from public need review. The applicant has satisfied financial and workforce reviews. The Department of Health recommends approval of this application.

**Mr. Robinson** Questions from the committee or council members?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** We're moving on to ambulatory surgeries.

**Mr. Kraut** Before we do, could I just say something? I just want to thank the department, Lebwohl, your staff, everybody. Obviously, we hadn't seen a lot of these come by, both nursing home and the LHCSAs. I think this is a concerted effort by the part of the department to clear up some of the backlog of activity. I know how much work went into looking at these thirteen or so LHCSAs. I really appreciate the effort you've made to move it along.

**Mr. Robinson** Well said.

**Mr. Robinson** Applications for ambulatory surgery centers beginning with application 251185B, Hempstead Multi-Specialty ASC LLC in Nassau County, note and interest by Mr. Kraut to establish and construct a multi-specialty ambulatory surgery center at 274-278, Fulton Avenue in Hempstead, specializing in orthopedic spine pain management and ophthalmologic surgery. The department is recommending approval with condition and contingencies with an expiration of the operating certificate five years from its state of issuance.

**Mr. Robinson** I have a motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Robinson** Ms. Glock, your turn.

**Ms. Glock** Good morning. Shelly Glock with the department. Hempstead Multi-Specialty Ambulatory Surgery Center is requesting approval to establish and construct this multi-specialty ambulatory surgery center in Hempstead, Nassau County. The center will specialize in providing orthopedic spine pain management and ophthalmology surgical procedures. They'll have three ORs, a procedure room in their support space. This project is a partnership between Surgi Corps Hempstead LLC, who will have a 50% direct membership in the center, and RT Fulton Avenue Associates LLC, who will have the other 50%. The majority of these members is a network of independently owned ASCs across New York and New Jersey. I think they have about a dozen, six here in New York, two of which were approved in the end of 2024. Dr. Kramer, who's board certified in orthopedic surgery will serve as a center's Medical Director. Six non-member surgeons have committed to perform procedures at this center. All of those patients who will be treated at the center reside in Nassau County according to the applicant, and our existing patients of each of the participating physician's non-surgical private practice. According to the applicant, these patients are currently receiving surgical services in different locations throughout New York, Kings County, and Queens County and New Jersey. Therefore, this project will provide a more convenient access for those patients closer to home. None of the projected cases are being performed in the hospitals. The applicant is projecting a little over about 4,500 procedures by year three, with Medicaid at almost 12% and charity care at 2%. You will know due to the nature of the specialties, there is a large part of the payer mix that is going to be workers' comp and no fault. The project cost of a little over \$4 million will be met with equity and a bank loan. A majority of those lawsuits were brought by no fault insurance carriers against patients seen at the clinics. The applicant is here to speak to both the payer mix and the legal cases and answer any questions that the committee may have. The department's recommending approval with conditions and conditions and an expiration of the operating certificates five years from the date of its issuance.

**Mr. Robinson** Thank you very much.

**Mr. Robinson** I'm sure that there are going to be questions, but I think probably it would be best to ask the applicant to come forward now.

**Mr. Robinson** Please introduce yourself. Thank you.

**Mr. Cicero** Good morning. I'm Frank Cicero, a consultant to the applicant.

**Mr. Pinczewski** Good morning. My name is Ben Pinczewski. I'm an attorney. I represent the applicant.

**Mr. Kraut** Could you make sure the light is on? Thank you.

**Mr. Hatami** Is it on now?

**Mr. Kraut** Yes it is.

**Mr. Hatami** Hi. I'm Wayne Hatami, from Surgicore. Pleasure to meet everybody.

**Mr. Kraut** Before you start, let me just tee up and maybe we should get all the... Just yourself one more introduction.

**Mr. Kraut** Just before you start, maybe we should just get questions out so you can get interrupted and stuff. I'll start with a few. You'll note that I declared an interest because I learned my organization also provided a backup agreement. I just want to disclose that. This is sixty-eight percent workers comp. We can't remember in recent history, and I couldn't find a center that had that high percentage that were being asked to prove. Given I guess both the legal activity and frankly a lot of we've had some particularly on Long Island recent news articles about workers' comp and unnecessary procedures, as part of your answer are not only addressing the lawsuits, but also what quality provisions do you undertake to ensure that the surgery is appropriate and being done for the right medical and clinical indicators, just to understand that it's not being overutilized. Those were my two big issues. I don't know if an others have other things that you want to just tee up before they respond.

**Dr. Eisenstein** Good morning. Dr. Eisenstein, council member. Putting on my former hat as the former Commissioner in Nassau County, I know the geography very well. Your comments, Ms. Glock, thank you for that. It's interesting to me when you stated the address and it's in the backup, I was excited because geographically this is in absolutely probably the most vulnerable area of the island. The payer mix that was described doesn't match the community that immediately surrounds it. As we address health equity and want to make sure that the facilities that we're approving impact the local community. Do you have an intent to make a difference and impact the local community? Because based on the payer mix that Ms. Glock described, it doesn't match what's in the surrounding neighborhood.

**Mr. Cicero** Again, Frank Cicero, a consultant representing the applicant. Each of us are going to speak a little bit. I'd just like to outline what we plan to do. Mr. Pinczewski, who has spoken to the council before, and we know you see a lot of applications regarding the lawsuits will speak to that. The fact that Surgicore is, I guess Ben will use the proper words, but I would say a preferred or a presumptive eligible entity with the very same insurers that you see with these suits. That's the first person who will speak. Connor Murphy, former of Epstein Becker and Green will describe the quality assurance program that was put in place at this facility in order to prevent against additional suits to the best possible. Mr. Tommy, who is a member of Surgicore and a proposed member of one of the members of this application will speak to the payer percentage and to the way that their startup centers work. I think, Dr. Eisenstein, to get to your question, other Surgicore applications that have come before the council have seen a different payer mix, and ones that came before the council and the department for approval of indefinite life, payer mix has shifted over time. Their centers in Queens and the Bronx have relatively high for ambulatory surgery center Medicaid percentages. I think that's likely to happen here, but Mr. Hatami at the end of our discussion will explain why the percentage is what it is to start. I'll stop there and I think Ben you'll take on.

**Mr. Pinczewski** Good morning. My name is Benjamin Pinczewski. I've been counseled to Surgicore for the past twelve years. I'm the individual that's responsible for answering these various lawsuits that are brought by insurance carriers, and I can address the concerns that you may have. The first batch of lawsuits are brought on behalf of various insurance carriers, in particular American Transit Insurance Company, and they're primarily declaratory judgment actions. What that means is that American Transit is seeking based on what they perceive to be a violation of the policy of insurance by either the claimant, their insured, or a passenger in the vehicle, which would nullify coverage and therefore avoid all payments. What they do is they name every single provider that the patient or claimant may have seen seeking judicial relief. Many of these suits are valid in

terms of violations that the claimant or insured may have committed, such as giving an improper address, such as giving misinformation to the insurance carrier about the accident or failing to appear for an independent medical exam or an examination under oath. It has nothing to do with what the provider has done. In many other instances, American Transit seeks to have the policy declared null and void because they say that the treatment that was rendered was not appropriate. We defend those claims and are almost always successful because American Transit is known for just trying to stall payments. They have been on the verge of bankruptcy and collapse since I've been in this industry, which is thirty-five years. Other carriers bring similar type suits on a much less regular basis. I must say, in all fairness, they have validity because there are clearly policy violations by the claimants. When you look, you'll see a plethora of lawsuits that are brought against so many different parties. When you do the search, which I have done and I obviously I defend them. It's primarily American Transit. Those are the bulk of the lawsuits. I want to address the concern about the newspaper articles and the publicity regarding workers' compensation and the appropriateness of the claims. I personally represented Surgicore and individual members of Surgicore, as well as doctors, in the first lawsuit brought by Roosevelt Road, which is a secondary reinsurance carrier. That case was brought before Magistrate Gershon in the Eastern District of New York. When I filed a letter motion seeking to have the complaint dismissed plaintiff by counsel withdrew all claims against my clients. Surgicore, Surgicore management, and all the individuals were dropped from that lawsuit. They have since filed numerous copycat suits. I must say in my thirty-five years of experience, and it's not just me, these are perhaps the worst crafted lawsuits I have ever seen. They make allegations of RICO under the RICO statute. You have providers and parties that they name that are competing for business within the same geographical area. How they could be engaged in racketeering is beyond my comprehension, but I defer to the judge and the magistrate who dismissed the RICO claims. They have, however, allowed Roosevelt Road to amend their complaint now three times. We have pended a motion to dismiss by all parties. I believe it will have a favorable outcome. There's been four of these suits. Two have been outright dismissed against my clients. The RICO claims have been dismissed in two of them. Various providers have brought actions against Roosevelt Road, counsel to Roosevelt Road for defamation and malicious prosecution because of the baselessness of the assertions that are made in there. There has been no showing that there was any fraudulent conduct, nor do they have any examples of conduct or procedures that should not have taken place. For example, I have in one of the lawsuits a provider, Dr. Peter Tomasello, who works out of Cross Bay Orthopedics. He's been a noted hand, shoulder and knee surgeon over thirty years. He does his procedures at the North Queens facility, which is owned and managed by Surgicore. In the complaint, Roosevelt wrote stated that he does epidural injections, which are unnecessary and fraudulent. The fact is, in his thirty plus years of practice, Dr. Tomasello has never done an epidural injection. None of the exhibits attached to the complaint showed that he had done an epidural injection because he doesn't do them, he doesn't bill for them. He does shoulders, knees, and hands. I personally handled those. Several years ago, based on the discovery and the litigation that took place, the cases were settled. The carriers paid an undisclosed amount of money. It's based on a confidentiality agreement. Because of the nature of the work and the vetting that the insurance carriers did with respect to each of the individual Surgicore centers, we now have in place with GEICO, State Farm, Allstate, Progressive, and Liberty Mutual prompt pay agreements in which they agree to pay at a reduced rate of the fee schedule within thirty days. That is because they have thoroughly vetted the individuals as well as the centers, as well as the doctors that perform the procedures there. This has been going on now with GEICO. We're going on our eighth year with State Farm and All State. It has been 2020. Liberty Mutual is more recent was 2023. Progressive was 2022, I believe. I

hope I have addressed whatever questions or concerns you may have, and I'm certainly here to answer any additional questions you may have.

**Mr. Cicero** Connor, I think if you could speak to the systems that have been put in place to try to reduce these events in the first place whenever possible.

**Mr. Murphy** As part of the overall compliance program that Surgicore implements and in managing the centers, it's affiliated with attorneys at my prior firm, Epstein Becker Green, I'm now at Baker Donelson, full disclosure. The team there was engaged to regularly conduct education and training, mostly focused on the federal and state anti-kickback prohibitions, but also to teach and implement safeguards against fraud and abuse more generally. You know, educating the utilizers and the personnel about gifts and entertainment and things like that, any kind of the associated penalties, marketing, things like that. Just really an educational program and making sure that everyone's aware of what not to do and making sure that the regulations are fully complied with. In addition, more recently, there's been an attorney engaged on a more regular basis to work with physician credentialing and kind of monitoring caseloads and cash flow to just kind of keep an eye on things. Obviously, the way this works is that the physicians bring the cases to the center, right? If there's any kind of suggestions or any indications over time that this is kind of the wrong kind of patient mix coming in, then that's addressed physician by physician.

**Mr. Cicero** Wayne, if you could just go through the payer mix initially and what you expect over the long term?

**Mr. Hatami** Sure.

**Mr. Hatami** Thank you for the opportunity to speak. I appreciate it. We've been in the New York market of ASCs for over the last ten years. We've had many different endeavors. To bring light on this project about five years ago, you were kind enough to grant us the ability to take over two New York Eye and Ear Mount Sinai facilities, which were financially distressed and quite frankly mismanaged in many ways. We stepped in with our model and not only have we furthered the endeavor with keeping the same cases, meaning ophthalmology, ENT, pediatrics, but we furthered that endeavor, but we also blended some of the orthopedic and pain management musculoskeletal services. They're now financially very solvent. All the physicians that were there before are very satisfied and were growing. This center in particular is important to us because there's an outcry from physicians that work with us that tell us that the patients are not really happy traveling to other facilities, and that's what sparked the interest. Certainly, we intend to do the same as we've done in the Queens and Bronx centers, and that's why we listed ophthalmology to bring those services to community, service the Medicaid population and the underprivileged. But to start out, it's very hard as a small group to go to the contract payers and negotiate the contracts immediately. We have to be sensitive in our projections because as we come in front of you in five years for the limited life, we want to make sure that we didn't disobey what we're saying. We're starting off with some I guess top heavy workers comp and no-fault cases, but our goal was really to blend this into really servicing the community around us, and I think it addresses some of your concerns that we spoke about.

**Mr. Cicero** I could have one thing. There is a proposed diagnostic and treatment center extension clinic in the same building, and the payer mix in that application is thirty-five percent Medicaid. In their Bronx and Queen sites, I believe they're in the neighborhood of

twenty-five percent Medicaid. The goal over time is to get there. I'm not certain it was during COVID, but I think we first discussed in front of this council the time that it takes for a new provider to get a Medicaid provider number in ambulatory surgery, and that's part of what Mr. Hitami is talking about. The payer mix is what they expect at the start, and there is a strong hope and some history on their part that they will get to a better Medicaid mix at this site.

**Mr. Robinson** Appreciate the presentations by all of you.

**Mr. Robinson** Yes, Dr. Soffel.

**Dr. Soffel** I'm still a little bit confused about how orthopedics, pain management, spine and ophthalmology come together in an in a single facility. You mentioned this is you've done this in other places, but it doesn't logically hold together in my head.

**Mr. Hatami** It's very interesting because the same question was posed when we presented ourselves to the physicians at Mount Sinai, New York Eye and Ear, which is predominantly ophthalmology is typically a single specialty derived. It's very precise. It's very unique because it's repetitive and there's volume. It's very derived in a certain way. We took experts in that field, hired them, we blended our case volumes with ophthalmology and ENT. It's proven to be exceptionally successful. There's been no drop in case volume from the ophthalmology and ENT. If not, it's actually enhanced because of the satisfaction of physicians. It's not easily achieved, but we have done it. It's been successful over the last five years. If you look at the reporting, you'll see that the same very physicians that were there when we started have recruited their peers based on the fact that they're very satisfied and patient satisfaction has been exemplary as well.

**Mr. Robinson** Mr. La Rue.

**Mr. La Rue** Good morning. Not my area of expertise. I have a couple of questions. I heard your explanations on the suits. We've had many of these applications come before us over the years. I've never seen one that had these same issues or had this percent of workers comp. It doesn't make sense to me. I don't understand why that is. Why is this such a unique exception? No one else does workers comp in the state.

**Mr. Kraut** You can answer the question, but to the degree this is doing workers comp, you heard these companies. There's a business model that they adopt to forestall payments. I think in your facilities and any one of us that runs a hospital we could name the insurers that challenge the appropriateness of the care that's delivered. I'm going to suggest you can answer it. Because you're sixty eight percent workers comp, that's why we're seeing what we just did. I looked back five/six years. I didn't see any center that started this way. You gave us an explanation why you had to and what you're trying to do.

**Mr. Hatami** It's not only workers' comp. It's personal injury and other. There could be any type of case that blends in there. Remember when you open up a facility day one, we're not partnering with the hospital system, so we don't have the benefit of getting contracts immediately. There is a lag to getting contracts.

**Mr. La Rue** It just seems odd to me when you hear the geographic explanation that he made, you've got this center in this unique place with a disproportionate share of workers come. I don't know if you're required by law or by regulation to accept every player. Why wouldn't you stop accepting that one particular payer who's constantly suing you?

**Mr. Hatami** I wouldn't say they're constantly suing us, as Mr. Pinchewski has said. We have going forward agreements with a lot of these companies, which we are a preferred provider, meaning if they're going to send or if they're going to acknowledge these patients going somewhere, they would prefer they go to us because we've been vetted by them and they believe that our care is superior and our rate of pay is less because again, we're on the kind of good list with them. So, for us, remember when we did this application, the physicians who reached out for the interest in the center, we don't attract patients, we attract providers. It's the providers that are seeking these type of patients as well.

**Mr. La Rue** I'm not going to oppose the application, but I'm going to abstain. I completely don't understand it. I can't vote for something I don't understand.

**Mr. Kraut** I would say if I was a small business owner I would not contract with American Transit Insurance Company if I cared about my staff. That's me.

**Mr. Kraut** I don't mean to make light of it.

**Mr. Pinczewski** Many people feel exactly the way that you do, but we are in the business of providing a service for the medical providers that want to perform procedures at our centers. For us to take positions on what is the most favorable insurance carrier to accept would put us in a precarious position that they might look elsewhere, or they might think that we're all about the money. Obviously, by accepting an American Transit, we are willing to move forward at the risk of not getting paid and quite often we're not and it regrets. It involves litigation on our behalf to get our money.

**Mr. Kraut** I mean, the cost of that of accepting that patient has an impact. We get it.

**Mr. Pinczewski** Thank you.

**Dr. Kalkut** Hi. Gary Kalkut, member of the council. Have you started out with workman's comp as such a dominant player and what's the transition? How much time does that usually take? I understand getting Medicaid contracts and a Medicaid number, but how has it worked at other places?

**Applicant** In other places we stepped into distressed facilities. They were not new centers that were starting from ground up. We stepped into the Mount Sinai example, they're already operating for several years before we stepped in. It's a very different scenario because we already inherited contracts. We already inherited a business that was already not thriving, but it was already up and running for several years.

**Mr. Kraut** Is this facility going to be a new facility?

**Applicant** It's a new facility, yes.

**Applicant** We've done it in other states but in New York, this is one of the first that will be up and running.

**Mr. Kraut** Thank you.

**Mr. Thomas** Hugh Thomas, member of the council. Just trying to track the referrals and your providers. It sounds as if the litigation. You have a heavy concentration of

orthopedists doing workers' comp cases. Would that be true? I'm not talking about facility fees. I'm talking about physicians who are practicing in that space. I mean, some orthopedists do a ton of workers' comp and some do not. Is that why there's such a high percentage? Because your prior the book, if you will be driven by physicians who chose to see probably more so than others?

**Applicant** I would say that's correct. We don't do anything we don't recruit, or we don't try to solicit referrals, so it has nothing to do with us. We find a physician that needs a place to operate. He may be doing, I don't know, twenty five percent of this, twenty five percent of that. We take whatever we're allowed to take because we have coverage, we take. So, for us, yes, I guess in line with your question.

**Mr. Thomas** To get to the sixty eight percent comment on comp, the goal would be to attract physicians who would take a more diverse patient, if you will. They bring the case to you. It's not necessarily a comp case, which is at least in this market, challenging, so it appears. I'm pretty familiar with surgery centers. Comp and maybe this isn't true or is true. Comp pays providers well. Comp doesn't pay facilities very well, just generally. Is that a fair assessment?

**Applicant** It's a tough business, let's say.

**Mr. Thomas** Okay, fair enough. That's historically how you got to this point.

**Applicant** Again its initial application, so these are just the beginnings of it.

**Mr. Thomas** Your goal would be to attract providers and not that you're going to turn down comp cases. I'm not suggesting you will, but you'll get a more diverse patient population.

**Applicant** Our goal as a company is to take every single possible case in the community that we can.

**Mr. Thomas** Thank you.

**Dr. Friedrich** Dr. Friedrich, member of the committee. Just a comment/question. When you picked that location... Is the population, was the population the deciding factor that lives around that? That goes back to my colleague what Dr. Eisenstein's asked before, or because the physicians were in need for a surgical center in that area. Can you just comment on that?

**Applicant** Sure, I think it's a combination of both. We found that the area was in need of a facility that could provide all services, as well as the doctors that are familiar to us telling us the same. It made perfect sense for us to be... Our closest facility are in the boroughs. We have a Queens, Bronx and Brooklyn facility. We do not have anything in Nassau County, and this was a very central place that we can actually service the doctors and the patients in the area.

**Mr. Robinson** Dr. Eisenstein.

**Dr. Eisenstein** Yes, so kind of extending on this. This is smack in the Village of Hempstead, which is absolutely would meet safety net criteria for the patient population. Anytime medical resources are being put there there's excitement in the community. But far too often they've experienced where it hasn't served the local community. I alluded to

this, but I guess a more direct question is have you done anything with the community leaders or agencies to kind of establish how you'll contribute to the local needs of the village?

**Applicant** We definitely have a direct plan to do so. I don't want to be premature without an approval of an application because it would be kind of counterproductive. As Mr. Cicero mentioned, there is going to be an Article 28 site adjacent to the population which is going to service the community. Our intent is that that population, if in need of surgical services, it would kind of be the organic next step to pro to attract providers and those patients to us. That's the goal.

**Dr. Eisenstein** I think it's important. I support any bringing any resource to the community of need, but I think it's important that you know what you're walking into there.

**Applicant** Of course, we absolutely do.

**Mr. Robinson** Any other questions of the applicant?

**Mr. Robinson** Thank you very much. We appreciate that.

**Mr. Robinson** Is there anyone from the public that wishes to speak on this application?

**Mr. Robinson** Hearing none, I'm going to call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Note Mr. La Rue's abstention.

**Mr. Robinson** Two abstentions, Dr. Lim and Mr. La Rue.

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you very much.

**Applicant** Thank you.

**Mr. Robinson** Application 251223E, Advanced Surgery Center LLC doing business as EMU Health. This is in Rockland County to transfer a hundred percent of membership interest from the sole withdrawing member to a new member LLC. Department is recommending approval with conditions and contingencies with an expiration of the operating certificate three years from the date of issuance.

**Mr. Robinson** May I have a motion?

**Mr. Robinson** Dr. Torres.

**Mr. Robinson** I need a second.

**Mr. Robinson** Thank you, Dr. Kalkut.

**Ms. Glock** Advanced Surgery Center is an existing Article 28 multi-specialty freestanding ambulatory surgery center. This application is requesting approval to transfer 100% of the ownership in the center. The current sole shareholder owner is Dr. Michael Fiorillo. The proposed 100% of the ownership would go to EMU Holdings LLC. Daniel Lowy is the sole member of EMU Holdings LLC. You'll see in the exhibit that he is affiliated. EMU Health, Queen's Surgery Center, and New York Surgery Center, Queens. There'll be no changes in services proposed as a result of this transfer of ownership if approved. Mr. Fiorella will continue to operate. I'm sorry. Dr. Fiorella will continue to operate at the center with a reduced workload, eventually phasing out operations. Six physicians, two of which include plastic surgeons who currently perform surgery cases at the center, have committed to perform cases at the center, and projected patients treated. The applicant states that they reside in Rockland County, and they're already existing patients of both the plastic surgeons at Advanced Surgery Center. There are four participating physicians who will join, and those physicians will bring orthopedic surgeon, an interventional radiology surgeon, and two pediatric dental surgeons to this ASC. The applicant is projecting 52% Medicaid, 6% charity care by year three, with about close to 90% of the patients, according to the applicant, needing dental surgery, most of whom are pediatric dental patients. The department has conducted a review and is recommending approval with conditions and an expiration of the operating certificate three years from the date of its issuance.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions for the department?

**Mr. Robinson** Any other questions on this application?

**Dr. Kalkut** I'd actually like to ask the applicant question.

**Mr. Cicero** I'm Frank Cicero, a consultant to the applicant.

**Mr. Lowy** Daniel Lowy, the applicant.

**Dr. Kalkut** The department's report says there's no change in services. Is the current facility doing pediatric dentals services? Cause I see much of the surgery will be pediatric dental, which would be a tremendous help in the broader community. It doesn't seem like that was being done previously.

**Mr. Cicero** Dr. Kalkut, I think what the department means, I would defer to Ms. Glock, but it was certified as a multi-specialty. It came to the council a couple of times, but it's not doing pediatric dental now. Mr. Lowy is... It's basically a plastic surgery center. It's going to become, in my mind, a real ambulatory surgery center with that the pediatric dental as the lead service.

**Dr. Kalkut** Are you doing special need cases in the center?

**Mr. Lowy** In Queens, we're doing both pediatric dental and we recently launched a special needs dental business. I wouldn't even call it a business. I would call it... It's needed. There's not much money in it. It's really important.

**Dr. Kalkut** I think a number of us ha have had experiences where there's a year, eighteen months in order to get kids, special needs kids in particular because of the need for anesthesia. I think that would be great to put in this facility. I applaud you for going for a place that has very little Medicaid, almost none to a place that takes fifty percent of it. I'd be happy to vote for this CON.

**Mr. Robinson** Thank you.

**Mr. Robinson** Other comments or questions from the members of the committee or the council?

**Mr. Robinson** Anything else you want to offer from the applicant standpoint?

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** Hearing none, I'm call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you very much.

**Mr. Robinson** Application 252019B, Hampton's Endoscopy in Suffolk County. Establish and construct a single specialty ambulatory surgery center for gastroenterology at 68 100 Old Riverhead Road in West Hampton. Department is recommending approval with conditions and contingencies with an expiration of the operating certificate five years from the date of issuance.

**Mr. Robinson** Dr. Berliner makes a motion.

**Mr. Robinson** Dr. Torres, second.

**Ms. Glock** Hampton Endoscopy is requesting approval to establish and construct this ambulatory surgery center, which will specialize in gastroenterology in West Hampton, Suffolk County. This LLC will convert an existing private, this project will convert an existing private office-based surgical practice to Article 28. It'll have three procedure rooms. The proposed members of Hampton's Endoscopy LLC are detailed in the staff report. The six physician members who have committed to perform procedures at this proposed ambulatory surgery center currently perform those procedures in their private office-based surgical practice locations. The applicant is projecting about 3,600 cases by year three with 25% Medicaid, charity care at 2%, and the department is recommending approval with conditions and contingencies and an expiration of the operating certificate five years from the date of its issuance.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions for the department?

**Mr. Robinson** Anything for the applicant?

**Mr. Robinson** Applicant, I assume questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** Hearing none, call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Application 252056E, New York Surgery Center, Queens, LLC in Queens County, noting an interest by Dr. Lim. This is to transfer 52.56656% ownership interest from four withdrawing members and one withdrawing member LLC and 32.44% interest from two remaining members to the three new members and one new member LLC. Easy for me to say. The department is recommending approval of conditions and contingencies as with an expiration of the operating certificate five years from the date of issuance.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** New York Surgery Center, Queens is which operates an Article 28 multi-specialty freestanding ASC in Long Island City. They are requesting approval to transfer 52.566 ownership interest from five withdrawing members and 32.44% interest from two remaining members to four new members. The membership of the operation before and after the requested change are shown in the staff report. There are no project costs associated. That's based upon the 2024 payer mix, which was about 3.4%. This ambulatory surgery center was established in 2020 or 2012 before that 5% Medicaid requirement. Per the applicant who is here to address it, if there are questions. They have not been tracking charity care. They've been providing it on a case-by-case basis, but they have committed to working with FQHCs in their area to not only begin tracking charity care but to increase that percentage. They are here if there's any questions on that. The department is recommending approval with contingencies and conditions with an expiration of the operating certificate three years from the date of issuing.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions from the committee or the council members?

**Mr. Robinson** For the applicant or for the department?

**Mr. Kraut** I have it for the applicant.

**Mr. Robinson** Can we ask the applicant to come forward please?

**Dr. Kalkut** Thank you.

**Mr. Knowlton** I'm Jack Knowlton, consultant to the applicant.

**Applicant** David, applicant.

**Mr. Kraut** Next time, just make sure the green lights on so we could record it.

**Mr. Kraut** I think it's not going to be a surprise to you. We're going to talk a little about the Medicaid percentage. As we've heard, the application was originally pro approved almost eighteen years ago or so when we didn't have... More than eighteen actually, when we didn't have these requirements. Just two questions really. The fifty one percent it says all other, is that basically workers comp or no fault? What's in that category? Clearly, you're one of the most profitable ambulatory surgery centers that's come back to us for a transfer of ownership. I'd have to frankly say it's a bit disappointing about given your location in New York that such a small percentage of Medicaid relative to other applications, knowing we expect applicants to increase that, you heard a previous applicant talk about what they're trying to do to increase that, and I just don't understand why you can't make a bigger commitment than this.

**Mr. Knowlton** Let me respond. We have been proactive even prior to you know coming before this committee. The applicant has signed a referral arrangement with Sun River Health, probably the biggest federally qualified health center group in the state. They have four centers, two in Brooklyn and two in Queens that fit in the geographic area that is largely served by the applicant. We're going to be working with them. We have a sliding fee schedule arrangement that has already been agreed to, and we're going to be working with the physicians that are providing services at the ambulatory surgery center to try and get both the Medicaid increase as well as charity care.

**Mr. Kraut** Would you revise those numbers based on that agreement?

**Mr. Knowlton** Well, we didn't want to get too forward looking and committing. We understand that the five percent is a target. We know that we will be reporting each year. Obviously, judged when we come for permanent life. Until we have a better feel of how that is going to work, we know that some of the physicians that provide services do take Medicaid, have Medicaid managed care arrangements. We have additional work that we need to do with them to make sure that we have physicians that are going to be committed to the path that we're laying out. We anticipate certainly that we will more than meet those targets as this being our you know primary effort in that direction.

**Mr. Kraut** I'm not here to negotiate, but five point six million in profit, third year. If you can't commit to that now, and I understand why for the reasons you said you wouldn't, when you come back for renewal, I would argue if you're not at five percent, we will not renew the certificate.

**Mr. Knowlton** Certainly, that would be our expectation.

**Mr. Kraut** So it is said, let it be recorded. Somebody please remember five years from now. It would be nice if in the interim between now and the next meeting you might reflect on the comments you hear from us and if you wish to change that before we do the final vote at the full council, that would be lovely. If not, we understand. I'll just leave it at that. It's not my job to negotiate with you.

**Dr. Kalkut** The charity care or sliding fee scale that you worked out with Sun River, does that apply more generally to patients in the ASC?

**Mr. Knowlton** We're working with all of the physicians that they will also agree to the sliding fee schedule that we have.

**Dr. Kalkut** The parameters of that sliding fee schedule?

**Mr. Knowlton** That is a sliding fee schedule that is utilized by Sun River.

**Dr. Kalkut** Okay, and that's the one that you will adopt.

**Mr. Knowlton** Yes, absolutely.

**Dr. Berliner** Ms. Glock said that you're not tracking charity care right now. Can I ask why not or how that happens? Don't you have an accountant who says these people didn't pay?

**Applicant** It's a difficult question to answer. There are a lot of different things that happened over this last year, where we switched systems, computer systems, and a lot of our charity care is done when we just know the patients don't have insurance or they have no benefits or whatnot. We never say no. It happens very frequently. A lot of these cases cost a fortune. You know, orthopedic cases which we predominantly do. Unfortunately, there was a hiccup in our system, which we fixed. The charity care aspect of it was worked out. We couldn't get the exact specifics how it was broken down. That was on the low end, for sure. We have implemented new systems in place with our new systems, so we should easily get to the numbers we need to get to. I would think within a year less.

**Mr. Robinson** I appreciate that you have gotten the message that that we've passed onto you.

**Mr. Robinson** I'm going to call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you.

**Applicant** Thank you.

**Mr. Robinson** Application 252038B, Springbrook Wellness Clinic. I just want to make sure I haven't skipped anything right. Springbrook Wellness Clinic in Otsego County to establish and construct a new diagnostic and treatment center at 5588 State Highway 7 in Oneonta. The proposed primary care clinic will serve rural and medically underserved communities with a specialized focus on individuals with intellectual and developmental disabilities, a population facing persistent disparities in access, coordination, and continuity of care. The department is recommending approval with conditions and contingencies.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** Springbrook Wellness Inc. Is not-for-profit. They're seeking approval to establish and construct an Article 28 Diagnostic and Treatment Center on an existing campus in Oneonta, which is in Otsego County. The proposed operator of Springbrook Wellness Clinic is Springbrook Wellness Inc, which is a newly formed not-for-profit entity created to operate licensed health care services within the Springbrook system. Springbrook Partners Inc will serve as the sole member of Springbrook Wellness Inc, and the proposed clinic will offer comprehensive and preventive primary care, chronic disease and medication management, as well visits, patient education, caregiver education, and referrals and care coordination for behavioral health and specialty services. This clinic will occupy space on the Springbrook Community Campus. As Mr. Robinson pointed out, the proposed clinic will serve rural and medically underserved communities with a focus on the intellectual and development disability population. They anticipate that patients coming to the center will be from Springbrook's program participants, the Office for People with Developmental Disabilities, Care Coordination Organizations, School Districts, the County Department of Social Services, and Local Behavioral Health Intellectual Disability, Development Disability Agencies. The applicant states that currently there are multiple primary care providers in the area, including the Bassett Healthcare. However, according to the applicant, these facilities do not specialize in IDD accommodations, and it can create long wait lists and wait times. Many of the patients are currently reporting to the emergency departments. You'll notice in the staff exhibit that the Bassett Healthcare system actually makes up for part of the board. The number of visits is projected to be about 6,500 by year three. The total project costs will be funded with equity from the Springbrook Foundation. The department is recommending approval with contingencies and conditions.

**Mr. Robinson** Any questions from the committee?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak on this application?

**Mr. Robinson** I think I can speak on behalf of the committee on this, but we're thrilled with this application meeting a very important need for an underserved population. The applicant is to be credited with their proposal from my standpoint.

**Mr. Robinson** I'm going to call the question.

**Mr. Robinson** All in favor?

**All Aye.**

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 242213E, Ulster Dialysis LLC in Ulster County, transferring seventy-five-point five percent interest from one withdrawing member to two remaining members with one new member LLC. Department recommending approval of the condition.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** Ulster Dialysis LLC is a thirteen-station outpatient dialysis clinic located in Kingston in Ulster County. This application is seeking approval to transfer 75.5% ownership interest from one withdrawing member and two remaining members to a new member LLC. There'll be no change in the licensed station capacity or the licensed services. The operating entity will continue to be Ulster Dialysis LLC doing business as U.S. Renal Care Ulster Dialysis. You can see the proposed membership in the staff report. The purchase price for the membership interest is \$233,000 and will be funded with the equity by the Ulster Dialysis Partners. The department is recommending approval with a condition.

**Mr. Kraut** Just a second, folks.

**Mr. Robinson** My apologies.

**Mr. Kraut** She just finished.

**Mr. Robinson** You just finished.

**Mr. Robinson** Did you notice that?

**Mr. Robinson** Any questions from members of the committee or the council?

**Mr. Robinson** Applicant questions only.

**Mr. Robinson** Anybody from the public wishing to speak?

**Mr. Robinson** All in favor?

**All Aye.**

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Turning to a very big application here. Application 251219C, Memorial Hospital for Cancer and Allied Services in New York. This is to construct a new twenty-seven floor building and certify 156 net new medical surgical beds, 40 intensive care beds, 12 ORs, 54 packy rooms, a radiology suite, and an interventional radiology suite. The new building will be connected to the current memorial hospital through an existing tunnel and a new two-story bridge. I'll note here that condition number six in the exhibit has been removed. The Department recommends approval with conditions and contingencies.

**Mr. Robinson** A motion by Dr. Berliner.

**Mr. Robinson** A second by Dr. Torres.

**Ms. Glock** Memorial Hospital for Cancer and Allied Disease is a hundred a five hundred and fourteen bed Article 28 hospital located in Manhattan. They're requesting approval to construct a new twenty-seven floor building at 1233 York Avenue on the West side of York Avenue between 66 and 67th Streets. The new building will be known as the Kenneth C. Griffin Pavilion at Memorial Sloan Kettering Cancer Center. This expansion is intended to accommodate 196 additional single-bedded inpatient room beds. 156 will be med surge, 40 will be intensive care, and also to expand the surgical and procedural services. Memorial Hospital opened in 1973, over fifty years ago. The existing buildings aging infrastructure and the capacity limitations are not able to keep up with the increased clinical demand, the pace of advancing technology and the overall future of cancer care. This pavilion, according to the applicant will be a state-of-the-art facility. It's an expansion that's intended to accommodate these additional inpatient beds and as I said expand their surgical services. According to the applicant, this will allow MSK to operate at an industry standard occupancy rate of 85% for med surge instead of the current occupancy rate, which is in the high 90's. It'll also help to manage the phase closure of units for modernization, which is impractical to do with the current capacity, and help with compromised patients with no additional rooms to shift patients around, and also to better meet patients' preferences. You can see the staff report shows the utilization for both the med surge and the current ICU occupancy rates, which have been growing. The applicant is projecting over 31,000 discharge visits in year three, with Medicaid at 13.3 Percent and charity care at .04 by year three. Part of Memorial Sloan Kennerly's long-term strategy is to increase care to their underserved communities within the New York Metro area, and they are here to talk about that today for the committee. They do report an increase in Medicaid patients and Medicaid managed care inpatient days from 2021 through 2024. Total project costs of \$2,298,809,528 will be met with equity of a little over a billion, gift fundraising of \$200 million, and a bond financing of a billion with a maturity of thirty years with 5% interest rate. You will note that there was a health equity impact assessment completed for this project, and the information analysis presented demonstrated that the proposed project will not result in any significant adverse health equity impacts. The department is a recommending approval with contingencies and conditions.

**Mr. Robinson** Thank you.

**Mr. Robinson** Such an important institution for the city, the state, the country. This is probably a long overdue project. I'm not well versed in exactly how much it costs to build

something in Manhattan. My guess is that even though the number is a little eye watering, I would suspect that in fact it could even go up. With that said, and then it's certainly a needed... They really do need to update their facilities, move to single patient rooms, as just a general normal standard of care as well. Let me open it up to the committee for questions, either for the department if anybody wants to ask questions or the applicant, I'll ask them to come forward.

**Mr. La Rue** Did you say contingency six was removed?

**Mr. Robinson** Yes.

**Mr. La Rue** Thank you. n

**Ms. Glock** It's a boilerplate condition that doesn't really apply to this project.

**Dr. Soffel** I would like to ask the applicant about their plans around the Medicaid population because the institution does not have a glorious history in terms of its willingness to accept Medicaid patients.

**Mr. Kraut** While they get settled, I just would add, you know, the thing also about this application is we're increasing the bed supply at a time in New York when we've been losing beds and we've been using the standard of single bedrooms as a precedent that wherever it's feasible, I think it's something we need to continue to support rebuilding the infrastructure of this. I know you made reference to 1970 when the building was built, but this is a hospital that's been serving New Yorkers for over a hundred and forty years, starting on the West side and you come a long way, what can I tell you?

**Mr. Kraut** Go ahead.

**Mr. Robinson** Could we ask you to please introduce yourselves first?

**Mr. Maggio** Charles Maggio, project executive.

**Ms. Anderson** Shelley Anderson, hospital President.

**Mr. Grebin** Jeff Grebin, Chief Physician Executive.

**Ms. Smith** Cardinal Smith, Chief Medical Officer.

**Ms. Garcia** Anna Garcia, community engagement.

**Mr. Robinson** Thank you very much.

**Mr. Robinson** If you want to ask your question?

**Dr. Soffel** As I say, I've been working in the Medicaid space in New York for my entire career. I know that there have been over decades challenges or concerns about Memorial's willingness to embrace service to the Medicaid population. I'm just interested in how your thinking has evolved over the most recent time.

**Ms. Anderson** Thank you for the question. Is it Dr. Lim?

**Dr. Soffel** Dr. Soffel.

**Ms. Anderson** Thank you for the question.

**Ms. Anderson** Over the last three or four years there's been some major advancements as it relates to our Medicaid access. Back in 2022, when we're also in Kettering was very active in the lobbying front to work with the state to enable any NCI designated cancer center that wanted to be a part of a Medicaid managed care plan or an Affordable Care Act plan to be able to participate. That law was passed in 2022, effective 2023. In 2023, our access to Medicaid Managed Care patient enrollees increased from fourteen percent to seventy four percent. By November of 2023, we went from number seven to number one as far as cancer care cases being provided in the New York area.

**Ms. Anderson** A very deliberate strategy.

**Mr. Kraut** Didn't you also do a transformation plan? Aren't you partnering with the Safety Net hospitals also? We may not see it reflected at your hospital, but you're helping Safety Net that are large Medicaid providers also provide care.

**Ms. Anderson** Absolutely. We're working right now with Medicis hospital, Medicis Health System Jamaica Hospital in Queens. We have been for the past two years to really help them develop their oncology program. As you might have heard, they were they were granted a hundred- and eighty-eight-million-dollar gift to actually build a cancer hospital at Jamaica Hospital. We've been working with them very closely. We'll help them advance cancer care delivery in that neighborhood in that area.

**Dr. Soffel** I'm sorry. I have one additional question which has to do with the community engagement piece of the of this and how the public is getting to understand that Memorial is in fact embracing the Medicaid population in ways that it historically had not.

**Ms. Garcia** I'm Anna Garcia. I work in community engagement. We have a long-standing relationship with the Ralph Lawrence Center in Harlem at 124th between Park and Madison. That hub has really benefited from the fact that we have increased Medicaid access now. We're able to do even more community outreach so we can let community members know that their insurance will be accepted when they do indeed come to MSK. We do community health programming. We do a lot of partnerships with area community-based organizations and faith-based entities to educate people about cancer prevention and opportunities for screening so that they become familiar with MSK and know that we can be a trusted partner in their health care. Working on trust and familiarity with the Medicaid population and people who are uninsured is really the first step for us. We're really sort of working from each place where we have a footprint like Harlem, also in Central Brooklyn to let people know we're here for them.

**Mr. Robinson** Mr. Lawrence.

**Mr. Lawrence** Harvey Lawrence, member of the council. I'm always especially with the large institutions, I'm always interested in how those institutions go about reaching out to people who can't afford health care, who may not be on Medicaid. When I say reaching out... You know, do they just show up? Because sometimes people self-select and they decide that, well, this is the Manhattan hospital. It's in what is it, the Gold Coast on the East side. We're not welcome there. We're not going to even try. Could you just expand on how you go about putting together your anticipated charity care been projected?

**Ms. Anderson** Our financial assistance program probably supports around 1,800 patients on an annual basis, anywhere from \$24 to \$35 million in our charity care program annually. We support underinsured and uninsured up to 500% of the federal poverty level and that is accessed at the very point a patient calls or when they potentially arrive for a visit or whatever that might be to support. Thankfully, in New York a five percent uninsured rate is very low compared to other states. Our financial assistance program really supports for those that do not have insurance or are underinsured.

**Mr. Lawrence** How do you promote that? How do people know about it?

**Ms. Anderson** When people call into our patient access center, they are routed into the right financial counselors as appropriate as well as if they're seeking service on site, we have the same type of program.

**Ms. Garcia** If I may add, we have a couple other efforts annually where we at our community events do make the financial assistance program brochures available to the community. We also mail that out to our elected officials and community-based partners so that they're aware of the policy and what the eligibility is, and we ask them to share that information with their constituents and clients.

**Mr. Lawrence** Do you have an any way of tracking how many cases you get as a result of those efforts?

**Ms. Garcia** We have not tracked directly from our sort of outreach then to know how things turn over. It's kind of difficult to catch people at the precise moment where they have a cancer care need. We could look into that.

**Ms. Anderson** We have a mobile outreach that supports, I think in addition to those community events where through the van of where people patients are getting different types of cancer screening. They're made aware of the program as well.

**Mr. Robinson** Dr. Berliner, Dr. Torres, and then Dr. Friedrich.

**Dr. Berliner** Hi. A question and a comment. The question is really about in many of the recent applications from MSK that we've approved, heard and approved here over the last several years. They've all been in suburban areas and outside of the city on the grounds that it's tough to get into New York. My question is really about is the need to expand besides the need to decompress a high occupancy facility because of growing cancer rates in the city, therefore people needing to be there? Is there another reason?

**Mr. Grebin** The cancer rates are going up as you remark. We in fact we expect a 50% increase in cancer patients in the New York region over the next twenty-five years. It should be noted that really the increase in beds we're going to achieve with the pavilion will just keep us static as a percentage of that population. We're not seeking to gain or monopolize market share in that setting. Much of what we do in the hospital can't easily be reproduced in a community setting. We can do many things at our regional care networks. As you say, they've been a big asset to the communities in which they're located to allow people to get their care close to home. For some of the things we do that are really at the cutting edge, they can only be done in a tertiary, quaternary hospital and even more. Some of them require direct access to our research facilities for things like cell therapy,

very complex transplants and other things. The dispersing that technology wouldn't be feasible.

**Dr. Berliner** My comment if I may, please, please, please consider parking as you're planning this facility.

**All** (Laughing)

**Mr. Robinson** I'll come back to you, Mr. Lawrence. Dr. Torres, Dr. Friedrich, and then we'll go back to you, Mr. Lawrence.

**Dr. Torres** Just a comment. My wife is a current patient. She's very, very happy with services. The interventions have been amazing. Have you considered local parish outreach to promote awareness regarding the services, the education piece in some of the most distressed areas, especially in the Bronx, because that would be a key point of engagement. In addition to others community-based organizations that are serving the vulnerable population, I think that much or many more individuals need to know about the work and the wonderful impact that the hospital does to address certain illnesses.

**Ms. Garcia** I just want to say I completely agree. We're always looking for opportunities for our mobile health unit to visit different parishes. There are a few in the Bronx that they currently visit. We're always working on that.

**Mr. Robinson** Where was I? Dr. Friedrich and then Mr. Lawrence.

**Dr. Friedrich** I guess I should come clean a bit here. I guess many years ago with Dr. Harold Vomas. He and I guess well, we had a relationship with him. I'm formerly from a FQHC. We started to work with Memorial Sloan Kettering with an internship program. I hope that program is still operative, where there would be students from a high school that would work as an intern during the Summer. Many of these students, especially from the high school that we started was in Brooklyn. Many of the students who have literally probably never been out of Brooklyn and out of their immediate neighborhoods, they would come, and they would have, I think maybe four or an eight-week program at Memorial Sloan Kettering. Those students were amazed. They would have a presentation at the end of their internship. I mean, professional presentation working with a team of doctors. I will tell you that I think maybe 95% of all of the students who participated in those internships went on to college. That's something that you know I commend you for having done. I hope you continue to do those types of activities because it does make a difference in the lives of the people out in the neighborhoods.

**Mr. Grebin** One of the recent ones we've started we have an outreach with the Science and Technology, I may have the wrong name, high school again in Harlem, and had a group of their seniors and juniors down to visit the operating rooms, actually come in and play with the surgical robot trainers which they enjoyed very much and again as a way to look at future careers as physicians, nurses in in healthcare.

**Ms. Farrell** Thank you.

**Ms. Farrell** I'm Lindsay Farrell. I'm a member of the council. I run an FQHC in Westchester. We also run the Cancer Services Program, which is run by the New York State Department of Health for a seven-county area in the Hudson Valley. I want to commend you. No one mentioned the Cancer Services Program of the New York State

Department of Health. It provides screenings and diagnostics for uninsured people. You are an important referral source for us. You have been there when others have not. We greatly appreciate it.

**Mr. Robinson** A great conversation. I think it was as much educational in a bidirectional way as it could be. We thank you for your being here and for the comments that you've made.

**Mr. Robinson** I just want to invite anybody from the public that wishes to comment on this application in any way.

**Mr. Robinson** Hearing none, I'm going to call the question then.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Congratulations.

**Applicant** Thank you.

**Mr. Robinson** Best of luck to you with your project.

**Mr. Robinson** Application 251235C, NYU Langone Hospital in Suffolk County noting a conflict and recusal by Dr. Kalkut who has left the room. This is to construct a five-story building on the campus on the hospital campus to house one hundred and forty-four med surge and ICU beds with no change in the number of certified beds. The department is recommending approval with conditions and contingencies.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** NYU Langone Hospital is requesting approval to construct a new bed tower with 144 private patient med surge and intensive care rooms at NYU Langone Hospital, Suffolk, which was formerly the Long Island Community Hospital in Suffolk County. The current aging infrastructure only has seven semi-private rooms, and so these 144 single beds will be spread over four patient rooms with 36 patient inpatient beds on each one. In March of 2022, you'll remember that NYU Langone Hospital became the active parent of Long Island Community Hospital. In March of 2025, they fully merged with and into NYU Langone Hospital. Therefore, NYU Langone has summarized that the following supports the project. They've seen an uptick in the Suffolk County residents relying on NYU Langone Hospital Suffolk since that affiliation with the former Long Island Community Hospital. Expansion of this campus will expand its continuum of care to the Long Island residents close to their homes. The use of surgical robots in the OR has increased patient access to finally invasive procedures, leading to an increase in those surgeries. They are

projecting over nineteen thousand discharges by year three with Medicaid at twenty one percent. The department is recommending approval with contingencies and conditions.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions for the applicant?

**Dr. Soffel** I have a question.

**Dr. Soffel** I'm not sure. Let me ask my question and then you can explain. I'm looking at the projections for bed occupancy. I'm curious how the med surge beds which are currently at forty five percent, fifty three percent of the first six months of this year... Are going to go up to seventy-five and eighty percent full in three years? Thank you.

**Mr. Adler** Thank you.

**Mr. Adler** Mark Adler, Senior Vice President, Chief of Hospital Operations.

**Mr. Ayres** Joshuha Ayres, Senior Director of Finance.

**Mr. Cicero** Frank Cicero, consultant.

**Mr. Adler** Thank you for the opportunity this morning to the council. We've already seen a significant increase. Just to give you some background to this, as you know, we had a three-year affiliation with NYU, and we subsequently executed our merger back in April. We have been able to see a significant turnaround of the hospital, both in terms of quality, staffing, and the patients who are coming to the hospital itself. That figure is remembered that this build will take several years to get to that point. We have brought in additional services. Some returned to that hospital that had been closed. We reopened a twenty-bed inpatient psychiatric unit since our affiliation. We have been elevated by the American College of Surgeons from a Level 3 up to a Level 2 Trauma Center. That significantly increases our catchment area for all adult trauma 24/7. We have added several services and enhanced services in breast women's imaging. We have increased our rehab services on site as well, including pulmonary and cardiac rehab. Our AMI, just so you have an example, our AMI, acute MI, acute heart attacks to the hospital has doubled just in the past year. Our operating room volume also just in the past year, 15 percent, 100 percent increase since our affiliation. The trajectory is on its way. Our average daily census significantly improving, increasing as we speak. As we know, this is an aging infrastructure. The standard is single bedded rooms. It's better for quality, better for patients, better for the staff. In an aging facility that's over seventy years old in its core, it's time to accommodate these residents of Suffolk. Hope that answers the question, Dr. Soffel.

**Dr. Soffel** Not really, because I still don't see where these patients are coming from. Where are they going now? Are they not receiving care now? When you have such a dramatic increase in occupancy, I still don't totally understand what the underlying dynamic is.

**Mr. Adler** You know, some of them are being transferred to other counties. Some of them are going to Nassau, for example, to get specialized care. Obviously, that's not the opportune for them or their families. We're able to now start to keep them at our hospital

and provide advanced services that they normally would have to go outside the area to achieve.

**Mr. Kraut** Could I make a just a point having worked in that area?

**Mr. Kraut** Until NYU came in there, I wouldn't say in the immediate community, it might have been the hospital of choice. The investments they made in the expansion of their ambulatory care network, it just created a greater funnel of people to come in there. I think your average delay census went up thirty percent in the last two years or so. It's not only there's a fixed amount of people. Obviously, people that might have been going to other hospitals now choose to stay more local, as Dr. Adler said, but there is a... They've expanded. I think partly it's probably due to the fact you've also invested in clinical practices and expanded access to some degree. I don't know how you want to say that.

**Mr. Adler** That's certainly accurate. You know, just in the past three years we've hired nearly two hundred providers in the community and the hospital itself. We've expanded the practices that are in the area and opened new one's s in Suffolk County. We really are making an effort to increase not just the quality of care but the access of care for these patients. Of course, with that there's an increase in acuity and some more of them are going to need the hospital.

**Mr. Robinson** Other questions for the applicant?

**Mr. Robinson** Thank you.

**Mr. Robinson** Anyone from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 252033C, Guthrie Cortland Medical Center in Tompkins County. Certify a new hospital extension clinic and lease space for single specialty ambulatory surgery specializing in gastroenterology at 720 Willow Avenue, 3rd floor Ithaca. The department is recommending approval with conditions and contingencies.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** Guthrie Cortland Medical Center is a 162-bed acute care hospital located in Cortland. They are requesting approval to certify an Article 28 Hospital Extension Clinic in leased space and an existing medical office building in Ithaca, New York. The proposed site currently operates as a private physician practice that is affiliated with Guthrie Cortland

Medical Center. The extension clinic will be certified for ambulatory surgery single specialty, gastroenterology, and it'll be known as Guthrie Ithaca City Harbor Endoscopy Center. As an extension clinic of Guthrie Cortland, the site will continue to serve Tompkins County residents, particularly the Guthrie Cortland Medical Center patients in Tompkins County that need gastroenterology services. They'll have three endoscopy procedure rooms, no ORs, and they are projecting about 5,500 visits by year three with Medicaid at 10.3%, charity care at almost one and a half, and those projections and payer mix are based on the actual visits at the existing practice. Total project costs will be met with accumulated funds. The department is recommending approval with contingencies and conditions.

**Mr. Robinson** Questions for the department or the applicant?

**Dr. Berliner** Shelly, did we reach out to Cayuga Medical Center for their take on this?

**Ms. Glock** We did not. It's a hospital extension clinic. Our policy is around the ambulatory surgery center.

**Dr. Berliner** You didn't reach out. Did Cayuga Medical Center reach in?

**Ms. Glock** No, we did not receive any correspondence. Thank you.

**Mr. Robinson** I'd like the applicant to come up just for a moment then. There's just one point of clarification, I think.

**Mr. Cicero** Frank Cicero, a consultant to the applicant.

**Ms. Yartym** I'm Jennifer Yartym. I am the President of Guthrie Cortland Medical Center.

**Mr. Robinson** Thank you for coming up.

**Mr. Robinson** The question really relates to the 990 form that that you completed and the charity care line in particular, and I wonder if you could comment on that.

**Mr. Cicero** I'll speak first about some numbers and then Ms. Yartym will talk about efforts that the hospital makes today in its own county and plans to make in Tompkins County. First on the Certificate of Need application, you're required to say what the dollar amount is on a certain line item on the 990. Line-item feeds into another table on the 990 Schedule 7. On that schedule, if you look at financial assistance at cost, \$1.1 million, if you look at the number that you have to take from the other form of the part of the 990, it is zero, community health improvement services and community benefit operations. And then if you also look at total other benefits, roughly \$3.3 million. There is there was no offset. No offset we're talking about on Medicaid. This specific year 2024, they happen to have a New York State program that offset their Medicaid loss. Roughly \$4.5 million dollars on the line that says net community benefit expense. That is 3.6 percent of total expenses of the hospital. If you think about what our charity care policy is 2.0 percent that stems from the regulations that say you have to have at least 2.0 percent of your expenses. They're nearly double what the standard is.

**Mr. Robinson** Thank you.

**Mr. Robinson** It was not a challenge. I just wanted the clarification and have that on the record. I appreciate that very much.

**Mr. Robinson** Did you want to make a comment?

**Ms. Yartym** I would appreciate that. Thank you.

**Ms. Yartym** just a little bit of background that Guthrie Cortland Medical Center, Cortland Medical Center became affiliated with Guthrie just about seven years ago and within that time frame. It is a sole community hospital. Without our care and being there in the community, our members and our community would have to travel elsewhere. We've made a huge commitment and partner locally with our Public Health Office, Office of Mental Health, our local FQHC. We do a tremendous amount as part of the Community Health Needs Assessment, as well as our improvement plan to address those needs within the community with the ultimate goal of being able to keep patients local within the community. So, really just wanted to note that. Thank you.

**Mr. Robinson** Thank you very much for those comments as well.

**Mr. Robinson** Any other questions for the applicant?

**Mr. Robinson** Is there anyone from the public that wishes to speak on this application?

**Mr. Robinson** Hearing none, I'm going to call the question.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** The motion carries.

**Mr. Robinson** Thank you very much.

**Ms. Yartym** Thank you.

**Mr. Robinson** Application 252042C, Queen's Surgical Center in Kings County, certify a new multi-specialty ambulatory surgery center extension clinic in 1807 66th Street, Brooklyn, and perform renovations. The extension clinic will consist of seven operating rooms, one procedure room, and provide pediatric, dental, ophthalmologic, and neurologic surgical services. I'll note here that the address in the first paragraph of page one has been updated from 807 66th Street, Brooklyn to 1807 66th Street in Brooklyn. With that said, the department recommends approval with conditions and contingencies with an expiration of the operating certificate five years from the date of issuance.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** Queens Surgical Center is a At Article 28 Multi-Specialty Freestanding Ambulatory Surgery Center. They are seeking approval to certify and construct a multi-specialty ambulatory surgery center extension clinic in Brooklyn. The extension clinic will be known as King's Surgical Center. It will be in a federally designated health professional shortage area and a medically underserved area. The extension clinic will be certified for ambulatory surgery, multi-specialty, and they will specialize in ophthalmology, pediatric dental, and urology surgical services. None of the projected procedures, which are about 7,500 in year one, in year three, excuse me, are currently being performed in hospitals according to the applicant. The overwhelming majority of patients expected at this extension clinic are either currently being treated by participating surgeons in their private practice office-based practices, or their underserved members of the community who need surgical care who will be referred to Kings Surgical Center by Community Based Providers. This project, according to the applicant, is specifically intended to address a gap in access in this underserved areas of Kings County, and they have stated that the extension clinic will reach out to the FQHCs in Kings County to develop those referral relationships. The project is being funded with a bank loan and equity. The department is recommending approval with contingencies and conditions with an expiration of the operating certificate five years from the date of issuance.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions for the department or for the applicant?

**Mr. Robinson** Anybody from the public wishing to speak?

**Mr. Robinson** I'm assuming applicant is questions only.

**Mr. Robinson** Anybody from the public wishing to speak?

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. Robinson** Application 252076C, Liberty Endoscopy Center, noting an interest by Dr. Lim. Certify a second specialty vascular surgery to become a dual single specialty freestanding ambulatory surgery center with no construction. Please note that the second condition of the exhibit on Page 2 has been removed. Department is recommending approval with conditions and a contingency.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Ms. Glock** Liberty Endoscopy Center is an existing single specialty ambulatory surgery center that specializes in gastroenterology. They are seeking approval to convert to a dual single specialty by adding vascular surgery. There's no construction required as Mr. Robinson noted that the center has four existing procedure rooms which are adequate and can be equipped for vascular procedures. A Dr. Raji vascular surgeon has committed to utilize the center to do approximately 1,200 procedures in the first year. The department has reviewed this application. They are projecting Medicaid at 7%, charity care at 2%. We are recommending approval with a contingency and conditions.

**Mr. Robinson** Thank you.

**Mr. Robinson** Questions?

**Unknown Speaker** Shelly, can I ask the rationale for having a dual single specialty rather than a multi-specialty?

**Ms. Glock** I think you'd have to ask the applicant, but we do allow you have a single specialty. You can have up to three single specialties and then multi-specialty you become a multi-specialty. I'm not sure why they decided to do it though.

**Mr. Kraut** Let the applicant answer the question because I have my own theories.

**Mr. Cicero** Frank Cicero, a consultant to the applicant.

**Mr. Cicero** Just press that little button.

**Speaker** Ann.

**Mr. Cicero** I think the main reason is you can't have multi-specialty unless you have full sized ORs, and they do not have full sized ORs.

**Mr. Robinson** I think that unless you have anything else you want to say on this.

**Mr. Robinson** Very, very wise on your part. Thank you.

**Mr. Robinson** Any other questions from the members of the council or the committee?

**Mr. Robinson** Anyone from the public wishing to speak on this application?

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** That motion carries.

**Mr. Robinson** We've got a bunch of certificates here. I've got one that I got to take individually, and I'm going to actually run the rest of them down as a single motion, but I will announce them all.

**Mr. La Rue** The first question on a certificate may be in the history of the council. I'm sorry to do so.

**Mr. Robinson** Let me get the first one done.

**Mr. La Rue** Thank you.

**Mr. Robinson** The first one is a certificate of amendment for the certificate of incorporation for Mercy Hospital of Buffalo. Mercy Hospital of Buffalo requests approval to amend its certificate of incorporation to allow the corporation to include among its purposes the operation of chemical dependence, alcoholism, and or substance abuse services program. Department recommends approval.

**Mr. Robinson** We have a motion, Dr. Berliner.

**Mr. Robinson** Second, Dr. Torres.

**Mr. Robinson** All in favor?

All Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** That motion carries.

**Mr. Robinson** These rest are certificates of assumed names. I think this is just really a naming exercise here and probably in some ways is good because it is more representative of who owns it and what they do. I'm going to list this and then request a motion and then I'm going to entertain your question. These are certificate of assumed names. I'm going to read them all; Fresenius Kidney Care Home Dialysis of the Bronx, Fresenius Kidney Care Woodstock Bronx Dialysis Center, Fresenius Kidney Care Norwood Dialysis Center, Fresenius Kidney Care Park Slope Dialysis Center. An amended certificate of assumed name Fresenius Kidney Care Hutchinson Metro Center Dialysis, Fresenius Kidney Care Morris Park Dialysis Center, Fresenius Kidney Care St. Albans Dialysis Center, Fresenius Kidney Care Greenwich Village Dialysis Center, Fresenius Kidney Care East Harlem Dialysis Center, Fresenius Kidney Care South Slope Dialysis Center, Fresenius Kidney Care Crown Heights Dialysis Center, Fresenius Kidney Care Bensonhurst Dialysis Center, Fresenius Kidney Care Maspeth Dialysis Center, Fresenius Kidney Care Jackson Heights Dialysis Center, Fresenius Kidney Care Home Dialysis of Queens, Fresenius Kidney Care Jamaica Queens Dialysis Center, Fresenius Kidney Care Center Reach Dialysis Center, Fresenius Kidney Care Port Jefferson Station Dialysis Center, Fresenius Kidney Care Bay Shore Dialysis Center, Fresenius Kidney Care Park Hill Dialysis Center, Fresenius Kidney Care New Rochelle Dialysis Center, Fresenius Kidney Care Bayside Dialysis Center. I think those are the ones that I am going to get a motion on from Dr. Berliner and a second by Dr. Torres.

**Mr. Robinson** I'm going to go to you, Mr. La Rue to ask your question.

**Mr. La Rue** I'm sure there's no one here from that company, but the question I have in my mind is... Is the changing of this name an intent to run from their what appears to be horrible legal history and compliance issues? I could read through the current the Foreign Corrupt Practices Act, bribery, wide ranging conspiracy to defraud Medicare, HIPAA. I mean, I could go on here for how long?

**Mr. Kraut** Listen, Dr. Gutierrez.

**All** (Laughing)

**Mr. Kraut** That that's an inside joke from people who have been here. Could I ask the s the department who reviewed these, is this a rebranding issue? Just to rebrand all of their ownership? It appears to me to be.

**Ms. Glock** I think they're going to answer that up in Albany.

**Mr. Robinson** Oh in Albany.

**Mr. Kraut** In Albany.

**Department** Is the sound working?

**Mr. Robinson** Yes.

**Department** We were told by the applicant that they are seeking to change the names to more accurately describe the clinics geographically in order to make it easier for patients and the public to identify the clinics and for branding purposes.

**Mr. La Rue** I might make public health council history today, but I'm going to vote no against this because I wouldn't do anything to assist this organization, whether it's a name change or otherwise.

**Mr. Robinson** I appreciate that comment.

**Mr. Robinson** I'm going to open it up. Is anybody else have anything they want to say about this?

**Mr. Robinson** All in favor.

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Are you voting in favor or against?

**Mr. La Rue** Until they could answer the question.

**Mr. Robinson** It'll move without a recommendation.

**Mr. La Rue** I don't mean to be difficult.

**Mr. Robinson** You're entitled to your opinion.

**Mr. Robinson** We'll just note that there are two no votes. The application does not pass, but we will move the application forward to full counsel without a committee recommendation.

**Mr. Robinson** Can I ask what was it meant?

**Mr. La Rue** My concern specifically is the very long history of alleged noncompliance, actual noncompliance by multiple regulatory agencies. I don't know whether they're changing their name so that people are misled by what their history has been by changing the name.

**Mr. Kraut** Scott, they're not.

**Mr. La Rue** Just taking the word.

**Mr. Kraut** No, no. They're adding. Hold on, let's just be clear. They're adding to make it clear it's them.

**Mr. La Rue** I remove my objection.

**Mr. Robinson** Does that affect you, Mr. Torres?

**Dr. Torres** It does.

**Mr. Kraut** Could we take another vote, please?

**Mr. Robinson** We actually have a motion on the floor.

**Mr. Kraut** We have to make another one because it failed.

**Mr. Robinson** Can I have a motion?

**Mr. Robinson** Thank you, Dr. Berliner.

**Mr. Robinson** Do I have a second from you, Dr. Torres?

**Dr. Torres** Yes.

**Mr. Robinson** Thank you.

**Mr. Robinson** We have a motion and a second to approve this application.

**Mr. Robinson** All in favor?

**All** Aye.

**Mr. Robinson** Any opposed?

**Mr. Robinson** Motion carries.

**Mr. Robinson** Thank you.

**Mr. La Rue** I can no longer be considered difficult.

**All** (Laughing)

**Mr. Kraut** No, no, no.

**Dr. Eisenstein** Yes, just a procedural question, not about this application per se. My position has always been that if I'm not on a committee, when I go to full council to vote, I base my vote based on the recommendations made by the committee. What almost happened in a case like this would have been it would have come forward without a recommendation and because there wasn't a recommendation without knowing the merits, I probably wouldn't have voted in favor just procedurally.

**Mr. Kraut** Not necessarily because you would have learned that seven of the nine people voted yes. That might have been persuasive or not. You would have asked the question why.

**Dr. Eisenstein** I'm just trying to establish that this is where the work happens in the committees. That recommendation, especially if I'm not sitting in on a committee meeting is all I have really to go on.

**Mr. Kraut** Right, but if our rules said we could approve by majority, you might have had a different point. It's just we're a captive to our rules and we have to follow them.

**Mr. Robinson** Ordinarily, we won't have the applicant at full council. They should be there. They will not be invited to speak.

**Mr. Kraut** Listen, if you have any questions about amending their certificate of incorporation, that's what we're talking about. Forward them to Colleen and we'll get them to the applicant to see if they can respond. If anybody has anything, let's do that. It's better to kind of answer that in a letter than break precedent to have them speak at the council.

**Mr. Robinson** I do love this committee.

**All** (Laughing)

**Mr. Kraut** Sometimes.

**Mr. Robinson** Certificate of merger. There's three of them; Clifton Springs Hospital and Clinic Foundation Inc and Rochester Regional Health Foundation into Rochester Regional Health Foundation, United Memorial Medical Center Foundation, Inc and Rochester Regional Health Foundation into Rochester Regional Health Foundation, and Newark Wayne Community Health Foundation, Inc and Rochester Regional Health Foundation into Rochester Regional Health Foundation. The department is recommending approval on these three.

**Mr. Robinson** Motion by Dr. Berliner.

**Mr. Robinson** Second by Dr. Torres.

**Mr. Robinson** All in favor?

**All Aye.**

**Mr. Robinson** Any opposed?

**Mr. Robinson** Any abstentions?

**Mr. Robinson** That motion carries.

**Mr. Robinson** With that happy event, we come to the end of our run. Actually, I really want to thank the members of the committee. Thank you very much to the department staff for all the great work you did to get us ready for this meeting and appreciate the participation of the applicants and the public. Thank you very much. We're adjourned.

**Mr. Kraut** We have our next meeting is on December 2nd Public Health, December 3rd is the Health Planning here in New York City. 10:00am is going to be full council. Wish everybody a happy and a family driven Thanksgiving. Thank you so much for spending the time to read all five hundred and sixty-two pages.