

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
ESTABLISHMENT AND PROJECT REVIEW COMMITTEE MEETING
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ESP, CONCOURSE LEVEL, MEETING ROOM 6 ALBANY
TRANSCRIPT

Mr. Robinson: Today's meeting of the establishment, and project review committee. I'm Peter Robinson, chair of the committee. Welcome everybody, members, DOH staff, members of the public, applicants, and others. A couple of reminders. The one to repeat what Jeff's just said before, especially if you are an applicant, you may indeed be called to speak, and we would like everybody that is an applicant that's here to sign in. So, if you haven't done that yet, please see our staff, and make sure that that happens. A couple of other reminders. The meeting is subject to the open meetings law, and is broadcast over the internet. The webcasts are accessed at the Department of Health's website, which is <http://nyhealth.gov>. The on demand webcast will be available no later than seven days after the meeting for a minimum of 30 days. And then a copy will be retained in the department for four months.

A few guidelines, or ground rules. We use synchronized captioning, so therefore it's important that people do not talk over each other. Otherwise, the captioning can't be done correctly. The first time you speak, please state your name, and briefly identify yourself as a council member, staff, applicant, and so on. And that'll be of assistance to the broadcasting company as they record this meeting. I will note that all of the mics are hot, and so they pick up every sound. That includes the rustling of papers, but also side conversations that you may not want to have picked up. I did mention the form, so please fill that out. And those are the ground rules. And we are off, and running. So, let's get started with applications for residential healthcare facility construction. This is application 252188C, Rosary Hill Home in Westchester County. This project certifies 13 residential healthcare facility beds, and performs renovations to modernize the facility. The department is recommending approval with conditions, and contingencies a motion by Dr. Berliner. A second by Dr. Kalkut. Mr. Lebwohl?

Mr. Lebwohl: Thank you. Rosary Hill, 42 bed facility in Westchester. Not-for-profit. They are at 87.5% occupancy. The department is recommending approval with standard contingencies. Note that this construction will be fully funded by equity. That's it. Any other questions?

Mr. Robinson: Any questions from the committee, or other members of the council? Is there anyone from the public that wishes to speak on this application? Questions only? Thank you. I guess we'll call the question then. All in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? The motion carries. Thank you. Application for ambulatory surgery centers for establishment. Application 252226B. Access Surgical Care, LLC in New York County to establish, and construct a multi-specialty ambulatory surgery center at 4778 Broadway, New York, and certified lithotripsy outpatient services. The center will specialize in cardiovascular, vascular, facial, plastic, reconstructive surgery, gastroenterology, general surgery, ophthalmology, orthopedics, otolaryngology, pain management, and urology. The department is recommending approval of the application with conditions, and contingencies with an expiration of the operating certificate five years from the date of issuance. Motion by Dr. Berliner, second by Dr. Kalkut. Ms. Glock.

Ms. Glock: Good morning. Shelly Glock with the department. This application, Access Surge Care, LLC, is seeking approval to establish, and construct an Article 28 multi-specialty freestanding ambulatory surgery center in New York County. The relevant service area is New York County, including Upper Manhattan, encompassing Harlem, Hamilton Heights, Washington, Heights, and Inwood. This ASC is in a health professional shortage area for dental health, mental health, and primary care, as well as a medically underserved area. Please note for the record that the county is incorrectly noted in the need analysis conclusion. This is New York County, not Suffolk County. Dr. Fajardo is board certified in internal medicine, and nephrology, and Dr. Fajardo would be the sole member, and manager of the center. He will also serve as the medical director. Eight non-member surgeons have committed to performing procedures at this center, and they are projecting a little over 13,000 procedures by year three, with Medicaid at 39%, and charity care at 2%.

These projected visits are existing patients of each of the participating physicians, private practice, so none of these cases projected are currently being performed in hospitals. We are recommending approval with conditions, and contingencies, and an expiration of the operating certificate five years from the date of issuance.

Mr. Robinson: Thank you. Questions for the department? Any for the applicant? Any questions at all? Hearing none, we'll call the question. All in favor? Any opposed? Any abstentions? Motion carries. Thank you. Thank you. Application 261017E, Dutchess Ambulatory Surgery Center, LLC, doing business as Dutchess Ambulatory Surgical Center. In Dutchess County, this is to transfer 6.666% ownership interest from the 15 current members to one new member. The department is recommending approval with a condition. May I have a motion? Thank you, Dr. Berliner. Second, Dr. Torres. Mr. Lovewell. Oh, no. Ms. Glock, sorry.

Ms. Glock: Thank you. Dutchess Ambulatory Surgery Center. This is Article 28 multi-specialty freestanding ambulatory surgery center currently operating in Poughkeepsie, New York, and Dutchess County. And this application is seeking approval to transfer 6.66% interest from the 15 current members to one new member, Dr. Paul Carey, and that is depicted in the staff report. The issuance of

the 6.66% membership interest to Dr. Kerry when aggregated with other membership admissions over the last five years would have exceeded 25%, and that's why you're seeing this application today because public health law requires it to come to the council for a full review. As I said, they are currently licensed as a diagnostic, and treatment center, and providing ambulatory surgery multi-specialties. There are no proposed changes to services as a result of this application, and the department is recommending approval with a condition.

Mr. Robinson: Thank you. Any questions for the department? Is the applicant in the room? Could you forward, please? Is there a spot for the applicant to... Oh, over in the...

Mr. Kraut: In the corner?

Mr. Robinson: Oh, over there. Got it.

Mr. Kraut: And the public will be able to view the applicant?

Ms. Hickman: Yes. The program will be...

Mr. Robinson: Rotated. Okay.

Mr. Stelluti: Put this on. You're on.

Ms. Hickman: Okay. Thank you.

Mr. Robinson: Could you please introduce yourself? Yes.

Ms. Hickman: My name is Kathleen Hickman. I'm the applicant, and I'm the administrator for Dutchess Ambulatory Surgical Center.

Mr. Robinson: Thank you. After your testimony, could you please sign in?

Ms. Hickman: Yes, sir.

Mr. Robinson: Thank you. So, I'll start off. So, my question is really related to the center's performance with regard to access to care for both the Medicaid population, and for charity care cases. And I think as we've looked at the data, and on the performance of your center, we've seen actually a decline in those percentages, especially the Medicaid percentages over the years. And given the fact that there is a fairly significant percentage of the Dutchess County population that is Medicaid, and given the fact that we anticipate that there is going to be further stress on access to insurance coverage, especially this year with the changes in funding from the federal government, we think there's going to be more demand for charity care, and actually a need for greater Medicaid access. I

wonder if you could comment on your organization's plans with regard to both Medicaid access, and charity care.

Ms. Hickman: Absolutely. So, we did look at our numbers, and our pro Formas based on the question about that. We were understanding that we seem to be a little bit lower. What we can comment on is that we had \$20 million in contractual write-offs in 2024, which this application was based on. We asked our financial billing company to look at that, and extrapolate any charity bad debt. And we did find that we had 3% of the \$20 million as write-offs for charity care, bad debt. So, we feel that we're sort of reaching that in that aspect, but your question is the Medicaid population.

Mr. Robinson: It's both. Yeah.

Ms. Hickman: We service 12% of our volume is Medicaid in terms of payments. We have two of our doctors only on our staff do not accept Medicaid. All of the rest do. We par with all the Medicaid managed plans as well as Fidelis, and Pure Medicaid. So, we try to do as much as we can to participate. We've also explored the federally qualified healthcare centers in our area, and there are four within a 10-mile radius of our center. So, our plan is to do an outreach to those four centers, let them know that we are available, and we do treat Medicaid patients, and charity care patients, all of that. Our doors are open to that. The doctors do bring the patients to us as people understand in an ASC setting, but we are educating them as well that they... Our primary group is a urology group. They make up probably 75% of our ownership. They accept all managed Medicaid plans, and Fidelis, pure Medicaid, and all of the above. So, we are working with everyone to try to increase that access to our patients in our area.

Mr. Kraut: So, I'm just a little... You said that you do about 3% charity care based, but then if you are doing 3% charity care, why did you put 0% in the application? So, you're going to reduce that?

Ms. Hickman: That's a good question. We had looked at the application also in preparation to come here, and what we... Offering charity care is something we are honestly about saying, I'm not sure that we have that number. So, we put the honest number on there. But my question was to my financial company, what are we doing in terms of bad debt write-off when people can't afford this, when they say they don't have means? So, when we looked at the contractual write-offs, obviously that a lot of that is based on insurance, and payers, but they were able to extrapolate that 3% was truly bad debt write-off, charity care, people that didn't have the means to pay. So, that is 3% of the money of the \$20 million that we did in contractual write-offs.

Mr. Kraut: Right.

Ms. Hickman: So, that should have probably said 3%.

Mr. Kraut: Well, I think you have to then... You should be amending your submission, and maybe a couple of things. You know, contractual write-offs have no bearing on the issue we're looking at, okay? So, we're looking at people that may have a deductible, a co-insurance that can't pay. That's true charity care where you're writing off things that you would've expected the patients to do. And you have an obligation as an Article 28 provider to provide access. We gave you a right with that rights come certain community responsibilities of serving your community. When you appeared before us in July 20th, 2017, we approved that 10 new members were put into your ownership group, and they represented about 74% of the ownership group at that time. At that time, you reported 7% Medicaid to us, and now you're saying you're at 1%. So, when we look at this application, we're suggesting that you actively did something to diminish Medicaid access.

And that's what we're trying to understand. I don't think... If we had other means available to us, I think we'd hold you up, and wouldn't approve this. We're just trying to understand, how did you go from 7% to 1%? If you're saying you take managed Medicaid, you make yourself available, it doesn't make sense to us, the story you're telling us. And if the data is wrong, fine. Then you should amend it, and time of the next council meeting, maybe send us a letter with the right data, and what you're committing to do. But I would argue here that it's a transfer of ownership, right? And you're hearing what you're making an effort to do it, but this is an application that maybe we place a condition on it to return to us in an appropriate period of time. I look to the department, it's no less than two, probably three years.

And we have a conversation with you to report to us what... This is what you said you're going to do. You're going to increase it in three years, come back here, and tell us that you've increased it. But I think we'd be hard-pressed to make any... I don't want to threaten. I just would just say that I think there needs to be a... You need to be accountable for the words that were said in this room over the years. And that's the issue we're really dealing with right now, I would say.

Ms. Hickman: I do understand. I guess what I'm looking at is my payer mix by volume. And in 2025, we did 6.8% managed Medicaid, and 5.2% Fidelis. So, together that adds up to 12% volume of Medicaid population that we serviced in 2025. And maybe that could be amended to the application.

Mr. Kraut: Well, I would just say whoever prepared your application, there must have been a disconnect.

Ms. Hickman: I agree. And that's why I did bring the data.

Mr. Kraut: We'll give you the benefit of the doubt-

Ms. Hickman: Thank you.

Mr. Kraut: ...if you're telling us that's the numbers, but you should... We only can go by what you've given the council, and the Department of Health, and this gets flagged. We've said this time, and time again in this room. Don't come in this room if you're not serving Medicaid, and you're doing charity care. I mean, that's not directed at you. It's directed at the world.

Ms. Hickman: It's okay. I don't take it personally. But we do have the data, so we certainly can amend that, and [inaudible 00:16:23] okay.

Mr. Robinson: And we'd like to have that amended document, or letter before the full council meeting.

Ms. Hickman: And when would the deadline be for that?

Mr. Robinson: Three. [inaudible 00:16:37].

Unknown Speaker: Tomorrow.

Mr. Robinson: So, will the date be? [inaudible 00:16:40].

Mr. Kraut: The fourth. May 4th.

Dr. Kalkut: May...

Mr. Robinson: May 4th.

Ms. Hickman: May 4th. Okay. I can speak to the CON attorney today. We can supply these pie graphs, pie charts, and I'm sure he could just send that submission in, and do the amendment.

Mr. Robinson: Thank you. Dr. Kalkut, and then Dr. Berliner.

Dr. Kalkut: One related question to Mr. Kraut's, what he posed. Do you have a sliding scale that you offer to patients?

Ms. Hickman: No, we do not have a sliding scale.

Dr. Kalkut: Yeah, that would certainly be helpful in getting underinsured people, and people who are in between having insurance. And I think that's a standard for trying to increase, or truly serve the people who do not have insurance, and campaign.

Ms. Hickman: Okay. Thank you. We can certainly institute that.

Mr. Robinson: Dr. Berliner, and... Yep.

Dr. Berliner: Can you state whether the doctor who's joining the practice accepts Medicaid?

Ms. Hickman: In fairness, I don't want to say yes, or no because I'm not 100% sure if he does, or does not, but I can get that data with the amendment as well.

Dr. Berliner: Thank you. Okay. Thank you.

Dr. Eisenstein: Dr. Larry Eisenstein, committee member. So, trying to get to how you... We saw zero for charity care here, but you described 3%. It's kind of an add-on to Jeff's question. How aggressively do you go after patients when they don't pay their bills, or are unable? Do you sue them? Do you put them to collections? How do we get from somebody has a bill to 3% charity care?

Ms. Hickman: We do not use any collection agencies any longer. We did that many, many years ago, and we stopped. So, we sent a second notice asking if they can pay that copay. Is it possible? We also offer them payment plans. If you can put a certain percent down, and you could pay a certain amount of money each month thereafter, we offer that. If none of that is feasible for them, we just write it off. And that's where that percentage came from. The contractual write-offs, they're all in one category, which we understand that's mostly from payers that obviously they're not going to pay that amount. But when we delved into it, and we're able to get our financial company to break it apart, that's where we found out that 3% of the \$20 million in contractual write-offs was charity care. So, 17 million was true contractual write-offs from insurance companies. So, I don't want to muddy those waters, but 3% was, we just said, okay, we understand you can't pay, just write it off.

Dr. Eisenstein: So, to be clear, you don't sue patients, or send them to collections if-

Ms. Hickman: We do not.

Dr. Eisenstein: ...they owe you money?

Ms. Hickman: We absolutely do not. We don't use collection agencies at all. We just make a phone call, and if it doesn't come through, it doesn't.

Mr. Robinson: So, just a general comment around charity care. It's intended to be proactive, meaning that it is not applied as a result of an inability to make a collection, and that's why the sliding scale options, and other kinds of things are being suggested so that when you interact with the patient, and you make a decision at the time that you register them, and find out what their payer capabilities are, their insurance coverages, and so on, that's when the charity care gets applied, or not, not at the tail end after collection fails. So, just another point around that. I mean, because the issue there is it's an access issue because if some people feel like that they're going to have this obligation, and can't meet it, they may decide not to have the care done, and that's what we want to avoid. And so that's the reason for kind of suggesting that you look at charity care, not from the back end, but as a proactive measure.

I'm sorry, is there anybody else that has a comment on this? So, what I would like to ask on the basis of Mr. Kraut's comment for Dr. Berliner, you made the motion, and who made the second? [inaudible 00:20:36] Pardon me?

All: Torres.

Mr. Robinson: Dr. Torres. Would you amend your motion to include the condition that Mr. Kraut suggested? [inaudible 00:20:46]

Mr. Kraut: Yeah, I just want to amend the motion to include a condition that the applicant return to the council, or provide the Department of Health information regarding the activities it undertook to increase access to Medicaid patients, and its charity care policies, and the resultant volume in three years from the date of approval.

Mr. Robinson: Dr. Berliner, do you accept that? Do you accept?

Dr. Torres: I accept.

Mr. Robinson: Dr. Torres?

Dr. Torres: Yes.

Mr. Kraut: Okay. And legal, did I do it right?

Ms. Ngwashi: Yes.

Mr. Kraut: Okay, thank you.

Mr. Robinson: Okay. So, we now have an amended motion, and on that basis, I am going to call... And we are voting approval of this application. All in favor?

Mr. Kraut: Aye.

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? The motion carries. We thank you very much for entering this conversation with us, and the sign-in sheet?

Ms. Hickman: Thank you very much.

Mr. Kraut: [inaudible 00:21:49] 2029. See you again.

Mr. Robinson: Okay. [inaudible 00:21:55] This is a comment that isn't related to a specific application, so that's why I wanted to get this done. When we started this discussion, I think I made note of the fact that the payer mix horizon is changing in New York State because of cuts to the federal budget that in turn are rippling

down, and affecting New Yorkers. And as a result of that, Medicaid access is going to be more difficult, and more challenging for people that are Medicaid eligible, and we will, as a consequence of that, likely have more uninsured people than we currently have in New York State. And so while there may not be a formal requirement, I think as a committee, and as a council, we are going to be focusing, as Mr. Kraut just went through, access for Medicaid, and for charity care as we review applications that are coming forward.

And again, there is no specific standard, especially for these, but our guideline minimum that we informally are using is a minimum of 5% for Medicaid, and 2% for charity care. And so this is just, again, this is not a rule, it's not a regulation, but I think that's one screen that we ought to be applying to applications as we consider them. [inaudible 00:23:28] Okay. So, thank you for that. Moving on, this is a DNTC application. Oh, this first one is application 252029B, White Glove Community Health, LLC in Kings County. This application is being deferred at the department's request. Application 252183B, St. Mary's Center, Inc. In New York County to establish, and construct a new diagnostic, and treatment center at 73 Lenox Avenue, New York. This applicant has received a statewide healthcare facility transformation phase two grant. With that said, the department recommends approval with conditions, and contingencies, motion by Dr. Berliner, second by Dr. Torres. Ms. Glock.

Ms. Glock:

St. Mary's Center, Inc. It's a New York not for-profit corporation, and this application is requesting approval to establish, and construct a new Article 28 Diagnostic, and Treatment Center in lease space in Central Harlem on Lenox Avenue. The project also will relocate a 50 slot AIDS adult day healthcare program from its existing site on 26th Street, New York to separate lease space at the same address. St. Mary's Center will be certified for medical specialties, primary care, and certified mental health services outpatient, as well as a 50 slot AIDS adult day healthcare program. The total project cost of 5.8 million will be funded with a little under 34,000 in equity from St. Mary's Health Center, and five point almost eight million dollars in a statewide healthcare facility transformation program two grants.

St. Mary's Center Inc. is an operator of Article 28 RHCF, and Adult Day Healthcare Services. They're an affiliate of Argus Community, which is an organization which provides comprehensive health, housing, and social services to vulnerable New Yorkers, focusing on those with substance use disorders, mental health challenges, and histories of homelessness, and incarceration. The applicant is projecting about 85% Medicaid, and 5% charity care for the diagnostic, and treatment center, and the adult day healthcare program is projecting 100% Medicaid. The department is recommending approval with conditions, and contingencies.

Mr. Robinson:

Thank you. Questions from the committee, council members? Applicant? Is the applicant here? For St. Mary's, is anybody here? [inaudible 00:26:35] Are there any questions on this application that we need the applicant to answer? Anyone? Okay. This is not good.

Mr. Kraut: I agree. I mean [inaudible 00:27:01] Yeah, we can do that. [inaudible 00:27:03]

Mr. Robinson: Pardon me? [inaudible 00:27:05] Okay. So, I'm going to ask that the motion makers withdraw their application, and I request a motion. So, first, do you agree to withdraw your motion? You withdraw your second, Dr. Torres?

Dr. Torres: I agree.

Mr. Robinson: Thank you. Can I have a motion to defer this application to the next cycle? Thank you. Motion by Dr. Berliner, second by Dr. Torres. All in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? I think this is important to set as a precedent here, and appreciate the committee, and the council agreeing to the deferral.

Mr. Kraut: Can we just be clear about what that precedent is? So, the precedent, I think, that we're establishing is that when you have an application before the council, the applicant, or representative of the applicants are expected to be in the room. If they are not in the room, we will remove it from the agenda. So, that's the policy that we're essentially suggesting. Go ahead.

Mr. Lawrence: Has that policy been articulated to the applicant in advance?

Mr. Kraut: We just did.

Mr. Robinson: I think the department regularly, when they speak to the applicant, indicates there's an expectation that they should be here. I mean, that's my understanding of the practice of the department.

Mr. Lawrence: I guess there's a difference between expectation, and saying that your application will not be reviewed if you're not here.

Mr. Robinson: Yes, I agree.

Mr. Kraut: Yeah.

Dr. Torres: I agree.

Mr. Robinson: Mr. La Rue?

Mr. La Rue: Good morning, Scott La Rue, member of the council. I would, for point of record, mention that this is brought up at this meeting in the last eight years at almost every FIPC meeting that if you're not here to answer questions, or be present, then it's a problem. So, this isn't new information. It certainly shouldn't be.

Dr. Kalkut: I think it's been discussed at almost every meeting.

Dr. Torres: I'm asking whether the applicant has been informed that if they're not present, their application will be deferred. That's all. I understand that we've discussed this several times over, but I'm just want to be certain that the applicant is made aware in advance that their failure to be present would result in an application being deferred.

Mr. Robinson: Well, understand. And I don't want to mince words. I don't know exactly what wording was used. Certainly the expectation was created, whether it was a mandate like you suggest. I don't know the answer to that, but I do think that we have had that discussion in this committee several times before, as you remember, you participated in these, and I think the other thing by having this discussion, it is now on the public record that that's what we're requiring. [inaudible 00:30:08] Okay.

Unknown Speaker: I just confirmed it.

Mr. Robinson: Okay. Okay. So, did we vote?

Mr. Kraut: Yes.

Mr. Robinson: We did. We voted to defer, yes? That vote took place? Okay. All right. Acknowledging your comments, Mr. Lawrence, and recognizing that we'll be very proactive going forward. Application 252184B, New Windsor Family Care, LLC in Orange County. This is to transfer 99% membership interest [inaudible 00:30:44] from withdrawing member, to one new member, and to certify medical services, [inaudible 00:30:50] meaning primary care. Excuse me. The department is recommending approval with a condition, and a contingency. Motion by Dr. Berliner, second by Dr. Torres. Ms. Glock.

Ms. Glock: New Windsor Family Care is an existing Article 28 Diagnostic and Treatment Center located in Newburgh. They are currently certified to provide medical specialties, other medical specialties, and they are requesting approval to transfer 99% ownership interest in the center, and to add a service, and certify medical services primary care. The proposed service area is Orange County. The facility is within a health professional shortage area for primary care, and mental health, and also within a medically underserved area. The current member of New Windsor Family Care, Dr. Shapiro, and Mark Pedom entered into an agreement with Ariel Podom to transfer Dr. Shapiro's 99% interest membership in the center. And you can see that depicted in the staff report. Dr. Ariel Podom, board certified family medicine will continue to serve as the medical director. They are projecting 97.5% Medicaid, 0.5% Medicare, and 2% charity care. The department is recommending approval with contingencies, and conditions.

Mr. Robinson: Thank you. Questions for the department? Any questions for the applicant? Applicant questions only? Okay. I see you behind the post. Yep. Thank you very much. Call the question. All in favor? Any opposed? Any abstentions? Motion carries. Thank you. Application 252207B. Roche Medical Management, LLC, doing business as Roche Medical Center in Kings County, noting an interest by Dr. Kalkut. Establish, and construct a new diagnostic, and treatment center at 670 Flushing Avenue, Brooklyn. Department recommends approval with conditions, and contingencies. Motioned by Dr. Berliner, second by Dr. Torres. Ms. Glock.

Ms. Glock: Roche Medical Management, LLC, doing business as Roche Medical Center is seeking approval to establish, and construct an Article 28 diagnostic treatment center in lease space in Brooklyn, Kings County. They'll be certified for medical specialties, primary care, and other medical specialties, and will provide primary, and specialty services, exclusively being obstetrics, and gynecology. The site location for the facility is within a health professional shortage area for primary care, mental health, and dental health. It's also within a medically underserved area. Alana Roshan is the sole member of the center. Dr. Daniel Roshan, who is the spouse of Alana Roshan, currently operates the existing OB/GYN practice providing women's health services at the current location. The center will be renovated to meet Article 28 standards, and they are going to be offering a wide array of comprehensive women's health services, which you can see in the staff report. Dr. Roshan will serve as the medical director. They are projecting 80.5% Medicaid, and 4% charity care. The project costs will be funded with members equity, and the department is recommending approval with contingencies, and conditions.

Mr. Robinson: Thank you. Questions for the department? Applicant questions only? Okay. Hearing none, we'll call the question. All in favor?

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Thank you. We're now moving on to hospice. Application 252144E.

Ms. Glock: I think we skipped one, Peter.

Mr. Robinson: Did I skip GAMS? I'm sorry. I apologize. Yes. Thank you. Application 261044E, GAMS LLC, doing business as ZellCare Family Health Network, LLC in Orange County. This is the transfer of 25% ownership interest from the three current members to one new member. The department is recommending approval with a condition. Motion by Dr. Berliner, second by Dr. Torres, Ms. Glock.

Ms. Glock: GAMS LLC doing business as ZellCare Family Health Network is an existing Article 28 Diagnostic, and Treatment Center. They are located in Monroe, New York. This application seeks approval to transfer 25% membership interest to a new member Dove Markowitz through a dilution of approximately 8.3%

ownership from the current three members. This center provides primary care, and other medical specialties. There's no changes to the services provided being proposed. You can see the current, and proposed membership in the staff report, and the department is recommending approval with a condition.

Mr. Robinson: Thank you. Questions for the department? Applicant questions only. [inaudible 00:36:34] Thank you. Hearing none, call the question all in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Now we go to applications for hospice services. Application 252144E, Hospice and Palliative Care, Inc. There's a list for the geographic area that's in your material. This application merges Hospice and Palliative Care Inc, and Hospice of Chenango County, Inc with Hospice and Palliative Care Inc being the surviving operating entity. Department is recommending approval with a condition. Mr. Lebwohl. Oh, sorry. Motion by Dr. Berliner, second by Dr. Torres. Now, Mr. Lebwohl.

Mr. Lebwohl: You keep stealing my thunder. I

Mr. Robinson: I know. When the rhythm is off.

Mr. Lebwohl: So, Hospice and Palliative Care Inc. serves Herkimer, Madison, and Oneida Counties. They're proposing to merge with Hospice and Palliative Care of Chenango County, which surprisingly serves Chenango County. The merged entity will serve the four subject counties. There is no other expansion to areas, or change in services rendered. These are both not for-profits that are merging. And as you said, the department recommends approval with standard.

Mr. Robinson: Thank you. Questions? Applicant questions only? Oh, yes. For the applicant. Can we have the applicant come sideways?

Dr. Eisenstein: Good morning, Dr. Larry Eisenstein committee member. We have discussed before the fact that New York is basically last in the nation in the use of hospice care, and been having experienced the value of it with my own parents, I feel that we need to do a better job recruiting patients into hospice, making the community understand the value, and why it's so important. Do you have a strategy as you do this to grow your operations? And how are you addressing the fact that hospices in general do poorly in New York compared to the rest of the country?

Mr. Cicero: Well, we'll introduce ourselves. I'm Frank Cicero, a consultant to the applicant. Others will introduce themselves in a moment, and they'll probably speak to that, Dr. Eisenstein. I think the application itself goes to that to try to preserve this access in Chenango County, but I'll let the others speak.

Ms. Bogdan: Sure. I'm Mary Bogdan. I'm the CEO for Hospice and Palliative Care in New Hartford, New York. I think you're off. There you go.

Ms. Johnson: I'm Kendall Johnson, Executive Director of Hospice of Chenango County. [inaudible 00:39:34] So, I could answer the question, or attempt to.

Mr. Robinson: Can you speak into the mic, and just pull it a little closer?

Ms. Johnson: Sure. Is that better? [inaudible 00:39:41] There we go. So, I've worked at Hospice of Chenango County for 15 years, and for a long time, there was sort of this idea that in New York state physicians were really not having meaningful conversations with their patients about hospice care. But in the last five to six years, we've really seen a shift where it's the patients that don't want to be referred to hospice, and they know that their physician referred them, but they don't want to sign on. So, I wish I had a really clear answer for you, but I think the whole New York State being last in utilization is really complicated in ways that we don't entirely understand, if that helps. I'm sorry, it's not pinpoint reasons.

Ms. Bogdan: Yeah. And so we are last in the country for hospice services, but when you look at the quality, New York State actually is 10th for the quality of the hospice that's provided. I think it's a lot of... The population is coming in. We have a lot of refugees, especially in my area, that struggle with that. We actually have been working very diligently with those areas in nursing homes. We've had struggle a little bit with nursing homes, and so we've really drawn... I've actually just within the last two weeks, signed two nursing home contracts because that dynamic is starting to change, and so we are really trying to leverage that. I mean, the care we provide is from newborn to 103, and if it wasn't for us, it would be really, really difficult for families. Again, like Kendall said, the utilization, it's very, really tough to understand why.

Mr. Robinson: Thank you. I'm not sure there's a good answer to your question, but I think it's an important question, and I think that we need to encourage higher utilization rates. Sometimes it's not necessarily the hospice providers themselves.

Mr. Cicero: No, no.

Mr. Robinson: It's the mechanisms by which people are referred to hospice that end up being where we need to put the pressure.

Dr. Eisenstein: Yeah. I was kind of hoping they had some magic answer to this. And I bring it up every time there's a hospice that comes in front of us.

Mr. Robinson: I know you do, and I'm glad you do because I think it's important to keep that concern, and that issue.

Dr. Eisenstein: Especially when we look at what we spend on end-of-life care that could put the financial and emotional burden on the system, and people themselves. I think this is an area we just as a whole need to do better. So, I just keep highlighting that.

Mr. Robinson: Okay. Well, thank you for that. And any other questions for the applicant, Dr. Kalkut?

Dr. Kalkut: My question is about, is funding by Medicaid an issue for getting more people into hospice? Your payer mix changes 4X over the first, and the third year compared to what it is now. How do you do that? What are you employing to get more Medicaid patients in this?

Ms. Johnson: Hospice of Chenango County actually has the highest Medicaid utilization in New York State.

Dr. Kalkut: So, it's just the combination of [inaudible 00:43:12].

Ms. Johnson: ...yeah. So, one of the issues is our population is primarily Medicare. It's an age thing. So, while they are skewing younger, we take everyone, even if they didn't have health insurance. So, we're not intentionally trying to not serve the Medicaid population. It's just in general, they are younger, and healthier than the hospice population in general.

Dr. Kalkut: And more of your cases do eligible cases? Is that...

Ms. Bogdan: Yes.

Ms. Johnson: Yep.

Dr. Kalkut: Okay. Thank you.

Mr. Robinson: Okay. If there are no other questions, then we will call the question. All in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Thank you very much for your comments. This is residential healthcare facility establishment. Application 211102E, Rockville Holdings Operating LLC, doing business as Rockville Skilled Nursing and Rehabilitation Center. This is in Nassau County to establish Rockville Holding Operations Operating, LLC, doing business as Rockville Skilled Nursing and Rehabilitation Center is the new operator of Rockville Skilled Nursing and Rehabilitation Center, a 66 bed residential healthcare facility located at 50 Main Avenue, Maine Lake the State, Rockville Center. The department recommends approval with a condition, and contingencies motion by Dr. Berliner, seconded by Dr. Torres. Mr. Lebwohl.

Mr. Lebwohl: Of note, this is for profit to for profit. The facility has 100% occupancy. There is no change to services offered, or to the number of beds. The department has recommended approval with standard contingencies. All applicable reviews have been satisfied.

Mr. Robinson: Questions for the department? Applicant questions only. Thank you. Call the question all in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Thank you. Application 23239E. OLP SNF OPCO LLC. Wow. Doing business as Our Lady of Peace, nursing care residents in Niagara County.

Mr. Kraut: I want to see that.

Mr. Robinson: This is to establish that alphabet soup as the new operator of a 250-bed residential healthcare facility currently operated by Our Lady of Peace Inc. At 5285 Lewiston Road in Lewiston. Department recommending approval with a condition, and contingencies. Motion by Dr. Berliner, second by Dr. Torres, Mr. Lebwohl.

Mr. Lebwohl: Thank you. This is a transfer from not for-profit to for profit. The facility currently has an occupancy of 96.7%. The transfer will be to parties who were, I believe, in the last cycle approved by this body for another acquisition. And there's no change to services offered, or to the number of beds, so there is no review for need. Otherwise, the department has recommended approval with standard contingencies, and they have satisfied all applicable reviews.

Mr. Robinson: Thank you for that. Questions for the department? [inaudible 00:46:43] For the applicant?

Ms. Monroe: Oh.

Mr. Robinson: Oh, you have a question, Anne, about the department?

Ms. Monroe: My computer wasn't working. I can't even pull it up. I don't know if it's for the applicant, or for the department. Probably the applicant. In one of this week's Business First articles in Buffalo, they interviewed someone from this organization, and they were very proud to announce that they expect their profits to go from X, and that's why I can't get to it, X to Y, but a significant increase in the first year. And if it's occupied fully, and I'm wondering, did they misquote you? Did you see that article?

Mr. Blatt: Yes. Good morning. Andrew Blatt, consultant to the applicant, Bernadette Roche, who's one of the proposed members. I think you're referring to the article. I read part of the article. I read the article. There were a couple different

articles I talked about that the new proposed operator was going to double their revenue.

Ms. Monroe:

Yes.

Mr. Blatt:

Okay. So, I think what that needs to be looked at, respectfully, is that the CON data is based upon the 2024 cost report, that data. Occupancy during the 2024 year was at about 49.5%. Occupancy now is at about 79%, and the COM projections are based on about 95% utilization. Respectfully, I would expect revenue to increase based upon those numbers, as well as expenses are going to increase. So, it is correct. Revenue is going to increase, but so is occupancy.

Ms. Monroe:

It was a big number. I wish I could find the [inaudible 00:48:21]

Mr. Blatt:

Yeah, no, it's going from approximately... I mean, it's in the staff report from about 14.4 million revenue in 2024 to we're projecting \$25.9 million in our first full year of operation if occupancy is at about 95%.

Ms. Monroe:

Okay. Just a follow-up question, if I could.

Mr. Robinson:

Please.

Ms. Monroe:

We've seen many long-term care facilities come before us, and almost all of them talk about their inability to recruit staff. And I would expect if you're going to go from that occupancy to a higher occupancy, you're going to have to require more staff. How do you plan to buck the wave that everyone else seems to be experiencing in terms of recruiting staff to function at that level of occupancy?

Mr. Blatt:

Sure. And I'm going to turn it over to Bernadette in a moment, but one of the issues that the current operator had, and this is what was shared with me during the CON review, is they had to take half their building offline because they had a massive flood. So, they lost a lot of staff. And then when they tried to bring that unit back online, when it was renovated, and rehabbed, they also had to deal with a union contract that was recently negotiated, and they were able to start recruiting of staff again, which is why it's been a slow projectile in terms of fill-up. Of course, they're making sure they have the staff in there. I agree with you that staffing is a challenge, and I will let Bernadette Roche discuss that.

Ms. Monroe:

Thank you.

Ms. Roche:

Hello. Bernadette Roche. I'm VP of operations. We have another facility that we just started doing open interviews, recruiting. We're actively recruiting on Indeed. We have Facebook. We are getting-

Ms. Monroe:

Can you speak more into your mic, please?

Ms. Roche: Sorry. We are having staff, and retaining staff. I think it's through advertising, and recruitment. I think the contract with the union will assist us with that. The wages did increase with that negotiation with the union. So, we're expecting to be able to hire. It is also in an area that I think that they have a lot of long-term staff, and we intend to retain the staff that's in the building.

Ms. Monroe: Thank you.

Mr. Robinson: Please.

Mr. Kraut: Yeah. So, I just want to acknowledge that in the material that accompanied the application, the state ombudsman pointed out the issue that Ms. Monroe just referenced. And so I heard your response, which is address it, but I want to acknowledge that the ombudsman looked at that issue as well. They still recommended approval, but they recognize that this is a major area of concern as are there a few other operational areas that we hope that you'll take that to heart, and respond at appropriately when you take over ownership of these facilities. Thank you.

Mr. Robinson: So, that was more a statement than a question.

Mr. Kraut: Yeah. I'm just acknowledging once the ombudsman provides comments that are relevant, I just want to make sure it's in the record. That's it. [inaudible 00:51:52]

Mr. Robinson: Okay. Dr. Eisenstein?

Ms. Roche: We acknowledge that, and all of those issues have been addressed that the ombudsman have brought up, and we do have all of the actions that were taken.

Mr. Robinson: Appreciate that. Dr. Eisenstein?

Dr. Eisenstein: Yes. In the documentation that accompanies the application, it says that as of March 3rd of this year, your occupancy rate was 96.7%, yet you referred to 2024, it was 49%. That basically doubled in a year. Is that attributable to the damage from the flood, or is there... I mean, how else? I was going to ask how you went to double so quickly, but...

Mr. Blatt: Yes, it was. I mean, the current operator, our lady piece is... All the teams have been working together because they want to preserve the asset, and it was attributable to the flood. And they actually wanted to bring it back online earlier. It just took them longer to complete renovations, and they were actually turning away residents until they were able to bring a unit back online, and get sufficient staffing to handle that.

Mr. Robinson: Okay. Okay. Thank you very much. Mr. La Rue?

Mr. La Rue: Good morning, Scott La Rue, member of the council. I know that the application states that this is not an arm's length transaction with the individuals that are going to hold the real estate, but I'm interested in what your relationship is with the individuals that are providing the real estate and also financing this project for the operations to some degree. Do you cooperate, or have any relationship with other nursing homes that they operate?

Mr. Blatt: So, Mr. La Rue, in response to your question, two of the members on real estate have either family members that are also involved in the operations of the nursing home. That's Fagie Chapler, and Pesach Brown. There are two other members on the real estate, Adam Hoffman, Jacob Levine, who are purely they're owners of the real estate, the Propco, as we call it. And that's why we've disclosed this as part of the CON review. In terms of your second question, this real estate group does not own any other... Well, let me rephrase that. Mr. Offman, and Mr. Levine do not own any other real estate for any other skilled nursing facilities in New York, or other places that I'm aware of.

Mr. La Rue: Is Mr. Josh Brown, is his name A-V-R-O-H-O-M, Josh Brown?

Mr. Blatt: Yes. Mr. Avrohom Josh Brown. Yes.

Mr. La Rue: So, I think the record indicates that there is some ownership in other nursing homes, not just real estate holdings.

Mr. Blatt: Correct. Mr. Brown is a member of Crest, and Eastside Nursing Homes in New York.

Mr. La Rue: So, this is just a comment, not a question to the applicant. So, if we took the individuals who are holding the real estate for this transaction, and providing financing for the operations so that these individuals can purchase the nursing home, they would not pass character, and competency in the state of New York because 60% of their portfolio is not three stars, or better, which for the benefit of the council, I'm actually sending a news article around, Jeff agreed to send it around on specifically this issue. So, you've got a group of individuals who are going to hold the land, the building, the rent, who are financing the operations of the nursing home, but from a character incompetence perspective, we're saying they don't go through character incompetence because they're not running, or managing the nursing home. And if they had to go through character incompetence, they most likely would not pass.

Mr. Robinson: You want to say anything?

Mr. Kraut: Well, I think what you said is factually correct, but for the... And I'll talk to our legal counsel. For our purposes here, we do not apply character incompetence to the real estate holdings unless we change the rules, or regulations. Is that correct?

Ms. Ngwashi: That's correct.

Mr. Kraut: Yeah. So, we can only look at the applicant. I mean, look, this is [inaudible 00:56:36] We can look at anything. Yeah. I mean, you can look at anything, but the reality is, and I think this is the issue that you've raised numerous times, is are the owners serving as a lack of a better term, a front for people who cannot otherwise own a nursing home? Ms. Roche is the managing member, and the person who has the experience, and is really the person we're looking to behold accountable for operations, and everything. I get it, but that's how New York State sees to structure these relationships. I wish it were otherwise, but we're, I think, somewhat bound by this conundrum. Yeah.

Mr. La Rue: Yeah. I would point out we do have discretion, but what you're doing is making a judgment of whether what they're representing is the fact that they're not going to be influencing control over the nursing home.

Mr. Kraut: Yes. And if they... My understanding is based on some high profile cases brought by the Attorney General, is that if there is evidence that they do, that means we did not approve them as an operator. And if they are influencing, or any evidence that they are managing the home, they're in violation of the law, and there's other remedies other than this counsel to hold them accountable for violating the law. So, I would... We don't have an inspector general in FIPIC, nor do we want one. So, I would say that you raise the issue. It may be other agencies that will look over their shoulders, and see if there's any evidence of inappropriate influence on the operations.

Mr. La Rue: I would point out, hopefully, if the ad hoc committee's recommendations are approved at the next FIPIC meeting, this situation will be resolved, and hopefully we won't be facing this kind of conflict going forward.

Mr. Kraut: So, until such time, we're presented with the facts of this application.

Mr. Robinson: And given that... Yeah, Ms. Monroe?

Ms. Monroe: Excuse me. I'm having computer problems, so I can't find it. But Ms. Roche, how are you... You're going to be part owner now of the nursing home, correct? How is your piece being funded? Are you funding that out of your own dollars, or are you funding that out of a loan that you received? And if so, from whom?

Ms. Roche: From myself.

Ms. Monroe: So, you are not getting money from the land people, or anyone else to buy the nursing home?

Ms. Roche: No.

Mr. Robinson: Okay. Good discussion. And actually, Mr. La Rue.

Mr. La Rue: I just want to clarify because I want to make sure I understand. I think the application reflects that the real estate folks are putting some money into the operations of the nursing home. [inaudible 00:59:56] Maybe not directly to this.

Mr. Kraut: So, could you just answer [inaudible 01:00:00] The issue is contribution of equity.

Mr. Blatt: The contribution of equity, and it's two different things. There's a purchase price for the operations, and there's a purchase price for the real estate. The real estate is going to pay for the purchase price of the operations on behalf of all the parties. However, Ms. Roche, all the other members will be responsible for contributing their required equity for any other requirements, for instance, working capital, and things to that nature.

Mr. Robinson: Okay. I do think that as Mr. Kraut said, we actually have to act on the information before us, and what the department's scope of responsibility is. Certainly that may change as your committee reports it, but for now we are where we are. And with that, I call the question, and we'll ask all in favor?

All: Aye.

Mr. Robinson: Any opposed? Any abstentions? An abstention by Mr. La Rue. The motion carries. Thank you. Now we're moving to licensed home care. [inaudible 01:01:24] Yeah. Licensed home care agency establishment. And this is a PACE application. [inaudible 01:01:30] So, this is application 252172E PACE at Hudson Headwaters Inc. To establish a licensed [inaudible 01:01:39] home care services agency to serve individuals enrolled in that PACE program. The department is recommending approval with a condition. Motion by Dr. Berliner. Second by Dr. Torres. Mr. Lebwohl.

Mr. Lebwohl: Thank you. So, this is to establish a LHCSA for the PACE at Hudson Headwaters Inc. The PACE at Hudson Headwaters serves Saratoga, Warren, and Washington Counties. As an establishment for a PACE affiliated LHCSA that will only serve members of the PACE, it is exempt from need review, and the department recommends approval.

Mr. Robinson: Got it. Questions for the department? Applicant's questions only? Call the question all in favor? [inaudible 01:02:57]

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? The motion carries. Thank you. We're now up to changes in ownership. Application 222245E, Family Respite Home Care Agency, Inc. Transfer 90.1% ownership interest from one withdrawing shareholder to the remaining shareholder. Department recommends approval with a condition motion by Dr. Berliner. Second by Dr. Torres. Mr. Lebwohl.

Mr. Lebowhl: Thank you. Family Respite Home Care Agency is located in Brooklyn. You will hear a lot of these phrases several times today, by the way, exactly. Located in Brooklyn, a transfer of 90.1% to an existing shareholder. They are serving more than 25 patients, and as a result are exempt from need review, and there are no changes to the proposed service area, or to the services offered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Okay. I note that there is no applicant signed in on this application. Is anybody from the applicant here? Okay. Can I ask the motion makers to withdraw their motion for approval, and instead make a motion for deferral? Thank you.

Dr. Torres: Agree.

Mr. Robinson: Agreed. Okay. So, we now have a motion for deferral on the table. All the question all in favor? Any opposed? Any abstentions? Motion carries. Application 231045E. Medford Hamlet LLC doing business as Medford Hamlet Homecare, transferring 66.667% ownership interest from two deceased members to two existing members, and three new members. [inaudible 01:04:29]the department is recommending approval with a condition motion by Dr. Berliner. Second by Dr. Torres. Mr. Lebowhl.

Mr. Lebowhl: Thank you. Medford Hamlet, LLC is located in Medford, New York. They're transferring two thirds of the ownership interests from two deceased members to two existing members, and three new members. As they serve more than 25 patients, they are exempt from need review, and there is no change to the proposed service area, or to services offered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Thank you. Questions for the department? Applicant questions only. Thank you. Call the question. All in favor?

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Thank you. 231252E. First home care of NY, or New York Corp. Transferring again 9.1% ownership interest from one withdrawing shareholder to the remaining shareholder. Department recommends approval with a condition. Let me not go through the wrong drill here. Is the applicant present? I see nobody signed in.

Unknown Speaker: They are.

Mr. Robinson: You are. Okay. Thank you. Please sign in afterwards, please. Thank you. A motion for approval. Dr. Berliner. Second, Dr. Torres. Mr. Lebowhl.

Mr. Lebowhl: Thank you. First, Home Care of New York Corp is located in Brooklyn, and is seeking to transfer 90.1 membership to an existing shareholder. As they serve more than 25 patients, they are exempt from review for need. There are no

proposed changes to the service area, or to services rendered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Thank you. Questions for the department? Applicant questions only. Okay. Call the question. All in favor?

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Calling application 241067E. SNA Unified Home Care, Inc. Transferring [inaudible 01:06:39] 90.1% membership of one shareholder to the remaining corporate shareholder. Department is recommending approval with a condition motion by Dr. Berliner. Second by Dr. Torres. Mr. Lebwohl.

Mr. Lebwohl: Thank you. This agency is located in Brooklyn. They're seeking to transfer 90.1% to an existing shareholder. As they serve more than 25 patients, they are exempt from need review. There are no proposed changes to the service area, or to services rendered, and they have satisfied all applicable reviews. The department is recommending approval.

Mr. Robinson: Great. Questions for the department. Applicant questions only. Call the question all in favor?

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Application 241102E. [inaudible 01:07:36] Homecare. Manhattan Inc. Doing business as Synergy Homecare. Better name. Transferring 100% ownership interest to a new shareholder, LLC. Department recommends a condition. Motion by Dr. Berliner. Second by Dr. Torres. Mr. Lebwohl.

Mr. Lebwohl: This LHCSA is located in New York County. It is a 100% transfer of interest to a new shareholder. As they serve more than 25 patients, they are exempt from need review. There is no change to the proposed service area, or to services offered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Thank you. Questions either for the department, or the applicant? Hearing none, call the question. All in favor?

Mr. Kraut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. 241125E, Novel Homecare Home Healthcare Services of New York Corporation, transferring 75.25% ownership interest from one shareholder to three current shareholders, and one new shareholder. Department recommends approval with a condition motion by Dr. Berliner. Second by Dr. Torres, Mr. Lebwohl. Please.

Mr. Lebwohl: Novel Home Healthcare Services of New York Corp is located in Brooklyn. They are transferring 75.25% of the ownership interests from a withdrawing existing member to three current members, and one new member. As the LHCSA serves more than 25 patients, it is exempt from review for need, and there is no change to the proposed service area, or to services rendered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Questions for either the department or the applicant? Hearing none, call the question all in favor.

Dr. Kalkut: Aye.

Mr. Robinson: Any opposed? Any abstentions? Motion carries. Application 251019E CareLink, Inc, transferring 80.2% ownership interest from one withdrawing shareholder to the two remaining shareholders. Department is recommending approval with a condition motion by Dr. Berliner, second by Dr. Torres. Mr. Lebwohl.

Mr. Lebwohl: Thank you. CareLink, Inc. Is located in Nassau County. It is an 80.2% transfer to two remaining shareholders from a withdrawing member. As they serve more than 25 patients, they are exempt from need review. There is no proposed change to the service area, or to services offered. They have satisfied all applicable reviews, and the department recommends approval.

Mr. Robinson: Thank you very much. Questions for either the department, or the applicant? Hearing none, call the question all in favor. Any opposed? Any abstentions? That motion carries. Well, we've done it.

Ms. Monroe: Could I ask the department a question?

Mr. Robinson: Of course. About this application?

Ms. Monroe: Well, these.

Mr. Robinson: The ones that we've gone through. Sure, please do.

Ms. Monroe: Okay. I just have a question. When you say that you review the financial reports prepared by a CPA, and that the institution is viable, do you look at the capacity of the new owners to buy such a thing? Do they submit any kind of self... Not self-evaluation. You know what I mean? A financial

Mr. Lebwohl: A personal financial statement?

Ms. Monroe: Yes. Thank you.

Mr. Lebwohl: And you're asking about residential facilities, right?

Ms. Monroe: Yes. We just did five of these, and they all have the same [inaudible 01:11:14]

Mr. Lebwohl: Oh, you're asking about home care. So, for home care, what we look to, and we ask for them to certify that they have enough cash for two months of operating costs.

Ms. Monroe: The facility does.

Mr. Lebwohl: The owners.

Ms. Monroe: Oh, the agency, or the...

Mr. Lebwohl: Yeah. The new owners are dedicating capital reserves of two months of liquid operating costs.

Ms. Monroe: Because they're out of their own money.

Mr. Lebwohl: Well, whether they financed it, or not.

Ms. Monroe: No, no, but I mean, it's not organizational.

Mr. Lebwohl: That's right. Well, it's just that the agency will have to have in its bank accounts two months operating costs of cash.

Ms. Monroe: Right.

Mr. Lebwohl: The question of whether it's operating reserves that were in existence before, or whether they're putting new money in is not part of how we determine that. I mean, if you have two months of cash reserves, you have two months of cash reserves.

Ms. Monroe: Right. But the people who are buying this, or are now getting the new ownership, you do not ask for a personal financial statement from them that they are able to... I don't know why... Well, I'm not being clear, but [inaudible 01:12:29]

Mr. Robinson: Can the people who are buying this really afford to both make the purchase price of the agency, and then ensure its continued operation? And do we look at their finances in such a way that we can make a judgment about whether that's there? I think that's what Anne's... Is that right, Anne?

Ms. Monroe: That sounds perfect.

Mr. Lebwohl: I understand. And Chris Squillacioti is... Actually, Chris is on the other side of this pillar. So, Chris, if you want to say something more, please jump in, but I'll just say we're really looking just at the ability to run the organization, and whether the agency itself will have liquidity. We are not asking them for a comprehensive personal financial statement.

Ms. Monroe: Thank you.

Mr. Lebwohl: But Chris, if you want to jump in, and add any detail on that, go ahead.

Mr. Squillacioti: Thanks, Andy. Chris Squillacioti, Department of Health. So, we do ask for a breakdown just so that they can demonstrate two months of working capital. We don't evaluate that. We do rely on a certified public accountant to attest that they meet the financial feasibility of that operation. How they go about funding it, we don't really get into that level of analysis.

Mr. Kraut: So, just let's be clear about this. We've approved, I'm going to say 1300 LHCSAs, right? And we're always concerned about oversight, and they've been in the news from time to time. So, the issue about... I think you're right, you have to be assured that they're operating, and they're able to do it safely to take care of the people. These are people that are very frail that if we need to have oversight. One of the things that... Do they report the sale price of the transfer to us?

Mr. Squillacioti: So, within the application, there's an asset purchase agreement, and that will list the sale price.

Mr. Kraut: So, just when you're doing the staff report on a going forward basis, could you please report now the sale price? Because if we see something extraordinary, it might engender additional conversation, and we don't even know what a baseline is.

Mr. Squillacioti: Right. And I will tell you it varies significantly.

Mr. Kraut: Well, that's where I'm... The variation would... When there's an aberration from an average, it usually suggests what's going on, and we might want to take a few more minutes to ask a question. That's what I would suggest.

Mr. Lebwohl: We can do that. We can add that. I will just say we did an examination of that this week.

Mr. Kraut: Oh, okay.

Mr. Lebwohl: And the range is vast. I mean, look, when you're buying a nursing home, there's a fairly finite number of variables that feed [inaudible 01:15:35] into what that costs.

Mr. Kraut: Other than the real estate.

Mr. Lebwohl: With the LHCSAs, it's a much more diverse set of factors that lead into what that cost is. It's not just number of patients, or areas served. It's what's the variety of services that are offered? What are the contracts that are in place? I just...

Mr. Kraut: Well, I'm not suggesting there's anything nefarious in this. And believe me, I'm assuming these are arm's length negotiations. It's just that I think when there is a transfer of assets in a licensed entity in the state, the public has a right to know what the cost of that transfer was. And I just think it's just good process for us to have that. That's all. I mean, I'm not suggesting there's anything wrong, but I hear what you're warning me that if you see a \$1.95, and you see \$400,000, but then again.

Mr. Lebwohl: There's a lot more work to try to make an apples to apples.

Mr. Kraut: Yeah. Well, I'm not suggesting, but I think it's just let's start with just reporting the information, and we could decide if there's any concern we might have. I know Mr. La Rue has a statement, and then I just want to make a statement about a process issue before we close.

Mr. La Rue: I don't want to disappoint you. I don't have a statement.

Mr. Kraut: Okay. Well, share your thoughts.

Mr. La Rue: I just wanted some clarity for the record on the attendance at the FIPIC if you have an application because if you have a corporate dissolution, or one of those things we do at the end-

Mr. Kraut: Actually, that's the point I was just going to make. Look, we could have even done it with these transfers. There's 1,300 of them. Typically, we've, to my knowledge, maybe once we've ever asked a question about a nursing LHCSA transfer, but here it is. What I'm suggesting for the first part is that when you send out notification to an applicant that their application is on the agenda, you need to now add an additional statement. And that statement would read that you, or a representative of your organization is expected to appear at the council when the establishment, and project review committee, when the application is being reviewed. If you are unable to do so, please notify the department, and we will move it to another agenda, the following agenda.

If no one is present, it will automatically be removed from the agenda, and move to the next agenda. So, I think to that point, we have to do it. Unless you feel differently, I believe on the certificates, I would not apply that with the exception of the certificates. And you may feel similar about the LHCSA ones. We just deferred it. I'm going to come back to the ones we deferred in a second, but if anybody feels otherwise about the LHCSAs, I would add them to the list of like, "Do you need them here?" But for the moment, let's keep it uniform for everything but the certificates, unless people feel otherwise that I... So, there's always a section on the agenda, like restated articles of organization, certificates of assumed name, certificates of merger, certificates of dissolution. I wouldn't expect an applicant to be present for those because those were reviewed, and approved by legal, and we're cleaning up documents. That's what I just said,

except for certificates. Yeah, everything but certificates. And if we want to change that as we move on-

Ms. Monroe: You said there's a certificate of dissolution. Yeah. You don't mean that certificate, you mean?

Mr. Kraut: No, it's the stuff that usually at the end, [inaudible 01:19:55] that's like 250 pages in the book.

Mr. Thomas: And the legal department.

Mr. Kraut: And the legal department, it's a legal cleanup. Okay. And the other thing I would just point out, so we deferred one of the LHCSAs, and one of the other applications to the next agenda. I would say to the department that if there is a, occasionally from time to time, we will schedule a special EPRC before the next council meeting. If there's one scheduled, you could place those two applications on there. So, when we say next agenda, it's either it's the next meeting of the EPRC, whether it's a special meeting called, or it's a regularly scheduled one, just to be fair to the applicants to move it along. Yeah.

Mr. Thomas: Jeff, just one quick clarification question. Applicant, or their representative?

Mr. Kraut: Yeah. Yeah. I would just say it's somebody representing the applicant.

Mr. Thomas: Right, got it. Either them, or both.

Mr. Kraut: Yeah, either one. It doesn't matter. Okay. Yeah.

Mr. Lawrence: I wanted to make a suggestion with regard to the question about the sale amount, or the purchase amount for the LHCSA. Just showing the amount, really, I don't think the next logical question is [inaudible 01:21:16] how did they acquire it? Because if you see a number, it's just a number, but I think what the point that Anne was getting to, or the issue was whether the purchaser can in fact afford what is being purchased.

Mr. Kraut: But that's what the department said they looked at it.

Mr. Lawrence: Yeah, not only the amount, but I thought what we were going to request is the amount, the sum that was paid. What I'm suggesting is that in addition to the sum, we know the source of funding for it, which would be financing, which would raise another seller financing, or equity.

Mr. Kraut: Well, is that reported to us? If it's reported to us, then just put it in the thing. Yeah. It's reported to us. So, it's the price, and how... Is it financed, or is it individual equity?

Mr. Robinson: In most cases, yes, it's reported.

Mr. Kraut: Yeah. Okay. So, good point. Okay. All right. I'll turn it back to Peter, and then let's just remind everybody on the next one.

Dr. Torres: Just wanted to make a comment.

Mr. Robinson: Please, Dr. Torres.

Dr. Torres: Once in a while, you have an application that stands out, and there was one that stood out, and I just wanted to say that Rosary Hill delivers amazing compassionate care. And interesting enough, our founder transitioned in that facility, and they were so impactful that my own administrative assistant volunteered to volunteer at the facility for some time. And I just wanted to recognize that.

Mr. Robinson: Thank you for putting that on the record. Appreciate that. It's always good to make those positive observations. That's part of what we should do. Thank you for doing that. I want to do a couple of things. I want to thank the department staff. Honestly, even though this agenda was, it seemed like relatively routine, and uncomplicated, there's a lot of work that went into this, and want to extend my appreciation to the staff, and for all of this, including the fact that we are starting to not rewrite the rules, but we are starting, I think, to place a greater emphasis on issues of access to care for New Yorkers as we look at these applications. And I think the fact that the department staff is responding in such a positive way to recognizing that, and helping us to evaluate applications when they come before us. So, my thanks to them, and also to the committee, and the other members of the council that are here.

Really appreciate your participation, and your support for this. I think we're doing the right thing by New Yorkers, but with what we've done today, and how we're working on our projects going forward. So, thank you very much. Do you have a next meeting announcement?

Mr. Kraut: Yeah. I'm just trying to see what day is the next meeting.

Unknown Speaker: It's on the 7th.

Mr. Kraut: It's on the 7th. So, the next meeting is on Thursday, May 7th, and it's in Albany. So, we'll see you there, and we are motioned to adjourn.

Mr. Robinson: Adjourned. Yeah. Set first. Yep. We are adjourned. Thank you. [inaudible 01:24:36]