1 STATE OF MICHIGAN
2 MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
3 CERTIFICATE OF NEED COMMISSION
4
COMMISSION MEETING
5
BEFORE JAMES FALAHEE, CHAIRPERSON
6
333 South Grand Avenue, Lansing, Michigan
7
Thursday, January 30, 2020, 9:30 a.m.
8
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1 Lansing, Michigan
2 Thursday, January 30, 2020 - 9:32 a.m.
3 MR. FALAHEE: Good morning, everybody. We'll call
4 the meeting to order. And I -- okay. This -- all right. I
5 was about to start off by saying we just learned -- okay.
6 You see the projector projecting something on the wall
7 there. Don't count on that lasting for the length of the
8 Commission meeting because we're having some issues with the
9 projection. So those of you that are Commission members,
10 you will have your packets either online or printed out in
11 front of you, so you're okay. And if the project fails,
12 we'll -- we'll try to update everybody in the audience as to
13 what's going on.
14 So with that logistic aside, I will call the
15 meeting to order and this is Commissioner Falahee. The
16 first item on our agenda is to review the agenda. Tania
17 sent one out last night and put one at our places this
18 morning. Does anybody have any questions about the agenda?
19 If not, I would entertain a motion to accept the final
20 agenda as presented to us.
21 MR. MITTELBRUN: Motion to accept. Just change
22 the date to January 30, 2020.
23 MS. ROGERS: This is Brenda. That's actually
24 already been done, so thank you.
25 MR. MITTELBRUN: Oh, okay.

1 MR. FALAHEE: Thank you. All right. Is there a
2 second?
3 MS. GUIDO-ALLEN: Guido-Allen, second.
4 MR. FALAHEE: Okay. Discussion? All in favor say
5 "aye."
6 ALL: Aye.
7 MR. FALAHEE: Opposed? Motion carries
8 (Whereupon motion passed at 9:33 a.m.)
9 MR. FALAHEE: All right. Next conflicts of
10 interest, declaration of. Anybody have any conflicts of
11 interest they wish to declare? Thank you. Next, review of
12 the minutes of our December 5, 2019, meeting. Any
13 questions, comments about those concerns? If not, I'd
14 entertain a motion to accept.
15 MS. BROOKS-WILLIAMS: Move to accept,
16 Brooks-Williams.
17 MR. FALAHEE: Thank you. Support?
18 MS. GUIDO-ALLEN: Guido-Allen, second.
19 MR. FALAHEE: Thank you very much. Discussion?
20 All in favor say "aye."
21 ALL: Aye.
22 MR. FALAHEE: Opposed? Great. Those are
23 approved.
24 (Whereupon motion passed at 9:34 a.m.)
25 MR. FALAHEE: Okay. Before I -- we go into our

1 first substantive item on the Nursing Home beds and the SAC,
2 as many of us know and I think most of the audience know,
3 January is what I call our planning session where we look
4 ahead the next 12 months or so and if not longer, what's on
5 the agenda for us, what standards are coming up for review,
6 what is the Department recommendation given those standards,
7 and we can see that in the packet today and we'll go through
8 those. But this is not your typical meeting because
9 primarily it's a planning meeting.
10 Before we get into those planning discussions,
11 though, I have received a request from Mr. Haney who is the
12 chair of the Nursing Home SAC that he wanted to come and
13 speak to the Commission, give us -- I'll call it an interim
14 report and so I said that'd be fine. I'd make it first on
15 the agenda, then we'd get into the other items that follow.
16 So, Don, if you want to come up to the podium, please?
17 Thank you.
18 DON HANEY
19 MR. DON HANEY: Good morning. Don Haney, chair of
20 the SAC committee. Thank you, Mr. Chairman, and Commission
21 for allowing us to come today and present before you.
22 I want to start with our discussion about a month
23 ago on December 5th at your last meeting. A report came out
24 on December 3rd from Mr. Paul Delamater that talked about
25 the very issue that we've been wrestling with. And this was

1 new information to us. I don't think I had it at the time
2 of the December 5 meeting. I'm not sure if you did or not.
3 But a couple of comments from his -- his report says that,
4 "Even given perfect input results, the data shows
5 quite differently than observed data. This does not
6 inspire confidence. Current methodology won't provide
7 accurate results."
8 So he's acknowledging that what is occurring, I
9 guess, today isn't consistent with the methodology that
10 we've been using in the past. We talked about this at our
11 SAC committee meeting and had a very good discussion. I
12 think the subgroup committee that was working on this along
13 with Paul and with the Department came to the conclusion
14 that maybe an interim step would be appropriate to factor in
15 occupancy as a stop gap measure for now until we can issue
16 our final report on the new methodology in total because
17 going through the data and going through testing of the
18 methodologies will take some time.
19 One of the other conversations that we had a
20 significant discussion about was access and whether or not
21 there's an access issue across the state. And we
22 acknowledge that there is an access issue for a certain
23 demographic of -- of potential residents in nursing homes,
24 but that access issue isn't related to the number of beds
25 that are out there or that would be added. In other words,

1 adding these additional beds at this time wouldn't solve
2 that access problem. The access issue is really something
3 that drives around two different issues: one is clinical
4 and one is financial. On the clinical side, residents that
5 are very complex or that have complex treatment plans are --
6 are difficult to place into a nursing home. For example, in
7 my facility we haven't had a trach resident in 13 years that
8 I've been there. In the event that one is presented to us
9 as a possible admission, we would be hesitant because our
10 nursing staff just hasn't done them in a long time and might
11 not feel as competent about treating that -- that resident
12 even though we're quite capable and we have the staffing and
13 the requirements, just having not done something for that
14 long a time, you're just not comfortable with that. And
15 then there are other clinical factors that fall into that,
16 behaviors that are tough to manage. We currently have three
17 residents that are one-on-one and to accept another resident
18 that's one-on-one, it's very cost prohibitive to do that so
19 that would be a difficult resident to place in my building
20 today. So those clinical issues aren't really the result of
21 the number of beds that are available across the state.
22 And then the second is cost factors, specifically
23 with high cost medications, whether that's a cancer drug or
24 an IV antibiotic, that are quite substantial in cost and the
25 reimbursement doesn't quite cover that. So, you know, we've

1 had residents presented before with $10,000 a month
2 medications and at the rates that we get, that doesn't cover
3 that additional extensive cost.
4 So those are some reasons that access is an issue
5 and we had a very good discussion about that, but those are
6 things that can't be solved with our subcommittee or even at
7 your level. This is something that really goes to -- to CMS
8 or to Medicaid/Medicare and to try to figure out how to --
9 to resolve some of those issues.
10 So with that in mind, our interim report which I
11 think you all have and have had an opportunity to review, we
12 are recommending along with Paul and I think the Department
13 and our SAC committee voted unanimously to present to you
14 today to put in an 85 percent occupancy proviso and that
15 that that would help adjust the current methodology until we
16 can come back to you with a final recommendation. That's my
17 report.
18 MR. FALAHEE: Thanks, Mr. Haney. Questions of
19 Don? I've got a few, but go ahead.
20 MR. MITTELBRUN: Mittelbrun. Can you fully
21 explain the 85 percent provision?
22 MR. DON HANEY: Yeah. It's really not a magic
23 number, but what we use that for is the current state
24 reimbursement methodology -- and I could bore you for a
25 couple hours with how that -- how it works -- but there's an

1 85 percent occupancy rule where if a nursing home's
2 occupancy for the year drops below 85 percent, then there's
3 a financial penalty that kind of holds you at 85 percent.
4 So if your occupancy is at 80 percent, they're going to hold
5 you at 85 percent which really is a financial penalty to
6 nursing facilities. And so we just kind of pulled that from
7 the reimbursement methodology because that seemed to be
8 something that the state had used in the past and it uses in
9 our current reimbursement methodology to distinguish between
10 low occupancy cost issues.
11 MR. FALAHEE: Don, let me back you up a little
12 bit. When you got up you talked about Professor Delamater's
13 comments. I had not seen those. So timing-wise, those
14 comments came in just a day or two before our December
15 Commission meeting?
16 MR. DON HANEY: That's correct. His report was
17 dated December 3rd and your last Commission meeting was
18 dated December 5th, so there was just a two-day window there
19 and I'm not sure that everyone had access to that report in
20 that interim period. I know we did not have it. I did not
21 have it.
22 MR. FALAHEE: And then what you were quoting from
23 were the professor's comments about the methodology then?
24 MR. DON HANEY: Correct. He was looking at the
25 current methodology and comparing it against current data

1 trends and saying if we went back and predicted using the
2 current methodology, it doesn't align with the -- the
3 occupancy and the data trends that we're actually seeing so
4 the two are -- are disjointed and that doesn't inspire
5 confidence in the methodology.
6 MR. FALAHEE: Okay. So was he in on -- was he on
7 the phone for your meetings of the SAC?
8 MR. DON HANEY: He's been on the phone with our
9 meetings with the SAC. He's also been on the phone
10 conferences with the subgroup that's been working on some
11 very detailed methodologies and analysis and they're
12 working -- still continuing to work with him on that.
13 MR. FALAHEE: Okay. You anticipated my next
14 question. And then is he also supportive of what you call
15 the stop gap measure?
16 MR. DON HANEY: Yes. That is my impression of
17 what I heard from him. Is that --
18 MR. FALAHEE: Well, I'm looking to you for the
19 answer.
20 MR. DON HANEY: Yes, sir; yes.
21 MR. FALAHEE: Okay.
22 MR. DON HANEY: My answer is yes.
23 MR. FALAHEE: Okay. And what does he, Professor
24 Delamater, say is the next step? Working further with you,
25 the subgroup, the SAC? I'm trying to get a handle on what's

1 going on here and what's coming next.
2 MR. DON HANEY: Sure. So at our last SAC
3 committee meeting we had a subgroup that was formed and they
4 were working with Mr. Delamater and looking at three
5 proposals, proposal A, B, and C. Each of them had a little
6 variation with their methodology and proposal B was kind of
7 the one that they were focusing on. The problem is that
8 there wasn't enough time to test it. They had tested it
9 against one year's worth of data and they really need to do
10 it over multiple years of data to really check to make sure
11 that it wasn't going to -- that it -- that it was solid.
12 That it wasn't going to really create wide swings or
13 variations. There wasn't enough time at that meeting or
14 prior to that meeting for them to go through all that
15 testing phase. So they're continuing that work and
16 continuing to look at that methodology, still evaluating all
17 three, but it seems to me that we're kind of honing in on
18 that proposal B one. They just need to run it through some
19 more testing to make sure that the data is accurate over
20 periods of time, not just for a point in time.
21 MR. FALAHEE: And this is Falahee still. So we're
22 trying to come up -- I mean, any methodology is designed to
23 make sure that we're not putting beds somewhere where there
24 is not a need and that we are putting beds somewhere where
25 there is a need?

1 MR. DON HANEY: Correct.
2 MR. FALAHEE: And is that what this methodology is
3 designed or hopefully designed to do?
4 MR. DON HANEY: Yes. We think that both this
5 interim step and the permanent solution will do just that.
6 In the interim step right now, I think the current
7 methodology would add about 2900 beds across the state.
8 With this modifier it was down to about 300. So still
9 those -- those communities that have and planning areas that
10 have high occupancy and additional beds are warranted, they
11 would still see those.
12 MR. FALAHEE: And then I think you've answered but
13 why do this stop gap now? What's the -- what's the
14 rationale for saying "Commissioners, do this now"?
15 MR. DON HANEY: You know, I think that just from a
16 timing perspective, the process that it's going to take. If
17 we bring to you in March, as what we are hoping to do or
18 prior, the time frames for going through the opening comment
19 period, posting period, going through the legislative
20 process and review, and the whole process would be not
21 until -- completed until September/October time frame, so
22 late summer early fall. Anyone that submits new bed
23 requests in February could have them approved as early as
24 May or June, and what I don't think the Commission would
25 like to see is beds that are not needed in planning areas

1 with low occupancy put online because of a timing issue. By
2 approving this today, I think you can -- it kind of shortens
3 that window and narrows the opportunity for those beds to
4 get online that aren't really needed.
5 MR. FALAHEE: Thank you. Other questions of Mr.
6 Haney? Okay. Thanks. Thanks for all your work already on
7 the SAC and the subgroups. Thank you very much.
8 MR. DON HANEY: My pleasure. Thank you.
9 MR. FALAHEE: I've got a few cards on this. I've
10 got a couple that support the recommendation that Mr. Haney
11 just discussed; one from David Walker at Spectrum but did
12 not wish to speak and another from Melissa Samuel from HCAM,
13 so I'm just noting those cards. Then I've got I think four
14 cards from others and I'll start with Rachel Kelley from
15 Ascension, please.
16 RACHEL KELLEY
17 MS. RACHEL KELLEY: Good morning, Chairman Falahee
18 and Commission members. I am Rachel Kelley. I'm here today
19 speaking on behalf of our skilled nursing facilities
20 administrator who was unable to be here today, but has asked
21 me to convey her thoughts.
22 "Ascension Michigan is asking the Commission to
23 follow the nursing home SAC recommendations to change
24 the bed need methodology review standards to prevent
25 the addition of the nearly 3,000 beds across the state.

1 Additionally, we are in agreement with the temporary
2 measure to add a consensus (sic) requirement
3 immediately to allow beds where needed but not saturate
4 an area where beds are already empty.
5 It's our belief that the SAC is working to address
6 the deficiencies of the current methodology, using
7 shared principles and ensuring access to quality care,
8 while controlling costs for the state's Medicaid
9 program."
10 MR. FALAHEE: Thank you. Any questions? Thank
11 you very much. Next I have Peter Massey who decided to come
12 here from Louisville and brave what we have here in Michigan
13 as a non-winter. So, Mr. Massey, please?
14 PETER MASSEY
15 MR. PETER MASSEY: Thank you. And you are
16 correct, I'll take this weather all day long up here. Good
17 morning and thanks again for giving me the time to speak.
18 Again, my name is Peter Massey. I'm the vice president of
19 development and construction for Trilogy Health Services.
20 We own and operate 12 health care campuses across
21 the state of Michigan and one more that is under
22 construction and slated to open later this year. We also
23 own and operate over a hundred campuses -- additional
24 campuses throughout Indiana, Kentucky, and Ohio. Personally
25 I have assisted in developing over 60 health care campuses

1 with Trilogy, including 11 of the 13 in Michigan. I can say
2 of all the states that we develop in, the state of Michigan
3 until now has been the most straightforward and consistent
4 process for applying for a new CON application.
5 As you're aware, the bed need calculation was
6 assessed late last year and reconfirmed in the December
7 meeting. Based on that information and knowing the history
8 of a consistent approach with the state of Michigan, Trilogy
9 focused their time and money on meeting the guidelines set
10 forth to apply for the CON beds in three of the counties
11 identified as a bed need. I'm here today to ask you that
12 you uphold your decision and allow for these beds to be
13 applied for not only based on the previous approvals issued
14 by this Department, but also to maintain the integrity of
15 the system in the state of Michigan.
16 With that being said, I would like to briefly
17 discuss Trilogy and our approach to senior care and why
18 growth and development in this area is a positive for not
19 only the state of Michigan, but also the seniors and its
20 working population. Trilogy believes that their employees
21 come first. You see we feel if we treat our employees well,
22 they in turn will treat our customers well. As a servant
23 leadership approach -- a servant leadership approach has
24 allowed us to grow to over 15,000 employees without using
25 any third-party staffing. It is a servant leadership

1 approach that has driven us to create partnerships with
2 local high schools, technical colleges, universities, and
3 trade schools to not only help our employees grow in their
4 career journey, but also paying for that. And, see, if
5 you're an employee of Trilogy, we also pay for your
6 continuing education, whether that be college or if you want
7 to be -- become an executive chef or a nurse aide. We also
8 invest heavily in our facilities. On an annual basis we
9 invest more than $1,000 per bed back into our campuses to
10 ensure that our residents are living in an environment that
11 is not only what they are used to at home, but better. This
12 is why Trilogy and other operators who invest in both our
13 employees and the facilities maintain a high occupancy rate
14 throughout this state and throughout our other campuses,
15 even wait list in some -- in some of our campuses while
16 operators who are not investing in their employees and their
17 facilities continue to see lower occupancy rates. Reversing
18 this decision would just be enabling operators who are not
19 investing in their facilities or their employees and
20 hindering the operators who want to make that investment to
21 provide a service to the state of Michigan and the
22 communities they choose to build in, both for the seniors
23 and the working population.
24 When the bed need calculation was done, this
25 showed that there was a need in some of the counties across

1 the state. Not only are there seniors in those areas who
2 need quality services, but those areas also need well
3 trained employees who care for them. Operators willing to
4 invest in new facilities and in their employees will meet
5 that need that was determined by the recent bed need
6 analysis. Please uphold your decision to maintain that as
7 it was calculated last year. Thank you.
8 MR. FALAHEE: Thank you very much. Questions for
9 Mr. Massey? Thank you.
10 MR. PETER MASSEY: Thank you.
11 MR. FALAHEE: Next I have from LeadingAge of
12 Michigan, Dalton Herbel. And if I blew the last name, I
13 apologize.
14 DALTON HERBEL
15 MR. DALTON HERBEL: Good morning, everyone. My
16 name is Dalton Herbel and I'm with LeadingAge Michigan.
17 "LeadingAge Michigan represents the not-for-profit
18 and mission-based senior care providers across the
19 entire system of post-acute and long term services and
20 supports in Michigan. We believe that the current
21 methodology has over-estimated the actual nursing home
22 bed need in Michigan for some time and are pleased that
23 the Nursing Home SAC will be addressing this issue.
24 Dr. Delamater's work has been greatly appreciated as we
25 move forward. In the interim, we strongly support the

1 inclusion of an 85% occupancy rate per planning area
2 before new beds can be approved.
3 As senior services transition over time, we
4 suggest a detailed review of the nursing home bed need
5 methodology every three years to ensure it continues to
6 serve the needs of Michigan seniors. This review can
7 include data from the Michigan nursing home cost
8 reports as well as the CON Nursing Home Survey. While
9 nursing home occupancy has been declining, population
10 trends will also be dramatically changing in the next
11 several years and our ability to project need will be
12 complicated. We support the use of a population-based
13 system that also reflects actual facility usage over
14 time.
15 Additionally, while we work -- while the work of
16 the Commission has focused almost solely on the need
17 for beds, it is also important to note that the purpose
18 of Certificate of Need is to 'ensure availability and
19 access (sic) of quality health services at a reasonable
20 cost and within a reasonable geographic proximity for
21 all persons in the state.' Michigan nursing facility
22 providers in general ignore the specialty bed pools,
23 and yet there continues to be need for those unique
24 beds in Michigan. We ask that the Commission in the
25 future look to the barriers to use of these beds."

1 MR. FALAHEE: Questions from the Commissioners?
2 Thank you very much. And the last card I've got with
3 someone else is from MI County Medical Care Facilities
4 Council, Renee Beniak. Again, I apologize.
5 MS. RENEE BENIAK: Nope. That's fine. That's
6 actually supposed to be support, but the knowledge is --
7 MR. FALAHEE: Okay. Thank you.
8 MS. RENEE BENIAK: Thank you.
9 MR. FALAHEE: Any other people wish to comment?
10 Going, going, gone. Okay. Thank you. Commission -- well,
11 before we go to Commission discussion, let me turn it over
12 to Beth if you have any perspective from the Department on
13 the recommendation that's before us from Mr. Haney and the
14 SAC?
15 MS. NAGEL: Sure. This is Beth Nagel. We
16 strongly support that the SAC take the time needed to
17 develop a methodology that not only works for facilities
18 that are in place today, but also predicts need in places
19 where there may not be facilities today and that is a
20 lengthy process. It's one that has to include a lot of
21 thoughtful input from many different stakeholders and to
22 date the SAC has not had time to do that. As such, we are
23 supporting this temporary measure of adding in the 85
24 percent occupancy requirement for new beds in counties that
25 show a bed need and current numbers that were passed at the

1 September meeting.

2 MR. FALAHEE: Any questions of Beth? Commissioner

3 Dood?

4 MR. DOOD: Commissioner Dood. Besides giving the

5 SAC more time to do their work more completely, are there

6 other reasons that you're supporting this interim step?

7 MS. NAGEL: As Mr. Haney mentioned, there's a

8 current application process that starts I think February

9 3rd --

10 MS. BHATTACHARYA: Yup.

11 MS. NAGEL: -- for the beds that -- that showed as

12 available and the notice passed in September by the

13 Commission. We think that this method of adding in the 85

14 percent limit now in the standards would impact that

15 application cycle and that some of the beds would show as no

16 longer needed. Did that answer your question?

17 MR. DOOD: Why do you think that's a good thing?

18 MS. NAGEL: That's a great question. I think we

19 support whatever -- whatever method could allow the SAC to

20 fully develop a methodology.

21 MR. FALAHEE: Okay. I didn't know if you had a

22 follow-up to that one at all? Okay. Commissioner Hughes?

23 MR. HUGHES: Is there -- probably a difficult

24 question, but is there any way to quantitate how many

25 potential beds that people thought they could apply for that

1 might not be available now?
2 MS. NAGEL: We do actually have that data. Tulika
3 looked at that this morning, actually, and I can quickly
4 pull it up. It looked like there were 48 counties that
5 showed need with the bed numbers that the Commission passed
6 in September and now there would be 13 counties that show
7 need with what the Commission passed in September. And,
8 Tulika, I'm not seeing right in front of me the actual bed
9 numbers.
10 MS. BHATTACHARYA: You want me to go through them?
11 MS. NAGEL: No. Could you give me the total?
12 MS. BHATTACHARYA: Oh, I don't have that.
13 MS. NAGEL: Okay. We don't have the total in
14 front of us right now unfortunately, but it went from 46
15 counties to 13.
16 MR. MITTELBRUN: But the 85 percent is 13? Sorry.
17 Mittelbrun.
18 MS. NAGEL: Yes.
19 MR. FALAHEE: Other questions and/or discussion?
20 MS. BROOKS-WILLIAMS: Brooks-Williams. So in
21 December -- not that I'm going to pretend that I recollect
22 completely the conversation, but I know we didn't have maybe
23 this 85 percent option, you know, there. And so I would
24 just ask the Department -- ask the Department what in those,
25 you know, few weeks other than, I guess, the concern, you

1 know, that people might apply and we don't have the formula
2 completely done, would we as the Commissioners, you know,
3 look at as the basis of the 85 percent? Because the
4 alternative could be that we picked a number that took us
5 from 46 to 13, and so I don't have a problem with trying to
6 consider something that creates a pause, but I do want to
7 make sure there's validity to why 85 percent, if that makes
8 sense.
9 MS. NAGEL: Yes. 85 percent was chosen because in
10 the current Medicaid policy for reimbursement, if you are at
11 85 percent or above you get a certain percent, you get a
12 certain reimbursement, and 85 and below that gets subtracted
13 from, and so Medicaid essentially used 85 percent as a rule
14 of thumb for the appropriate --
15 MS. BROOKS-WILLIAMS: Level of occupancy?
16 MS. NAGEL: -- yeah; yes.
17 MS. BROOKS-WILLIAMS: Okay. And that was
18 knowledge that no one brought forward to us in December I'm
19 assuming? I mean, I'm not recalling that we that as a
20 interim strategy.
21 MS. NAGEL: I don't believe that was a discussion
22 in December.
23 MS. BROOKS-WILLIAMS: Okay. Thank you.
24 MR. FALAHEE: I've got a question, Beth. When we
25 approved the methodology in September and then at our

1 December meeting Mr. Haney and I had this exchange, it
2 sounds to me like there was a report that came in from
3 Professor Delamater one or two days before our December
4 meeting and I don't know if the Department had had a chance
5 to look at that. I myself don't recall hearing anything
6 about it at our December meeting. Can you help me
7 understand the timing here?
8 MS. NAGEL: Sure. So when the Commission asked
9 for a Standard Advisory Committee to be seated for the
10 Nursing Home Standards, we -- at that time we asked Dr.
11 Delamater to look at the nursing home methodology. And the
12 first meeting of the Nursing Home SAC I think was the week
13 after the Commission meeting, December 10th, and so we asked
14 him to prepare a report, you know, giving his analysis of
15 the current Nursing Home methodology for the Nursing Home
16 SAC and that is the report that's being referenced was a
17 report specific to the Nursing Home SAC that would take
18 place the week after the Commission. As we do for the
19 Commission, we do for the SACs. We send out all materials a
20 week in advance. And so, yes, Dr. Delamater, the report is
21 dated to the 3rd, but it -- we sent it to the SAC on I think
22 a week before the Commission. It was not prepared for the
23 Commission. It was prepared for the SAC.
24 MR. FALAHEE: Okay. Thank you.
25 MR. MITTELBRUN: Mittelbrun. Beth, you said you

1 asked Dr. Delamater to take a look at this. Did you ask
2 anybody else?
3 MS. NAGEL: No. Dr. Delamater is the state's
4 contractor at the request of the Commission to review all of
5 our methodologies.
6 MR. MITTELBRUN: How long has he been doing this
7 work for the --
8 MS. NAGEL: At least ten years. I would have to
9 go back and look, but I think it's been at least ten years.
10 MR. MITTELBRUN: I'm just trying to figure out a
11 way to phrase it, but it just seems like it should be
12 narrowed down a little closer by now. You know, we're still
13 struggling to come up with these, a narrower range of, you
14 know, what's required and what's not. So it's just -- it's
15 just a historical question because, you know, obviously this
16 started long ago.
17 MS. NAGEL: Sure.
18 MR. MITTELBRUN: Long before I got here, so --
19 MS. NAGEL: Yeah; absolutely. And it's part of
20 the statute says that every three years the standards must
21 be reviewed and I think it's for that reason that health
22 care changes and this is part of that process, to review
23 every three years.
24 MR. FALAHEE: This is Falahee. I think part of
25 the issue is that no methodology is perfect and that what

1 we're hearing as Commissioners is that the methodology
2 that's before the SAC we approved in September. Professor
3 Delamater looked at it in December just before we got
4 together as a Commission. We didn't talk about it at all at
5 that Commission meeting and that's not a knock on the
6 Department, just timing. And then as Beth Nagel just said,
7 okay, then the professor's report went to the SAC as they do
8 all the time. And I get -- to me this is more an example of
9 trying to get a methodology as close to perfect as it can be
10 knowing that no methodology is perfect. So we're trying to
11 improve it. I get where Commissioner Mittelbrun is coming
12 from. How -- what's going on here?
13 MR. MITTELBRUN: Yeah. Just trying to get a --
14 yeah.
15 MR. FALAHEE: And I understand why the 85 percent
16 and why now and I hear the Department saying they strongly
17 support moving forward with that recommendation. But I
18 wanted us as Commissioners not -- I would ask questions of
19 the Department, there may be more, any further questions?
20 If not, Commission discussion and then a vote, please. So
21 any other questions of the Department? Seeing none,
22 Commission discussion. Any discussion amongst the
23 Commissioners?
24 MR. HUGHES: I have a question just from fellow
25 Commissioners from -- I kind of live in this based on past

1 experience, when I make one mistake, try not to fix it with
2 a second mistake and that kind of applies a little bit here.
3 From my view of the data and there's smarter people here
4 than me, it seems like the last recommendation that there's
5 too many beds being opened up and I just -- I just wonder
6 from the rest of the Commissioners if you've kind of come to
7 that same conclusion? If that's a common denominator that
8 the other one is too many beds, then how do we fix it going
9 forward? And you don't want to -- sympathetic to the
10 business owners that jumped on those opportunities and at
11 the same time you don't want to put a bunch of stuff out
12 there that we don't need. But I guess if everybody here was
13 in the agreement that that increase is too much, that would
14 help me feel better about what we do going forward. So I
15 guess that was the question.
16 MR. DOOD: Commissioner Dood. I strongly agree
17 that this is what we approved in September and kind of
18 reaffirmed in December putting way too many beds available.
19 They're just not needed. And so I think, I support the stop
20 gap measure. I -- you know, I'd like it to go to a better
21 methodology to get finalized. But to think that they could
22 have got that done in five or six weeks, you know, I don't
23 think that's realistic. I think we've got to give them a
24 few months to get their work done. But I think this is a
25 great move. Does that answer your question?

1 MR. HUGHES: Yeah.
2 MS. GUIDO-ALLEN: Guido-Allen, I agree.
3 MS. LALONDE: LaLonde, I agree. Based on the
4 testimony and Dr. Delamater's analysis I think right now we
5 have to too many beds.
6 MR. HUGHES: Is there anybody that feels different
7 on that issue?
8 MR. FALAHEE: I don't feel -- this is Falahee. I
9 don't feel different, but I would add I would feel the same
10 if we were hearing it was too few beds, because to me I
11 think the Commission's goal and the Department's, too, and
12 anybody working on it, Professor Delamater and all, is to
13 get the best methodology you can. And if it shows too few,
14 too many, so be it, but get a good tight methodology knowing
15 there's none that's perfect. But I think to your point
16 don't make two mistakes.
17 MR. HUGHES: Right. But both you and I have been
18 around this thing a long time and it seems like over the
19 years it's been a common them of too many.
20 MR. FALAHEE: No. There was one of the earlier
21 methodologies for Nursing Homes was too few years ago.
22 MS. BROOKS-WILLIAMS: Brooks-Williams. I think
23 the way -- the discomfort I think I have is that we don't
24 know. And so when I hear we go from X to Y, I don't know if
25 the Y is right. So I just feel like the urgency is around

1 having an acceptable methodology and the 85 percent, while I
2 understand that that's, you know, the rule that's in place
3 around reimbursement, I just feel like it's kind of
4 artificial. And I do -- while I do agree with the testimony
5 around maybe it's too many, I think we're prospecting where
6 it's too many; right? So that's all. I just don't know
7 that it's precise enough to say that where we're going to
8 hold is the right place to hold. I'd feel more comfortable
9 if -- if I knew that.
10 MR. FALAHEE: Thank you.
11 MR. MITTELBRUN: Mittelbrun again. Beth, can I
12 ask another -- you probably already said it but if we would
13 adopt the 85 -- well, what's happening today? If we would
14 adopt the 85 percent, what would then happen to these
15 applications for beds?
16 MS. NAGEL: Yes. I can answer that. So every
17 application that we process, the final decision is based on
18 the standards that are in effect at the time the decision is
19 due, or at the time the decision is made, excuse me. And so
20 essentially these -- if the standard changes and becomes in
21 effect during this application cycle, those applications
22 will then be held to the new standard that has been
23 approved. So essentially you would be changing the standard
24 today that will be applied to, potentially applied to, the
25 application window starting in February.

1 MR. FALAHEE: And this is Commissioner Falahee.
2 That's true for any of the CON standards.
3 MS. NAGEL: Correct.
4 MR. FALAHEE: So whether it's Nursing Home,
5 Hospital Beds, whatever, if you file your CON application
6 and then before that application is approved new standards
7 come in, you get to re-file or decide not to re-file based
8 on those new standards.
9 MR. MITTELBRUN: Mittelbrun again. So are you
10 getting -- because I'm trying to remember back to the last
11 meeting as well. It didn't seem to me that you had that
12 many applications at that time. Has that changed?
13 MS. NAGEL: That has changed.
14 MR. MITTELBRUN: Okay. So if we change to the 85
15 percent when it's going to go out for public comment and
16 all -- all the whole process, by the time it goes into
17 effect, then those people who apply will be subject to the
18 new adjustment?
19 MS. NAGEL: Correct.
20 MR. MITTELBRUN: Okay.
21 MS. BROOKS-WILLIAMS: Brooks-Williams, last
22 question. So -- so we act today however we act and then
23 whatever we approve or don't approve affects the application
24 cycle in February. We will, of course, then still have the
25 SAC out, we'll get the methodology, that will come back to

1 us. And so if the -- if the methodology shows that -- let's
2 say we put the 85 percent rule in place -- that that wasn't
3 accurate -- I'm going to, you know, say it that way -- and
4 actually allows other areas to have need, then you're saying
5 whoever applies after that new methodology is in place, they
6 would be, you know, fine. So they get eliminated in this
7 round if I'm making sense. So if I've applied and the area
8 that I've applied to based on our actions today no longer
9 has need because when we did this, we gave people the
10 impression that they had a much larger geography that they
11 could apply within if we take the action today and narrow
12 that. Then what is the opportunity for those organizations
13 going forward if in actuality we're wrong, and so the area
14 becomes available again because the true methodology shows
15 need? They just apply again? Is that -- is it that simple?
16 MS. NAGEL: So when -- and I think I -- let me
17 know if I'm not answering your question.
18 MS. BROOKS-WILLIAMS: Because I asked it so clear.
19 I apologize.
20 MS. NAGEL: No; no; no. If during that
21 application period, let's just use the February one for, as
22 an example, and the standard goes into effect that says 85
23 percent or above and you're at 70 percent or something in
24 your county, then you have the opportunity to respond to the
25 new standard but you wouldn't meet that criteria. So then

1 the SAC comes back to you and says there's a methodology
2 that shows need and let's say it shows need in that county
3 again, the one that was at 70 percent or whatever, it would
4 be a new application cycle.
5 MS. BROOKS-WILLIAMS: Okay.
6 MS. NAGEL: At least by the timing I think it
7 would be a new application cycle. It has a lot to do with
8 the timing for Commission to take proposed action, final
9 action and the standard to become effective.
10 MS. BROOKS-WILLIAMS: Okay. Last question. I
11 promise. When we say the way our materials are written, we
12 called it a temporary action. Right? So does that mean --
13 what exactly does that mean? Does it simply go away once we
14 get the true methodology, or is it possible that it -- we
15 have to -- we would have to take a action to change it?
16 It's not really temporary. Once we put it in place, it's
17 the standard; right?
18 MS. NAGEL: Correct. It's the Department's
19 expectation that the Standard Advisory Committee will
20 address this as part of their methodology.
21 MS. BROOKS-WILLIAMS: And if indeed they came back
22 and did not, this action would stand; right?
23 MS. NAGEL: Correct.
24 DR. GARDNER: This is Dr. Gardner, a question real
25 quick. Is anybody already, you know, going to be impacted

1 based on old guidelines, adding beds, building beds,
2 securing financing or already in the process, do we know?
3 MS. NAGEL: I -- apparently it's in Trilogy's
4 letter.
5 MR. FALAHEE: Yeah, and I'll just -- I think if
6 you looked -- if you look at the letter from Trilogy and the
7 testimony from Mr. Massey on behalf of Trilogy, we received
8 that letter in our packet or I -- they make the argument in
9 that letter and Mr. Massey did in his testimony that, you
10 know, they've taken action in response to what the
11 Commission approved in September.
12 DR. GARDNER: Any others?
13 MR. FALAHEE: I don't know if there's others or
14 not, but what I know is what I see in front of me on behalf
15 of Trilogy.
16 MS. NAGEL: I would just add that there are 56
17 letters of intent that we've collected at this point.
18 MS. BROOKS-WILLIAMS: So, Brooks-Williams. Chair
19 Falahee, what are -- what are our options now if we were
20 going to move to act?
21 MR. FALAHEE: This is when it's fun to be the
22 chairman. So the options are -- and I'll try to run the
23 gamut and let me know when I goof. One is we have this
24 recommendation in front of us from Mr. Haney and the SAC,
25 the 85 percent "stop gap" recommendation. We could approve

1 that. If we do approve it, as we note in our packet, it's a
2 proposed action which then would go out as with all proposed
3 actions do to public comment and it would go to the Joint
4 Legislative Committee as well. So that's option one.
5 Option two is we don't approve that. If we don't approve
6 that or we don't amend it and come up with something else,
7 then what we have is the current methodology that we
8 approved in September and then that current methodology,
9 I'll call it, would be something the SAC would be looking
10 at, and then the SAC would continue its meetings and
11 subgroup meetings and could come back to us in March or
12 June -- who knows, they have six months of life once they
13 start, so it could be March, but June would be the latest --
14 come back to us and say we've done a thorough vetting of the
15 methodology, here's what's right with it, here's what's
16 wrong with it, here's a new methodology, here's where it
17 needs to be tweaked, that type of thing. So that would be
18 potentially March, potentially June, and that would also be
19 proposed action, go out for public comment. So I'll turn to
20 Brenda or Beth to tell me if I missed anything.
21 MS. NAGEL: That sounded correct to me. I did
22 want to amend if possible just one thing I said earlier. I
23 said there are 56 letters of intent and that is true,
24 however, I would like to point out that there -- there --
25 those were for 11 planning areas and nine of those at this

1 point we're -- if all of the letters of intent file an
2 application, would be a comparative review and so in that
3 case there is just one successful application. So when I
4 said 56 letters of intent, I just wanted to make that point
5 that they are competing for the same application.
6 MR. HUGHES: Is there a minor, minor miracle
7 chance that those 55 are in the 14 places that --
8 MS. NAGEL: Wonderful question.
9 MR. HUGHES: That'd make this whole problem go --
10 MS. NAGEL: Yeah. And I -- I don't believe that I
11 know off the top of my head. We could get you an answer
12 probably in just one second.
13 MR. HUGHES: Win the lottery if we --
14 MS. NAGEL: I'm going to say they don't line up
15 exactly, but there could be some overlap.
16 MR. FALAHEE: Commissioner Wang?
17 DR. WANG: Commissioner Wang. I'm just a simple
18 surgeon, but let me try to put it down in a way that I
19 can -- when we met, we had to come up with an action in
20 September, we approved the standard and we had had
21 difficulty in getting a committee to provide guidance. When
22 we met in December, what happened, there was some pushback
23 on that acceptance of the original guidance and we didn't
24 have any input yet from the committee and so we chose not to
25 go back on what we had originally recommended. So now we

1 actually have the chairman of the committee who is here who
2 using some methodology thinks that this 85 percent measure
3 is a good stop gap measure, and I understand if I'm looking
4 at the Department and I think the Department is in
5 concurrence with this is a good measure. So what we're
6 asking -- what we're being asked to do is to approve now
7 sort of a information, sort of a pre-reading. In the end,
8 anyways, I think we would end up revising the standard based
9 on the input of the committee once it's fully met. Is that
10 correct? So this is sort of a lead step inconsistent with
11 trying to keep this under an advisory kind of having a role
12 for the advisory committee? Okay. All right. That's, I
13 think as a surgeon I understand that.
14 MR. FALAHEE: You did a good job. Good job by the
15 simple surgeon. Right. So any other discussion?
16 MS. MCKENZIE: Commissioner McKenzie. I'm not
17 sure I know how to phrase this. But given that the
18 application period has not yet opened based upon the
19 decision that we made in September but there are applicants
20 that are waiting 'til that period opens, are there any
21 ramifications related to us making a decision that changes
22 the standard at this point?
23 MS. NAGEL: Carl? I would turn that to Carl.
24 MR. HAMMAKER: Sure. So, no, the way that the
25 administrative rules are written, any application still

1 pending, whatever standard comes into place or is adopted by
2 the Commission when there are still applications pending,
3 that will control. So in the case here where you have
4 applications due on February 3rd, if these standards were to
5 be adopted and go through the normal process and become
6 effective prior to any decisions on the applications that
7 are due, it would be this -- the new standard that you could
8 take proposed action on today that would control. So the
9 fact that the application period hasn't closed yet has no --
10 there's no ramifications to that.
11 MR. FALAHEE: Are we ready for commission action?
12 So I'll entertain a motion one way or the other.
13 MR. HUGHES: Well, one other question to you is
14 based on everything else that's going on over there would
15 this give more ammunition to the people that believe health
16 care is a free market and you don't need CON?
17 MR. FALAHEE: I don't think any action pro or con
18 on this issue would have any impact within the capitol dome.
19 MR. MITTELBRUN: All right. Mittelbrun. Based on
20 the comments of the Commissioners, motion to approve the
21 action or recommendation of the SAC that requires a planning
22 area to have an occupancy rate of 85 percent or more and it
23 be sent out to the -- for public comment and to the JLC.
24 MR. DOOD: Commissioner Dood. Support.
25 MR. FALAHEE: Okay. We've had a motion and

1 support. Any discussion? Okay. Hearing none, all in favor
2 of the motion say "aye."
3 ALL: Aye.
4 MR. FALAHEE: Opposed?
5 MS. BROOKS-WILLIAMS: (indicating)
6 MR. FALAHEE: We have I think one opposed, the
7 others in favor, so that motion carries. Thank you very
8 much for the discussion.
9 (Whereupon motion passed at 10:20 a.m.)
10 MR. FALAHEE: This is Falahee still. We're going
11 to move on now to -- I call it the planning part of our
12 discussion, our meeting. We're going to start with Cardiac
13 Catheterization Services. And I've had a request from a
14 physician who needs to go treat patients, Dr. David -- I'm
15 going to say -- Wohns. And if I've pronounced it badly,
16 I'll apologize in advance.
17 DR. DAVID WOHNS: Perfect.
18 MR. FALAHEE: So we go from a Commissioner simple
19 surgeon to doctor cardiologist. And, Doctor, I don't know
20 if you were tipped off, but all witnesses get three minutes
21 and then we can ask questions for 300 minutes if we want.
22 DR. DAVID WOHNS: Hopefully not. Thank you.
23 DAVID WOHNS, M.D.
24 DR. DAVID WOHNS: So good morning. I'm David
25 Wohns, M.D. I'm here on behalf of the Michigan Chapter of

1 the American College of Cardiology for which I serve as the
2 chapter president and also representing Spectrum Health
3 where I'm an interventional cardiologist so this is my
4 space, and also serve as chief of cardiology at Spectrum
5 Health.
6 So thank you very much to all of you for giving me
7 the opportunity to provide comment on the CON review
8 standards for cardiac catheterization services. Both
9 organizations, Spectrum and again on behalf of the Michigan
10 ACC, strongly supports continued regulation of cardiac
11 catheterization services, but believes recent changes at the
12 federal level warrant an in-depth review of the standards to
13 provide the highest quality and safety for the care of our
14 patients here in Michigan.
15 Over the last few years CMS has improved
16 reimbursement for certain cardiac cath procedures in the
17 ACS, the ambulatory surgical centers setting, starting first
18 with implantable defibrillators and pacemakers, and most
19 recently added certain PCI or interventional stenting,
20 angioplasty type procedures, and it is possible that more
21 procedures will be approved in the future. Last year new
22 CON standards took effect that specifically limited all
23 cardiac cath procedures including pacemakers and ICDs to be
24 performed in licensed hospitals. At that time, the feeling
25 of the SAC was that the hospital setting is indeed the

1 safest place for these procedures to be performed and there
2 were no studies really showing that the ASC setting was
3 sufficiently safe and provided optimal quality outcomes for
4 our patients.
5 Given the CMS action, Spectrum Health and the
6 Michigan ACC believes that to ensure -- to continue to
7 ensure the highest quality of patient safety, a SAC, a
8 Standard Advisory Committee, should be formed to consider if
9 diagnostic catheterization procedures, interventions, PCI,
10 and pacemakers and implantable defibrillators are safe to be
11 performed in the ASC setting. If so, I believe it is
12 critical that the SAC develop parameters and guidelines that
13 will protect our patients and ensure the highest quality of
14 safe and quality care.
15 We feel that maintaining CON regulation of these
16 services is critical to achieving these goals. CON
17 requirements such as the mandated participation in the Blue
18 Cross Blue Shield of Michigan consortium -- I've been part
19 of that for a very long time -- have had significant impact
20 on the overall quality of cardiovascular care in the state
21 of Michigan. So we want to ensure the continued success of
22 these programs to the benefit of patients across our state.
23 So on behalf of Spectrum Health and the Michigan
24 ACC, I thank you for allowing me to speak to these standards
25 and would welcome any questions.

1 MR. FALAHEE: Any questions for Dr. Wohns?
2 Commissioner Hughes, I see it on your mind.
3 MR. HUGHES: Would you be able to expound any more
4 upon the benefits in terms of from a cost and quality
5 standpoint for the residents of Michigan how that -- the
6 sharing agreement with Blue Cross has -- has helped and
7 being part of that is a big deal?
8 DR. DAVID WOHNS: Sure. I mean, lots of research
9 and publication has come from that consortium where we've
10 developed standards that have actually gone beyond the state
11 of Michigan, but have strongly impacted the state of
12 Michigan. A couple examples: When appropriate use criteria
13 first came out and we have national registries for that, the
14 BMCs led the way in our ability to track and report that to
15 each center that's doing -- providing those services. And
16 appropriate use criteria, we're transforming even how we did
17 things because we're very good at identifying complications,
18 but procedures that may not be necessary or not indicated,
19 you know, often the safest because patient, you know,
20 they're the least complicated and we had very little way of
21 monitoring that. So as the AUC came in, the Michigan
22 consortium and database allowed us to implement that very
23 early on, you know, relative to the rest of the nation in
24 tracking these patients.
25 Another example more contemporary -- so that was

1 about ten years ago. More contemporary is using the data
2 from that registry contrast induced nephropathy, kidney
3 injury from procedures involving dye are a major problem,
4 one of the major complications of PCI procedures. Again,
5 through this database and then through networking across the
6 state, we're able to set standards and policies and
7 procedures for how to manage and prevent nephropathy. Just
8 a couple of many examples over these last 20 years.
9 MR. HUGHES: Thank you.
10 DR. DAVID WOHNS: So safety and quality.
11 MR. FALAHEE: Other questions?
12 DR. WANG: Yeah, you mention database but there
13 are many surgery departments in both general surgery,
14 orthopedic, cath, cardiac that have participated with Blue
15 Cross/Blue Shield in quality initiatives, quality
16 collaboratives.
17 DR. DAVID WOHNS: Yes.
18 DR. WANG: Is this -- what -- is this akin to that
19 or is this a pure simple database?
20 DR. DAVID WOHNS: No. This is very much akin to
21 this. So this -- I mean, it is -- it uses the NCR which is
22 our national database and then has nuances that are
23 different than all -- we look at the BMC squared separately,
24 we ought to look at both.
25 DR. WANG: Okay.

1 DR. DAVID WOHNS: And then we drive that out,
2 there are -- let's see, the meetings are two to three times
3 a year, in person all cath lab directors or champions from
4 an institution sit together so we can look at, you know,
5 rates of procedures, complications and so on across the
6 state. And then we see, you know, a hospital that's
7 struggling, for example --
8 DR. WANG: Yup.
9 DR. DAVID WOHNS: -- we may bring best practice
10 and bring, you know, our expertise to that hospital to help
11 them.
12 DR. WANG: Yeah. So that -- that's been very
13 transformative in many surgical practices and we are in the
14 lead in the nation for many of these things.
15 DR. DAVID WOHNS: Yeah. I mean, the STS and in
16 the state of Michigan that consortium has been very
17 important. And, again, this is mandated through, you know,
18 that participation, you know, in this.
19 MR. FALAHEE: Other questions? Thanks, Dr. Wohns.
20 We'll let you get on to your patients.
21 DR. DAVID WOHNS: Thank you very much. Appreciate
22 it.
23 MR. FALAHEE: Thank you. I will add -- I'm going
24 to turn it over to Brenda in a second because normally we
25 would have Brenda introduce the topic, but I wanted to be

1 sensitive to patient care. A reminder that one of the
2 legislative reforms talking about the Capitol -- one of the
3 reforms -- and you recall Senator VanderWall was here -- and
4 one of the reforms that has been introduced is to exempt
5 from CON ICDs and pacemakers. So this, or that would be a
6 piece of what Dr. Wohns was just talking about, that
7 potentially if we put a SAC together, the SAC would look at
8 in addition to many other things. But that's out there
9 legislatively. I spoke to Senator VanderWall's office
10 yesterday. They know what may happen here and they just
11 want to keep -- be kept abreast of, okay, what's going on
12 just so we all know. With that, I'll turn it over to Brenda
13 to sort of summarize what we've already talked about.
14 MS. ROGERS: Yeah, this is Brenda. Okay. So the
15 first comment I'm going to make applies to all of the review
16 standards for the next several items on the agenda. So the
17 public comment period for the standards that are up for
18 review this year was held back in October and we received
19 testimony and either -- I think all testimony was in support
20 of continued regulation of all of these sets of standards.
21 So that's the first thing.
22 For cardiac cath, we received testimony which you
23 should have had in your packet and hopefully had a chance to
24 review, testimony from seven different organizations, again,
25 all supportive, but there were some recommendations from

1 some of the organizations. I can read through all these,
2 but hopefully you've read through them already so I'm going
3 to forego that. But if you do have any questions, the
4 Department after taking a look at this, is suggesting a SAC
5 to take a look at these issues and then they would come back
6 to the Commission at a later date down the road. Thank you.
7 MR. FALAHEE: Thanks, Brenda. Any questions of
8 Brenda about the process for this and then the others coming
9 down the pike, too? Okay. Thank you. I don't have any
10 other cards on that topic. Does anyone wish to speak on the
11 cardiac cath issue? Thank you. At this point, questions
12 from the Commissioners of the Department? If not, we can
13 move right into action.
14 MS. BROOKS-WILLIAMS: Action? Commissioner
15 Brooks-Williams. I move that we move forward with seating a
16 SAC as recommended by the Department -- yeah, I think that's
17 all I'm moving.
18 MR. HUGHES: Second.
19 MS. ROGERS: This is Brenda. Do you want to --
20 and I'm only saying this based on what the Commission has
21 done in the past.
22 MS. BROOKS-WILLIAMS: Uh-huh (affirmative).
23 MS. ROGERS: Do you also want to include as part
24 of that acceptance of the recommendation to delegate to the
25 chairperson to draft the charge and seat the SAC?

1 MS. BROOKS-WILLIAMS: Absolutely. I would like to
2 add that.
3 MS. ROGERS: Thank you.
4 MR. FALAHEE: Is there a second to that?
5 MR. HUGHES: Second. Hughes.
6 MR. FALAHEE: Thank you. Commission discussion?
7 Commissioner Dood?
8 MR. DOOD: In the light of the Nursing Home SAC,
9 the first go around, does it seem like there will be enough
10 people interested in participating or the other option would
11 be a work group; right?
12 MR. FALAHEE: This is Falahee. Based on past
13 experience, any time there's cardiac cath issues, there's a
14 plethora of applications to be on the SAC.
15 MR. DOOD: Thank you.
16 MR. FALAHEE: So we have a motion and support.
17 All in favor of the motion say "aye."
18 ALL: Aye.
19 MR. FALAHEE: Opposed? That motion carries.
20 (Whereupon motion passed at 10:32 a.m.)
21 MR. FALAHEE: Dr. Wohns, you may not be out of the
22 woods yet. I may be calling on you. So thank you. And
23 just so -- so people know what happens for this one and any
24 others, Commissioner Mittelbrun and I would work together
25 with the Department, number one, to develop the charge for

1 the SAC -- we've got pretty much what it is right here --
2 and then we go out and we announce the creation of the SAC
3 and we seek nominations -- to Commissioner Dood's point --
4 for those that want to nominate themselves and we need to
5 get the right number of nominations from the right groups,
6 experts, public payers, and all that. And then once the
7 nominations come in, they are vetted to make sure there
8 aren't any conflicts of interest. Then those nominations
9 come to the chair and the vice chair. We then seat the SAC
10 based on those nominations. I will then as chairman look to
11 appoint a chair and a vice chair of that SAC an then they'll
12 get started. So it takes awhile. And I told Senator
13 VanderWall that if we approve the SAC, it could be a year
14 before the SAC came back to us with a recommendation. He
15 was totally fine with that. He understood. And I -- I told
16 him I would keep him updated on where we were at. So that's
17 just -- that's the timing, typical timing with any SAC
18 because of the time it takes. Okay.
19 The next agenda item is on Hospital Beds. Brenda,
20 I'll turn it over to you for an introduction, then I have
21 one card from Henry Ford Health System.
22 MS. ROGERS: This is Brenda. Again, you should
23 have received the testimony. We are suggesting, again, a
24 SAC to review the Hospital Bed standards based on the items
25 that were suggested. We received testimony from four

1 different organizations, again, all supportive of continuing
2 regulation, but there are some suggested recommendations to
3 be looked at. Thank you.
4 MR. FALAHEE: Any questions of Brenda from anyone?
5 If not, Tracey Dietz from Henry Ford. Oh, there you are. I
6 didn't see you.
7 TRACEY DIETZ
8 MS. TRACEY DIETZ: Good morning, everyone. I'm
9 Tracey Dietz with Henry Ford Health System. My comments are
10 pretty simple. We are in support with supporting the
11 recommendation from the group in regards to a SAC to review
12 the limited access area subsection along with the other
13 language in the standards related to the initiation of the
14 hospitals within a -- or hospital within a limited access
15 area and the process as well. Thank you.
16 MR. FALAHEE: Questions? Thank you. Questions of
17 the Department? I'll raise one and Beth is aware it's
18 coming. I didn't want to sneak attack. There's one
19 potential item to look at on here and it relates to revising
20 the definition to add language that excludes what's called
21 observation beds. And as I told Beth, and Tulika is aware
22 of this, I brought my old file here. I had a discussion --
23 and you'll recognize some of these names: Tulika, Joe
24 Potchen, and Andrea Moore with the compliance department.
25 My discussion with them was June 30 of 2015, about this very

1 topic. And I pointed it out to them and I won't go into a
2 long argument that in today's hospital world -- and those of
3 us who are in hospitals in our various capacities --
4 observation patients can be a substantial portion of those
5 that occupy a bed at midnight. The doctors and the nurses
6 don't know whether I'm an inpatient and Commissioner
7 Mittelbrun is an observation patient. The hospital doesn't
8 know, the doctors don't know, the insurance companies may
9 know, but they may not know and may not tell the hospital
10 'til weeks later. So the care that the patients get is
11 exactly the same. And so I expressed concern five years ago
12 and I would express it again that it doesn't make any sense
13 to exclude "observation patients" from those that have --
14 that are occupying a bed at midnight or 1:00 a.m., whenever
15 the census is taken. Just an observation about observation
16 beds from this Commissioner. Any questions of the
17 Department?
18 MS. BROOKS-WILLIAMS: Commissioner
19 Brooks-Williams. So -- so with that comment about
20 observation beds, if we were to move forward with
21 recommending the SAC, are you suggesting simply to have the
22 SAC deliberate on that if you and Tom wrote the charge that
23 would be part of this deliberation, or do we need to
24 consider something different in the charge given that it's
25 written explicitly to include language to exclude

1 observation beds?
2 MR. FALAHEE: I'll add -- this is Falahee. I'll
3 add my comments. I think the Commission, as to any
4 potential charge that's in front of us, can look at it and
5 say, yes, we agree with that or no, we don't think you
6 should look at that. So I think that's within the
7 Commission's purview. And if I'm wrong, the people to my
8 right will correct me. So I personally know what my opinion
9 will be about whether that should be looked at or not, but
10 that's up to the Commission, but I think that's within our
11 purview to decide one way or the other.
12 MS. BROOKS-WILLIAMS: Okay.
13 MR. FALAHEE: So a motion could be made one way or
14 the other to approve the charge as -- to work on the charge
15 as it's listed in front in our packet with the chair and the
16 vice chair working with the Department, or to submit the
17 charge without one, two, or three of the agenda items that
18 are before us. Is that accurate to the people on my right?
19 MS. ROGERS: This is Brenda. That is correct.
20 MR. FALAHEE: Okay. Thank you. So if anyone
21 would care to make a motion --
22 MS. GUIDO-ALLEN: This is Guido-Allen. Just a
23 question to clarify. On the chart that we're looking at, in
24 the section that says, "Revised definition of Hospital Bed
25 to add language that excludes observation beds," that's --

1 you're not -- you're -- Chip, you're saying keep them in?
2 MR. FALAHEE: Yes.
3 MS. GUIDO-ALLEN: But under the -- it's
4 recommended by the Department to exclude. So with the
5 motion when whomever makes the motion, do we say that we
6 want that evaluated further or do we want that section to
7 also go to the SAC versus following the recommendation of
8 the Department to -- to exclude observation beds?
9 MR. FALAHEE: You could say multi- -- you could
10 propose in a motion or anyone could multiple options. You
11 could say what's before us here, send that all to the SAC
12 for a recommendation. You could say send all of it to the
13 SAC but for the item on observations beds. So it's up to
14 whomever makes the motion and then whatever is approved by
15 the Commission. Brenda, did I phrase that properly?
16 MS. ROGERS: Yeah. And this is Brenda. If you
17 look at the summary I provided in the cover memo for you,
18 that identifies for the four items that the Department is
19 recommending to be part of the charge. So it's a little bit
20 easier thing to look at than the chart if that helps you.
21 MS. BROOKS-WILLIAMS: This is Commissioner
22 Brooks-Williams. So knowing, not to belabor so we can get
23 out of here today, but would someone from the Department
24 like to just give us a quick explanation of that
25 recommendation that you have around excluding observation

1 beds?
2 MS. NAGEL: Yes. I can certainly do that. It was
3 a question that -- that we receive on a regular basis as
4 when we do our annual survey, whether or not to consider
5 observation beds as part of their hospital bed utilization.
6 And so the definition doesn't exclude or include, and so we
7 just wanted to have a group of hospital bed experts
8 deliberate on whether or not they should be involved or
9 should be included or excluded from the definition.
10 MS. BROOKS-WILLIAMS: All right.
11 MR. FALAHEE: Would anyone care to make a motion?
12 MS. BROOKS-WILLIAMS: Commissioner
13 Brooks-Williams. I move that we accept three of the
14 recommendations as explicitly listed -- right? -- so that
15 would be -- and what I have in front of me, I don't know if
16 they're numbered or whatever. So what I'm just suggesting
17 is that we can absolutely consider inclusion or exclusion of
18 the observation beds, but I wouldn't have it explicitly as
19 excludes. So just to the Department to make sure that I'm
20 capturing that right? Right? So that would be taking the
21 three recommendations and removing the one that speaks to
22 excluding observation beds, if that makes sense?
23 MS. ROGERS: So this is Brenda. So what you're
24 suggesting is the other three items, so there'd only be
25 three items on the charge, so you're suggesting a SAC would

1 not look at observation beds then?
2 MS. BROOKS-WILLIAMS: Correct.
3 MS. ROGERS: Okay.
4 MS. BROOKS-WILLIAMS: Well, and I think that's why
5 I asked the question earlier. Is taking this out
6 prohibiting it from being looked at because it has to
7 explicitly be in the charge?
8 MS. ROGERS: This is Brenda. Yes, it would. It
9 has to be in the charge.
10 MS. BROOKS-WILLIAMS: Okay. But does it have to
11 be in the charge as excluded? Can you simply say look at
12 observation beds? It doesn't have to be with the intent to
13 exclude or include them? You can look at them. That's not
14 my opposition. I'm just looking at the language having a
15 preference around excluding them.
16 MS. NAGEL: So you're saying a point on the charge
17 be evaluate --
18 MS. BROOKS-WILLIAMS: Does something need to occur
19 with observation beds? Include them, exclude them? I mean,
20 I understand they're kind of not dealt with now and you want
21 to have dialogue about dealing with them.
22 MR. FALAHEE: Yeah, this is Falahee. To evaluate
23 whether or not observation beds should count toward the
24 patient bed count that's done every day for those -- those
25 bodies that occupy a licensed bed.

1 MS. BROOKS-WILLIAMS: Correct. So well done.
2 MR. FALAHEE: So that would be a --
3 MS. BROOKS-WILLIAMS: That would be a modification
4 to my -- to my motion.
5 MR. FALAHEE: All right. Is there support for
6 that modified motion?
7 MR. DOOD: Commissioner Dood. I'm sorry. But
8 just to make sure -- I didn't hear it start, but our -- the
9 motion is to form a SAC?
10 MS. BROOKS-WILLIAMS: The motion is to form a
11 SAC --
12 MR. DOOD: I didn't hear that part.
13 MS. BROOKS-WILLIAMS: -- that would include the
14 three recommendations that were presented to us modifying
15 the fourth. The fourth would simply be to review
16 observation beds and their inclusion or exclusion in the bed
17 census that occurs daily.
18 MR. DOOD: This is Dood. I support.
19 MR. FALAHEE: Thank you. Discussion?
20 MS. ROGERS: And this is Brenda. And does that
21 also include delegating --
22 MS. BROOKS-WILLIAMS: That includes -- yes.
23 MS. ROGERS: -- by the chair?
24 MS. BROOKS-WILLIAMS: By the chair, yeah, and to
25 set the charge with the Department --

1 MS. ROGERS: And seat the SAC?

2 MS. BROOKS-WILLIAMS: -- and seat the SAC.

3 MS. ROGERS: Okay. Thank you.

4 MR. FALAHEE: Discussion? Okay. All in favor of

5 the --

6 DR. MCKENZIE: Commissioner -- oh.

7 MR. FALAHEE: Sorry.

8 DR. MCKENZIE: Can I ask a quick question?

9 MR. FALAHEE: Yeah.

10 MS. MCKENZIE: Commissioner McKenzie. I think I'm

11 following, but today what the observation beds are not

12 spoken to and therefore there's the opportunity to either

13 include them or exclude them. The motion on the floor is to

14 say let's have the SAC take a look at what's appropriate?

15 MS. BROOKS-WILLIAMS: Correct.

16 MS. NAGEL: Yes.

17 MS. BROOKS-WILLIAMS: Yes, that was the intent.

18 MS. MCKENZIE: Thank you.

19 MR. FALAHEE: Correct. The Chairman will refrain

20 from giving the argument that he gave five years ago as to

21 why there's a certain position the chairman would support.

22 Any other discussion of the motion in front of us? Okay.

23 All in favor of the motion please say "aye."

24 ALL: Aye.

25 MR. FALAHEE: Opposed? Okay. That motion

1 carries. Thank you very much.
2 (Whereupon motion passed at 10:45 a.m.)
3 MR. FALAHEE: And, again, I think -- to
4 Commissioner Dood's comment earlier, trust me there will be
5 many people that will submit their names for this SAC.
6 Okay. Next we go on to MRI. And, Brenda, I will turn it
7 over to you for the usual introduction of the topic, please.
8 And I have two cards, I believe.
9 MS. ROGERS: This is Brenda. So MRI Services
10 actually is not on the agenda for standards to be reviewed
11 this year. Their next scheduled review is next year in
12 2021. The -- however we did receive testimony during the
13 public comment period regarding the volume requirements
14 under MRI and with a request to take a look at those
15 numbers. Thank you.
16 MR. FALAHEE: Thank you. So I've got two cards,
17 first from Sparrow, Chris Shemes -- Shemes (pronouncing). I
18 don't -- I'm sorry. I think the witnesses have learned to
19 sit behind a column and I have no clue where they are if
20 they're here.
21 MR. CHRIS SHEMES: I did wonder for awhile who was
22 speaking 'til I stuck my head around there.
23 CHRIS SHEMES
24 MR. CHRIS SHEMES: Good morning. My name is Chris
25 Shemes. I'm the director of finance at Sparrow Carson

1 Hospital in Carson City. And on behalf of our hospital and
2 Sparrow Health System, I am asking for your support of the
3 Department's recommendation to form a work group this year
4 to review the maintenance volume requirements in the MRI
5 standards.
6 Sparrow Carson Hospital is a 61-bed hospital, it's
7 a 24/7 emergency department, fixed CT, and MRI services. It
8 is located in Montcalm County which was designated rural
9 until the 2010 census. Due to changes in the way the
10 federal government determines county designations as rural,
11 micropolitan, or metropolitan, and despite no significant
12 changes to our county or the communities we serve, our
13 facility no longer qualifies under the original provisions
14 included in the standards which allowed us to qualify for
15 our unit in the first place. We believe the standards in
16 place today do not adequately take into consideration the
17 needs of patients in more rural areas of the state despite
18 federal designation.
19 Facilities like Sparrow Carson Hospital have made
20 the investment in MRI to ensure appropriate access for these
21 patients. Unfortunately, we now operate at risk of
22 compliance action due to project delivery requirements that
23 don't consider the unique circumstances within which we have
24 to operate in order to ensure patient needs are met, even in
25 the rural areas of our state. We ask that the standards be

1 updated to more accurately reflect the needs of rural
2 patients and create requirements that are attainable by
3 critical access hospitals and other hospitals providing
4 important geographic access while still ensuring high
5 quality and reasonable utilization. We thank the Department
6 for their support of our request and inclusion in their
7 recommendations to you today. I'm happy to take any
8 questions you have.
9 MR. FALAHEE: Any questions? Thank you very much.
10 MR. CHRIS SHEMES: Thank you.
11 MR. FALAHEE: I also have a card on this topic
12 from David Walker at Spectrum here.
13 DAVID WALKER
14 MR. DAVID WALKER: Thank you, Mr. Chairman, and
15 members of the Commission. My name is David Walker and I'm
16 here on behalf of Spectrum Health. I've made this real
17 short because Chris did a great job of explaining the issue
18 here. There's a -- services in rural areas have been
19 designated more urban and that is creating some volume
20 challenges and I -- Spectrum Health supports forming a work
21 group to look at the minimum volume.
22 MR. FALAHEE: Appreciate the brevity. Any
23 questions? Thank you.
24 MR. DAVID WALKER: Thank you.
25 MR. FALAHEE: This is Falahee. As an aside, one

1 of the other hats I wear, I'm a board member of a company
2 that provides mobile MRI services in the upper and lower
3 peninsula throughout Michigan and the issue of compliance
4 with volume requirements and access as these two gentlemen
5 talked about is a real issue. So I hear it at every board
6 meeting I go to.
7 Any questions of the Department before we have
8 questions of each other? The recommendation is to form a
9 work group. Any discussion? And just to remind those, on
10 the work group it's different than a SAC. A work group does
11 not have any -- and, again, Brenda, when I get it wrong,
12 correct me. A work group doesn't have a defined group of
13 people that are appointed to it or that show up at a
14 meeting. So you could have 20 people show up at a meeting,
15 five people show up at the next meeting and you don't -- it
16 could be five totally different people. You're never sure
17 who's going to be there, but it tends to be the same group
18 of people because they have an interest in the topic. And
19 on the areas where it's not as substantive an issue or
20 issues, we tend to go with the work group idea instead of
21 the SAC idea and that seemed to work well for the Commission
22 for many years and that's why the Department and I agree is
23 forming -- proposing that we agree to form a work group in
24 this case. Any discussion? If not, I'll entertain a
25 motion.

1 DR. WANG: Commissioner Wang. I would like to
2 move that the Commission suggests that a work group be
3 formed to examine the issue of MRI Services standards.
4 MR. FALAHEE: And would you -- would you add as
5 Brenda would be about to say, would you add that the
6 Chairman and Vice Chairman can work with the Department to
7 develop the charge for that work group?
8 DR. WANG: As nicely stated, yes.
9 MS. ROGERS: And to appoint the Chairperson of the
10 work group?
11 DR. WANG: And to appoint, yes.
12 MS. MCKENZIE: McKenzie. Second.
13 MR. FALAHEE: Thank you. Any discussion? All in
14 favor say "aye."
15 ALL: Aye.
16 MR. FALAHEE: Opposed? Great. Thank you very
17 much.
18 (Whereupon motion passed at 10:52 a.m.)
19 MR. FALAHEE: Next we move on to MRT Services.
20 Brenda, turn it over to you, please.
21 MS. ROGERS: This is Brenda. And MRT Services is
22 on your schedule to be reviewed. At this time based on the
23 testimony that came in, the Department is recommending no
24 changes and to schedule it out for the next review which
25 would be in 2023. Thank you.

1 MR. FALAHEE: Any question of Brenda about that?
2 So really no action needed at this time. All right. Next
3 item on the agenda -- oh, and I didn't have any blue cards
4 on MRT. I don't have any blue cards on Open Heart either.
5 So that's the next agenda item. Brenda, turn that one over
6 to you, too.
7 MS. ROGERS: Okay. But this is Brenda. But the
8 Commission's -- we gave a recommendation but the Commission
9 still needs to make a decision on if that's what you want to
10 do. Thank you.
11 DR. GARDNER: Gardner. Motion to accept the
12 recommendation to maintain current standards.
13 MS. GUIDO-ALLEN: Guido-Allen. Second.
14 MR. FALAHEE: Discussion? All in favor of the
15 motion say "aye."
16 ALL: Aye.
17 MR. FALAHEE: Opposed? That motion carries.
18 Sorry about that.
19 MS. ROGERS: Thank you.
20 (Whereupon motion passed at 10:54 a.m.)
21 MR. FALAHEE: So now we'll move to Open Heart.
22 MS. ROGERS: And this is Brenda. Again, after
23 reviewing the public comment period testimony, the
24 Department is recommending no changes at this time to Open
25 Heart Surgery. I will note, though, that you did receive

1 correspondence subsequent since that time. Thank you.
2 MR. FALAHEE: So, again, much like MRT, the
3 Department's recommending no changes at this time. If we
4 want to make a motion to confirm that as the Commission, I'd
5 entertain a motion one way or the other.
6 MS. GUIDO-ALLEN: Guido-Allen. Motion to accept
7 the Department's recommendation to continue Open Heart
8 Surgery Services to be regulated by the CON and next review
9 in 2023.
10 MS. BROOKS-WILLIAMS: Brooks-Williams. Support.
11 MR. FALAHEE: Questions or discussion? All in
12 favor of the motion say "aye."
13 ALL: Aye.
14 MR. FALAHEE: Opposed? That motion carries.
15 (Whereupon motion passed at 10:55 a.m.)
16 MR. FALAHEE: Next we move on to PET Scanner
17 Services. Brenda?
18 MS. ROGERS: Again, this is Brenda. A couple of
19 items came up during the public comment period and based on
20 those comments, the Department is recommending a work group
21 to take a look at these issues regarding the volume
22 requirements and the oversight requirements. Thank you.
23 MR. FALAHEE: And, again, I don't have any comment
24 cards on this topic either. I do have two comment cards on
25 Surgical Services, just a heads up. Any questions of

1 Brenda? Entertain a motion.
2 DR. GARDNER: This is Gardner. Make a motion
3 to -- you said a work group to review the volume
4 requirements associated with PET.
5 MR. FALAHEE: And as part of your motion I'm
6 sure --
7 DR. MCKENZIE: Yes.
8 MR. FALAHEE: -- you were thinking of saying the
9 Chairman can work with the Department to come up with the
10 charge, if you will, and to appoint the chair?
11 DR. GARDNER: Charge and appoint the chair.
12 MR. FALAHEE: Thank you. Is there support for
13 that motion?
14 MS. GUIDO-ALLEN: Guido-Allen. Support.
15 MR. FALAHEE: Any discussion? All in favor say
16 "aye."
17 ALL: Aye.
18 MR. FALAHEE: Opposed? That motion carries.
19 (Whereupon motion passed at 10:56 a.m.)
20 MR. FALAHEE: Last on our list of services is
21 Surgical Services. Brenda, I'll turn it over to you and
22 then we -- as I said, we have two cards on that topic.
23 MS. ROGERS: Okay. Again, this is Brenda. And
24 based on the comments received during the public comment
25 period, the Department is recommending no changes to

1 Surgical Services at this time and the next review would be
2 in 2023. Thank you.
3 MR. FALAHEE: Thank you. Any questions of Brenda
4 at this point? I'll turn it over -- we'll start David from
5 Spectrum, David Walker.
6 DAVID WALKER
7 MR. DAVID WALKER: Thank you, Commissioner Falahee
8 and members of the Commission. Once again, my name is Dave
9 Walker here on behalf of Spectrum Health. Thank you very
10 much for the opportunity to provide comment on the Surgical
11 Services CON review standards.
12 Spectrum Health strongly supports continued
13 regulation and believes the current standards updated in the
14 last review were very effective in meeting the goals of
15 Certificate of Need and we support the Department's
16 recommendation not to reopen the standards at this time.
17 Thank you.
18 MR. FALAHEE: Questions? Thank you.
19 MR. DAVID WALKER: Thank you much.
20 MR. FALAHEE: Tracey Dietz, Henry Ford?
21 MS. TRACEY DIETZ: I don't want to take any time.
22 I just want to say I support.
23 MR. FALAHEE: Okay. Thank you. So the two
24 speakers support the recommendation of the Department. A
25 motion?

1 DR. GARDNER: Commissioner Gardner to make a
2 motion to support the Department's recommendation not to
3 open up for review.
4 MR. FALAHEE: Support?
5 MS. GUIDO-ALLEN: Guido-Allen. Support.
6 MR. FALAHEE: Thank you. Discussion? All in
7 favor of the motion say "aye."
8 ALL: Aye.
9 MR. FALAHEE: Opposed? That motion carries.
10 (Whereupon motion passed at 10:58 a.m.)
11 MR. FALAHEE: Which then brings us to the CON
12 annual activity report which, for those of you that review
13 it, requires a tremendous amount of work by Tulika and her
14 team. They do a great job and I just want to publicly
15 commend them for the job they do day in and day out and then
16 putting together this very detailed annual activity report.
17 So thank you very much for all that effort.
18 MS. BHATTACHARYA: Thank you, Chairman Falahee,
19 and I accept that on behalf of my team. It is truly a lot
20 of work to collect the information, but more importantly to
21 maintain the timeliness of all of the types of applications
22 and the compliance reviews that my team does and they do a
23 wonderful job.
24 So I will not go over everything, but if you have
25 any questions, please feel free to ask. So just quickly on

1 table, or page 8, as you can see we received 365 letters of
2 intent in FY 2019. 99 percent were processed on time, out
3 of that 79 projects resulted in waiver from review which,
4 you know, as a Department we recommend the provider submit a
5 proposal for their project and receive a written waiver if
6 they're unsure if the project requires review or not.
7 On page 10, as you can see we received 210
8 applications, all of them processed on time. And also if
9 you look at the average number of review days for non-
10 substantive, by law we are required to issue within 45 days
11 for substantive, 120 days and comparative 150 days. So we
12 met and exceeded, actually we issued earlier than the
13 statutory requirements.
14 On page 11, table seven, the proposed decisions,
15 timeliness is maintained. And there were two proposed
16 disapproval this year. One was for a nursing home project
17 and the second one was for a new hospital project in limited
18 access area six, in HSA 1. There were no final decision for
19 disapproval last year because I believe those two projects
20 that we denied are still in litigation.
21 And Chip always talks about this table, so I have
22 to go over this table on --
23 MR. FALAHEE: She knew I was going to ask that.
24 MS. BHATTACHARYA: -- page 14. What you do notice
25 that in terms of numbers applications, LOIs and final

1 decisions are down quite a bit in terms of number and dollar
2 amounts that we approved last year, but for whatever reason,
3 we are busier than before and it's growing. I think it is
4 because of all of the consultations we provide,
5 preapplication to our applicants or potential applicants,
6 and also the compliance reviews that we have picked up after
7 the 2014 OIG audit of the CON program.
8 The next table I wanted to discuss, which is table
9 13. So out of that 424 CON approvals, 70 were for
10 additional capacity in the state. For example, there were
11 12 new surgical services facilities in terms of FSOF ASCs,
12 one new special care nursery, and two new nursing homes.
13 But when you look at the new sites for CT, MRI, PET, and
14 lithotripsy services, they're not necessarily fixed scanner
15 services. Those include post sites as well because those
16 are mobile services.
17 Last year we continued to follow up our approved
18 projects on time and appropriately whether extend them or
19 expire them if they don't meet the required timelines in our
20 administrative rules and statute and we also issued
21 compliance orders based on our statewide compliance reviews.
22 There were 47 applications that we expedited reviews for and
23 this is the first time in a long time we did not quite meet
24 the 100 percent of our expenditure to our fee revenues. We
25 came at 94 percent. So we used some of our carry overs.

1 With that said -- and then the next section summarizes the
2 Commission's activities for last year. And I'll be happy to
3 answer any questions.
4 MR. FALAHEE: Any questions from the
5 Commissioners? Again, as you can see, it's a very, very
6 detailed report. Okay. Seeing none, thank you again,
7 Tulika, and your whole team.
8 Next is public comment of which I have zero blue
9 cards. So I don't see anyone jumping up and down either, so
10 no public comment. I will add a Chairman comment. As a
11 legislative update real briefly, the senate health committee
12 is continuing to look at those six bills for CON reform.
13 The one that would have most immediate impact on us is that
14 one of the bills would add two additional members to the CON
15 Commission, two members who are "representative of the
16 public," whatever that means. But that -- that is going
17 through as well as five others. They've been introduced.
18 There are still discussions going on within the committee,
19 and I've met with I think 18 legislators both in the senate
20 and the house about this just to answer their questions and
21 provide input to them. Wearing my hat as the chairman, my
22 other hat is the board member of the Michigan Hospital
23 Association, and my other hat as a member of Bronson
24 Healthcare Group. I wear several hats and sometimes they
25 all get employed in front of the committee. So that's a

1 brief legislative update. I'll keep you updated as we go
2 through our subsequent meetings.
3 Brenda, with that, review of the Commission Work
4 Plan, please?
5 MS. ROGERS: Okay. This is Brenda. So based on
6 the action you took today, we will update the work plan. We
7 will add a -- for Cardiac Cath we will add a Standard
8 Advisory Committee; Hospital Beds we will add Standard
9 Advisory Committee; for MRI we will add a work group; and
10 then for PET we will also add a work group; and then for
11 MRT, let's see, Open Heart and Surgery, we will remove from
12 the work plan and they will be scheduled out for 2023 for
13 the next review period. Thank you.
14 MR. FALAHEE: Any discussion or questions for
15 Brenda? If not, we need a motion to approve the work plan
16 as presented by Brenda.
17 MS. BROOKS-WILLIAMS: Commissioner
18 Brooks-Williams. I move that we approve the work plan as
19 presented by Brenda.
20 MR. FALAHEE: Support?
21 MR. MITTELBRUN: Mittelbrun. Support.
22 MR. FALAHEE: Questions? Discussion? All in
23 favor say "aye."
24 ALL: Aye.
25 MR. FALAHEE: Opposed? Great.

1 (Whereupon motion passed at 11:07 a.m.)
2 MR. FALAHEE: For those in the audience and those
3 of us around the table, just confirming our future meeting
4 dates: March 19, June 18, September 17, and December 10.
5 Any other items to come before us? If not -- Commissioner
6 Hughes? Sorry.
7 MR. HUGHES: I just have one comment. It's a
8 little bit off base, but I think it needs to be said. As
9 somebody here that's supposed to be representing payers and
10 there's one other here that does that, too, I just get weary
11 that we're supposed to be here about cost, quality, and
12 access. And I don't think when we do these work groups and
13 these SACs -- and it's not an easy thing to fix -- but I
14 don't think cost gets brought into the conversation enough.
15 For example, the person that was just up here asking for
16 leniency on the volume requirements for MRI, they're
17 charging almost two-thirds more than the providers that are
18 doing it 29 miles down the road. And I think that kind of
19 information needs to get into the work groups when these
20 kinds of things are being discussed and I don't think that
21 it does. I can't say because I've never been in a work
22 group, but I don't think the price transparency information
23 gets in these discussion and needs to be, and when people
24 are asking for things and they're charging a lot more and a
25 lot of people with higher deductibles are paying for this

1 stuff out of their own pocket, I don't think we're helping
2 the citizens or the cost of health care.
3 MR. FALAHEE: Thank you. This is Falahee. It's a
4 good comment and it's what I hear more and more from the
5 legislators. They get the quality part, they get the access
6 part, but they're asking more and more questions about the
7 cost part and what are we doing as a Commission regarding
8 cost.
9 MR. HUGHES: I don't know if we can initiate any
10 transparency efforts here where people have to put their
11 prices up, but I see the price on everything else I buy. I
12 don't see it for health care and it needs to start
13 somewhere. If this Commission has any authority to push
14 that process, I would be behind that.
15 MR. FALAHEE: Thank you.
16 DR. GARDNER: Commissioner Gardner. To add on,
17 CMS is already doing it. We should follow suit as a
18 Commission for Michigan.
19 MR. FALAHEE: Okay. Thank you. Hearing nothing
20 else, we are adjourned. Thank you. Unless we need a formal
21 motion?
22 MS. ROGERS: Motion.
23 MR. FALAHEE: We need a motion to adjourn. Sorry.
24 MR. MITTELBRUN: Motion to adjourn. Mittelbrun.
25 MR. FALAHEE: Support?

1 MS. LALONDE: LaLonde. Second.
2 MR. FALAHEE: All in favor?
3 ALL: Aye.
4 (Proceedings concluded at 11:09 a.m.)
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