

U.S. DEPARTMENT OF EDUCATION  
Office of Postsecondary Education

National Advisory Committee  
on Institutional Quality and Integrity

Wednesday, December 14, 2011

Crowne Plaza Old Town  
Jefferson Ballroom  
901 N. Fairfax Street  
Alexandria, Virginia

## A G E N D A

	PAGE
Welcome and Introductions	9
Overview of Procedures for Committee Review of Petitions	
Jamienne Studley, Chairperson, NACIQI	
Melissa Lewis, NACIQI Executive Director, U.S. Department of Education	
Items for Consent Agenda	19
Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges (ACCJC)	
American Optometric Association, Accreditation Council on Optometric Education (ACOE)	
New York State Board of Regents, State Education Department, Office of the Professions (Public Postsecondary Vocational Education, Practical Nursing)	20
Action for Consideration: Petition for Renewal of Recognition	
NACIQI Primary Readers: George T. French Larry Vanderhoef	
Department Staff: Jennifer Hong-Silwany	
Representatives of the Agency: William Murphy, Assistant Director, Professional Education, New York State Education Department	
Third Party Oral Commenters: None	

## A G E N D A

PAGE

New York State Board of Regents, State Education  
Department, Office of the Professions (Nursing  
Education) 48

Action for Consideration: Petition for  
Renewal of Recognition

NACIQI Primary Readers:  
George T. French  
Larry Vanderhoef

Department Staff:  
Jennifer Hong-Silwany

Representatives of the Agency:  
William Murphy, Assistant Director, Professional  
Education, New York State Education  
Department

Third Party Oral Commenters:  
None

American Podiatric Medical Association, Council  
on Podiatric Medical Education (CPME) 63

Action for Consideration: Petition for  
Renewal of Recognition

NACIQI Primary Readers:  
Arthur Rothkopf  
Cameron Staples

Department Staff:  
Steve Porcelli

Representatives of the Agency:  
Robert T. Yoho, Immediate Past Chair, CPME  
Andrew Weiss, Former Chair, Current Member,  
CPME  
Alan Tinkleman, Director, CPME

Third Party Oral Commenters:  
None

## A G E N D A

	PAGE
North Central Association of Colleges and Schools, The Higher Learning Commission (HLC)	93
<p style="margin-left: 40px;">Action for Consideration: Informational Report Written Report on Initial Accreditation Review Process and an Oral Report on Initial Accreditation Actions Taken by the Agency November 2010 through October 2011 (No vote will be taken)</p> <p style="margin-left: 40px;">Representatives of the Agency: Sylvia Manning, President, HLC</p> <p style="margin-left: 40px;">Third Party Oral Commenters: None</p>	
BREAK	107
The Council on Chiropractic Education, Commission on Accreditation (CCE)	107
<p style="margin-left: 40px;">Action for Consideration: Petition for Renewal of Recognition</p> <p style="margin-left: 40px;">NACIQI Primary Readers: Arthur Rothkopf Frank Wu</p> <p style="margin-left: 40px;">Department Staff: Rachael Shultz</p> <p style="margin-left: 40px;">Representatives of the Agency: David J. Wickes, Council Chair, CCE Craig S. Little, Council Development Committee Chair and Vice Chair, CCE G. Lansing Blackshaw, Chair, Standards Review Task Force Academy Member, CCE S. Ray Bennett, Director of Accreditation Services, CCE</p>	

## A G E N D A

PAGE

## Third Party Oral Commenters:

Robert Braile, Georgia Council of Chiropractic  
 Clint Erickson, Council of Chiropractic  
 Philosophy  
 Christopher Kent, Federation for Vertebral  
 Subluxation  
 Mattie Leto, West Village Chiropractic  
 Kathleen Linaker, D'Youville College  
 Michael McLean, no affiliation given  
 Joe Merlo, Good Vibrations Family Chiropractic  
 Sarah Mongold, Student  
 Judith Nutz Campanale, International  
 Federation of Chiropractors & Organizations  
 David O'Bryon, Association of Chiropractic  
 Colleges  
 William O'Connell, American Chiropractic  
 Association  
 Lawrence O'Connor, Federation of Chiropractic  
 Licensing Board  
 Corey Rodnick, no affiliation given  
 Henry Rubinstein, Doctors for Excellence in  
 Chiropractic Education  
 Gary Shultz, University of Western States

LUNCH

203

## Third Party Oral Commenters (Cont'd):

Steve Tullius, Movement for Chiropractic  
 Quality and Integrity  
 John Ventura, no affiliation given  
 Gary Walsemann, International Chiropractors  
 Association  
 Stephen Welsh, Care-More Chiropractic Center  
 Ronald Hendrickson  
 Donald Hirsh  
 John Bomhoff

A G E N D A

	PAGE
Agency Followup and Committee Discussion	243
BREAK	297
Commission on English Language Program Accreditation (CEA)	302
Action for Consideration: Petition for Renewal of Recognition	
NACIQI Primary Readers:	
Frank Wu	
Department Staff:	
Chuck Mula	
Representatives of the Agency:	
Rebecca Smith-Murdock, Commission Chair, CEA	
Teresa D. O'Donnell, Executive Director, CEA	
Third Party Oral Commenters:	
None	
Maryland Board of Nursing (MSBN)	323
Action for Consideration: Petition for Renewal of Recognition	
NACIQI Primary Readers:	
Earl Lewis	
Beter-Aron Shimeles	
Department Staff:	
Joyce Jones	

Representatives of the Agency:  
 Emmaline Woodson, Deputy Director and  
 Director of Advanced Practice, MBN  
 Pamela Ambush-Burris, Director of Education  
 and Licensure, MBN  
 Patricia Kennedy, Director of Education,  
 Examination and Research, MBN

Third Party Oral Commenters:  
 None

Joint Review Committee on Education in Radiologic  
 Technology (JRCERT)

336

Action for Consideration: Petition for  
 Renewal of Recognition

NACIQI Primary Readers:  
 Arthur Keiser  
 Carolyn Williams

Department Staff:  
 Elizabeth Daggett

Representatives of the Agency:  
 Deborah Gay Utz, Chair, JRCERT  
 Darcy Wolfman, Director, JRCERT  
 Leslie F. Winter, Chief Executive  
 Director, JRCERT

Third Party Oral Commenters:  
 None

PAGE

Kansas State Board of Nursing (KSNB) 347

Action for Consideration: Petition for  
Renewal of Recognition

NACIQI Primary Readers:  
George T. French  
Anne Neal

Department Staff:  
Chuck Mula

Representatives of the Agency:  
No Representatives Attending

Third Party Oral Commenters:  
None

Closing Comments 351

MOTIONS: 19, 30, 52, 75, 290, 320,  
329, 346, 350, 352, 354

## 1 P R O C E E D I N G S

2 (8:30 a.m.)

3 CHAIR STUDLEY: Good morning. Good morning  
4 and thank you all for coming. This is a meeting of the  
5 NACIQI, the National Advisory Committee on  
6 Institutional Quality and Integrity, and we're eager to  
7 get started with our three days of business.

8 I'm Jamiene Studley. I'm chair of NACIQI.  
9 And I'd like to kick off this meeting by welcoming all  
10 of the commission members who are here. It's nice to  
11 see all of you again and to welcome Mr. French.

12 We're going to go around the table, starting  
13 with the vice chair, Arthur Rothkopf, who is sitting to  
14 my left, and then ask each one of you to introduce  
15 yourselves for the purpose of the audience and the  
16 members of the Committee.

17 So if we could begin with you, Arthur.

18 VICE CHAIR ROTHKOPF: Yes. I'm Arthur  
19 Rothkopf. I'm vice chair of NACIQI.

20 DR. PHILLIPS: Susan Phillips, provost and  
21 vice president for economic affairs, the University at  
22 Albany, State University of New York, and chair of the

1 public policy subcommittee.

2 MR. WU: Good morning. Frank Wu, chancellor  
3 and dean, University of California, Hastings College of  
4 the Law.

5 MR. STAPLES: Good morning. Cam Staples.

6 DR. WILLIAMS: Good morning. I'm Carolyn  
7 Williams, president emeritus, Bronx Community College,  
8 recently retired.

9 MR. SHIMELES: Good morning. I'm Nebu  
10 Shimeles. I don't have quite as illustrious title as  
11 everyone else does, but I'm the operations coordinator  
12 at a health nonprofit in New York.

13 MS. NEAL: Anne Neal, president, American  
14 Council of Trustees and Alumni.

15 DR. LEWIS: Earl Lewis, provost, Emory  
16 University.

17 DR. KIRWAN: I'm Brit Kirwan, chancellor of  
18 the University System of Maryland.

19 DR. VANDERHOEF: I'm Larry Vanderhoef,  
20 University of California Davis.

21 MR. KEISER: I'm Art Keiser, chancellor at  
22 Keiser University in Florida.

1 DR. FRENCH: Good morning. I'm George French,  
2 president of Miles College in Birmingham, Alabama.

3 MS. GILCHER: I'm Kay Gilcher, the director of  
4 the accreditation group at the Department of Education.

5 MS. WANNER: Sally Wanner, Office of General  
6 Counsel, Department of Education.

7 EXECUTIVE DIRECTOR LEWIS: Melissa Lewis,  
8 Committee Executive Director, Department of Education.

9 CHAIR STUDLEY: Thank you all again, and we  
10 look forward to working together with all of you. And  
11 thank you to our key staff members and many other staff  
12 members from the Department who will be involved in the  
13 individual reviews.

14 As you know, one of the primary functions of  
15 NACIQI is to advise the Secretary on whether it  
16 recognizes specific accrediting agencies, state  
17 approval agencies, and others within our jurisdiction.

18 That's what we'll be focusing on today and tomorrow  
19 morning.

20 We've invited accrediting agencies this year  
21 to address a new and additional set of questions. The  
22 questions are short. We've asked you to give us the

1 short version. But we hope that by adding to our  
2 discussion with you this way, we will help ourselves  
3 and the field of accreditation in higher education and  
4 the federal issues surrounding this to have a little  
5 better sense of what's going on in the field.

6           We were in part reacting to having teams of  
7 thoughtful people who spend a good portion of their  
8 professional and volunteer lives come before us and  
9 focus on very specific issues of ours, and that we were  
10 missing the opportunity to hear from you about what's  
11 developing in the field, and how accreditation varies  
12 by subject, by type of organization.

13           So thank you to all of you who are coming up  
14 today and tomorrow for allowing us to try this  
15 experiment and see if it indeed gives us a useful new  
16 window. And I hope it's helpful for you as well to  
17 hear from your colleagues and other guys.

18           Then, beginning at midday tomorrow and into  
19 our session on Friday, we will be deliberating or  
20 continuing to respond to a request from the Secretary  
21 that we offer recommendations regarding the content of  
22 the reauthorization of the Higher Education Act. That

1 process will continue into 2012, but we are looking  
2 forward to making some significant progress starting  
3 tomorrow and into Friday.

4 I will thank her again at that point, but  
5 Provost Phillips, Susan Phillips, who mentioned that  
6 she is chairing that subcommittee, has been doing a  
7 very, very thoughtful job in guiding us through a very  
8 complicated and rich process that many of you are  
9 assisting us with through your comments. So we will  
10 come back to that later.

11 With that, I'd like to recognize Melissa  
12 Lewis, our wonderful executive director, who also has  
13 some introductory comments.

14 EXECUTIVE DIRECTOR LEWIS: Thank you, Jamie.

15 I'd also like to welcome the members and our  
16 guests to the fall 2011 NACIQI meeting. The order of  
17 the agency presentations is shown on the front page of  
18 the agenda, and the agenda and several other handouts  
19 are on the table just outside the front -- in the  
20 hallway in front of the meeting room.

21 One of the handouts out there is the  
22 guidelines for third party oral commenters. There are

1 two different methods to make third party public  
2 comments. The first is to sign up in advance, and we  
3 have a list of those individuals. And if you would  
4 please check in at the table across from the Christmas  
5 tree at the end of the hall, we'd appreciate it.

6 The second method is onsite registration, and  
7 there may be up to five public commenters per agency  
8 who may speak up to 3 minutes each. If you're  
9 interested, please do complete a form at the  
10 registration table, which will be time-stamped, and  
11 you'll receive a number in exchange.

12 The opportunity to register to make oral  
13 comments will end once a maximum of five speakers have  
14 signed up or 5 minutes before the scheduled time of the  
15 agency's review.

16 We're very pleased that 14 of the 17 NACIQI  
17 members are joining us today. Bruce Cole, Bill  
18 Pepicello, and Wilfred McClay are unable to attend the  
19 meeting. There is only one recusal needed, and that is  
20 Earl Lewis from the Higher Learning Commission. Earl?  
21 There he is. Yes. Thank you.

22 Members, if you feel the need to recuse

1 yourself from any agency that I'm not aware of, please  
2 do excuse yourself from the table. And you're welcome  
3 to watch the proceedings from the back of the room.

4           The meeting today is being recorded by the  
5 Diversified Court Reporter company, and Gary is at the  
6 round table over by the curtains. Please do speak up  
7 into your mike, and be sure to turn it off when you're  
8 done. And Gary, please let us know if you can't hear  
9 us at any point.

10           Members, I'd also ask -- there is a handout in  
11 your folder entitled, "Special Menu." Please sign it  
12 and circle what entree you'd like and return it to me  
13 by the break, and I'll have the entrees preordered.  
14 This is not mandatory; you're welcome to do lunch on  
15 your own. This is just an expedient way to feed  
16 everyone.

17           Then tomorrow, we'll have a  
18 government-provided lunch for the members here in this  
19 room while we listen to a presentation from Jamie  
20 Merisotis, president and CEO of the Lumina Foundation.

21           And the audience is also welcome to join us and listen  
22 to Jamie's presentation after they obtain lunch.

1           Thank you very much, and I look forward to a  
2 very productive meeting. And it's a pleasure to have  
3 everyone here today. Thank you.

4           CHAIR STUDLEY: Kay, did you have something  
5 you wanted to --

6           MS. GILCHER: Yes. I'm sorry. I was called  
7 to be a technology expert, which I'm not. So saved by  
8 the bell.

9           I just wanted to address the issue of credit  
10 hour. We have new regulations that went into effect in  
11 July 2010 affecting the agency's responsibility in  
12 reviewing institutions' assignment of credit hours.  
13 And we are reviewing agencies against those  
14 regulations, and I have told agencies that we will not  
15 find them out of compliance with those for another  
16 year, until next July.

17           What you will see, however, in our analyses is  
18 that we do make a check that says either meets or does  
19 not meet, which is the way our system works. Were we  
20 to get to a point where the only criteria that an  
21 agency had not demonstrated compliance with were those  
22 credit hour criteria, then we would not be making a

1 recommendation that the agency not be re-recognized.

2 That's sort of a double negative.

3           At any rate, I just want to assure you that  
4 even though we are saying an agency is not in  
5 compliance, we wouldn't make a finding of not renewing  
6 recognition based only on that.

7           We will, however, in any that are found out of  
8 compliance, work with the agency and try to provide the  
9 kind of technical assistance we are all learning about  
10 what are the most effective practices in this area.  
11 And so it's something we would be working on together.

12           EXECUTIVE DIRECTOR LEWIS: I'd like to make  
13 one other comment also. Please excuse me. I did not  
14 introduce and welcome formally George French, the  
15 president of Miles College. He is filling the term of  
16 Ben Allen, and we are so glad to have you on board.  
17 Appreciate your deduction and your willingness to work  
18 very hard as a Committee member, as evidenced already.

19           Also, since the last meeting, Dan Klaich  
20 resigned from the Committee. And we're waiting on the  
21 Senate Democrats to nominate a new member.

22           CHAIR STUDLEY: And one final procedure

1 comment for those of you planning your schedules. We  
2 have a time on our agenda committed and will be  
3 available for public comment on the Higher Ed  
4 reauthorization recommendation portion of our agenda  
5 for Friday at about 3:00.

6 But if there have been signups for people who  
7 are here and available on Thursday as well, we will  
8 take some comment at that point, which should be  
9 roughly 3:00 on Thursday. So if you are interested in  
10 commenting and would not be here on Friday or would  
11 like to offer to make your comments early, we will  
12 follow the same rules about the time slots available.

13 But we may move some of them into Thursday as  
14 well in order to hear people a little earlier, before  
15 our discussion. We will still have the comment period  
16 available on Friday, as promised, since there may be  
17 people who come Friday with that expectation. We  
18 wouldn't take it away, but we are adding some  
19 additional possibility of comment for people who sign  
20 up henceforth for that portion of the agenda.

21 So with that, we will move into the  
22 substantive portion of our meeting. We're going to

1 start with two agencies that are included this time on  
2 the consent agenda. This involves interim reports  
3 submitted by two agencies, one, the Western Association  
4 of Schools and Colleges, Accrediting Commission for  
5 Community and Junior Colleges; and second, the American  
6 Optometric Association, Accreditation Council on  
7 Optometric Education.

8 Does anyone on the Committee wish to remove  
9 one of those items from the consent portion of the  
10 agenda?

11 (No response.)

12 CHAIR STUDLEY: Hearing no concern or request,  
13 I'll ask for a motion -- oh, sorry. Question. Yes?

14 M O T I O N

15 DR. KIRWAN: I'll just make the motion to  
16 approve the consent agenda.

17 CHAIR STUDLEY: Excellent. That's just what I  
18 was going to ask for.

19 Arthur?

20 MR. KEISER: I'll second it.

21 CHAIR STUDLEY: So we're going to work at that  
22 pace today? Terrific.

1 All in favor of the motion?

2 (A chorus of ayes.)

3 CHAIR STUDLEY: Opposed?

4 (No response.)

5 CHAIR STUDLEY: Thank you very much. I  
6 appreciate your accepting the consent agenda.

7 With that, we will move to the first full  
8 review of an agency by calling forward the  
9 representatives of the New York State Board of Regents,  
10 State Education Department, Office of the Professions,  
11 the Public Postsecondary Vocational Education and  
12 Practical Nursing Group.

13 The staff member involved is Dr. Jennifer  
14 Hong-Silwany. The primary readers for this particular  
15 entity on its petition for renewal of recognition are  
16 George French and Larry Vanderhoef. So thank you for  
17 diving right in.

18 Larry, are you going to be --

19 DR. VANDERHOEF: Yes. I will. Sorry, I was  
20 working from -- which one of the two are we on here?

21 CHAIR STUDLEY: The post vocational education,  
22 practical nursing.

1 DR. VANDERHOEF: Got it. Yes.

2 CHAIR STUDLEY: Practical nursing, and then  
3 the second is nursing education. Thank you.

4 DR. VANDERHOEF: The New York State Board of  
5 Regents, having been established in 1784, is the oldest  
6 formally organized accrediting body in the United  
7 States. These Regents oversee the education,  
8 licensure, practice, and conduct of practitioners, in  
9 42 of the 44 licensed professions, including practical  
10 nursing.

11 The Regents appoint a Commissioner of  
12 Education, who heads the Education Department, the  
13 administrative arm of the Board of Regents. The  
14 Regents and the Commissioner of Education are  
15 authorized by the state constitution and bylaws to  
16 regulate educational activities in the state.

17 More specifically, the State Education  
18 Department is responsible for accrediting or  
19 registering all credit-bearing programs, whether public  
20 or independent. Vocational educational programs that  
21 lead to associate degrees and credit-bearing  
22 certificates and diplomas are included in the agency's

1 application as a recognized approval agency.

2 This application as a state approval agency  
3 for public postsecondary vocational education covers  
4 only the adult practical nursing programs offered by  
5 the Board of Cooperative Education Services, and the  
6 educational opportunity centers in the New York City  
7 Board of Education to prepare persons for licensed  
8 practical nursing careers.

9 The staff report was done by Jennifer, and in  
10 followup to our previous conversation, I'm just going  
11 to turn it over now to Jennifer for the staff report.

12 DR. HONG-SILWANY: Thank you. Thank you very  
13 much. Good morning, Madam Chair and Committee members.

14 My name is Jennifer Hong-Silwany, and I will be  
15 providing a summary of the staff recommendation for the  
16 New York State Board of Regents, State Education  
17 Department, Office of the Professions for Public  
18 Postsecondary Vocational Education and Practical  
19 Nursing.

20 The staff recommendation to the Senior  
21 Department Official is to continue the agency's  
22 recognition, and require the agency to come into

1 compliance within 12 months, and submit a compliance  
2 report that demonstrates the agency's compliance with  
3 the issues identified in the staff analysis.

4           This recommendation is based on our review of  
5 the agency's petition, supporting documentation, and a  
6 file review at the State Education Department in  
7 Albany, New York on August 9, 2011.

8           The outstanding issues in the staff analysis  
9 consist of the need for documentation that the agency  
10 has implemented changes in accordance with the staff  
11 analysis -- for example, that it receives adequate and  
12 timely financial support to carry out its operations,  
13 has reconstituted an advisory body, and has included  
14 qualified examiners other than agency staff on its  
15 visiting teams.

16           Therefore, as I stated earlier, we are  
17 recommending to the Senior Department Official to  
18 continue the agency's current recognition, and require  
19 the agency to come into compliance within 12 months and  
20 submit a compliance report that demonstrates the  
21 agency's compliance with the issues identified in the  
22 staff analysis. Thank you.

1           CHAIR STUDLEY: And we now welcome the  
2 representative of the agency. Are you Mr. Murray (sic)  
3 or Dr. Murray?

4           MR. MURPHY: Mr. Murphy.

5           CHAIR STUDLEY: Murphy? Murphy. I apologize.

6           Would either of the readers like to add  
7 anything at this point? No?

8           Would you like to speak to the  
9 recommendations?

10          MR. MURPHY: You want comments? Yes. We  
11 agree with the comments. I guess one of my initial  
12 concerns, and I think it was clarified this morning,  
13 was trying to make sure we accurately address the  
14 credit hour provision. So we'll wait for further  
15 clarification on that.

16          We also realize, I think, nearly every one of  
17 the criteria that were cited had to do with the issue  
18 of Advisory Committees and making sure that we have our  
19 external objective reviewers. And we have already put  
20 that in motion.

21          So we look forward to responding throughout  
22 the year and making sure that we comply with those

1 criteria that are of concern right now.

2 MR. FRENCH: Madam Chair? Mr. Murphy, thank  
3 you. You indicated that the majority of the issues had  
4 to do with Advisory Committees, but I think the  
5 majority of the issues actually had to do with the  
6 financial --

7 MR. MURPHY: Yes.

8 MR. FRENCH: -- financial issues, which led to  
9 not having the meetings of the Advisory Committee.

10 MR. MURPHY: Correct.

11 MR. FRENCH: Could you speak to the financial  
12 condition now and going forward?

13 MR. MURPHY: Yes. We've got the commitment of  
14 our office. It's a bit unique in New York State, where  
15 our office that oversees this sits within the Office of  
16 Professions within the New York State Education  
17 Department.

18 We typically do the same function that the  
19 typically higher education review unit would do, but  
20 ours is -- what we're able to do is work literally  
21 right next to the board, the State Board for Nursing.  
22 Same with the other 48 provisions in New York.

1           So we're one of those units that, luckily, a  
2 couple of years ago, for the first time in 20 years, we  
3 got a fee increase for all the professions. And all  
4 the associations went along with this.

5           Part of that charge was to say, look. If  
6 you're going to be doing these important functions  
7 within the Office of Professions -- one of which is  
8 program review; the others have to relate to the actual  
9 professions and licensure and discipline -- so these  
10 are the commitments that they made at the time.

11           Our Deputy Commissioner of the Professions has  
12 made it very clear that he's going to make sure that he  
13 includes the money in the budget to reestablish the  
14 Advisory Committees, getting external reviewers to make  
15 sure that they're looking at the reviews, and making  
16 sure that we do have that financial commitment.

17           MR. FRENCH: So when you say "includes," I  
18 think I read in the report that it's already included  
19 in the budget. Is that correct?

20           MR. MURPHY: Yes. Yes.

21           MR. FRENCH: Thank you.

22           CHAIR STUDLEY: Do any other Committee members

1 have questions or comments on this agency? Anne?

2 MS. NEAL: Good morning. As I was looking at  
3 this, it appears that one of the concerns of the feds  
4 is that the state doesn't have enough money, and it's  
5 worried that you need to have more dollars.

6 I was also struck, since we've been hearing in  
7 our policy discussions about great concerns about the  
8 cost of accreditation, that they wanted you to have  
9 more of these Advisory Committees, and to convene them,  
10 and to make certain those occurred.

11 It seems to me there might be cheaper ways of  
12 doing it, maybe by a webinar or something, rather than  
13 having to bring people together. But that kind of  
14 consideration did not seem to find its way into the  
15 recommendations.

16 Would you speak to the cost issue and whether  
17 or not you need greater flexibility?

18 MR. MURPHY: I think it's a great idea. I  
19 honestly hadn't thought too much about that until you  
20 just brought that up. But we certainly have the  
21 capability within the state department. We convene  
22 meetings all the time that way now.

1           I think it's a great suggestion. But I really  
2 think that we'll be able to do the traditional and the  
3 distance methods, I really do. We're traveling all the  
4 time, anyway. Our review staff, we have five review  
5 staff. Two are dedicated to nursing solely because  
6 it's the biggest profession by far in New York State.  
7 And they're on the road. They're constantly convening  
8 groups anyway.

9           Then also, we would convene a lot of those  
10 meetings right in Albany because, as an example, the  
11 associations a lot of times have their meetings of  
12 deans and directors right in Albany where our State  
13 Education Department is.

14           So I think we'll be able to meet that  
15 challenge both ways. I don't see it as a real big  
16 challenge.

17           DR. HONG-SILWANY: Just to clarify, the  
18 Department doesn't prescribe the manner in which we  
19 expect the Advisory Committee to convene so long as a  
20 meaningful contribution is made to the decision-making  
21 process.

22           CHAIR STUDLEY: Anyone else with a question or

1 comment?

2 (No response.)

3 CHAIR STUDLEY: Do you have a recommended  
4 action that you want to propose?

5 MR. VANDERHOEF: I don't have the wording, but  
6 perhaps it can --

7 CHAIR STUDLEY: Right. We will help you out.  
8 Excuse us. We are groping for the terms of art to  
9 accomplish the -- to put the next step before the  
10 Committee. If you'll give us a moment, please.

11 (Pause)

12 CHAIR STUDLEY: Mr. Murphy, just to signal,  
13 since you are the first up on this, after we vote on  
14 the disposition of the recommendation before us, if you  
15 are willing, we would welcome you to address the  
16 questions that were in the letter inviting you to this  
17 meeting regarding recent developments and the  
18 challenges, anything that you're doing that you think  
19 might be of interest to others in the field. But we  
20 want you to understand that we are acting on the  
21 official position before then.

22 (Pause)

1 M O T I O N

2 MR. VANDERHOEF: I can read this, but you have  
3 it there as well. Is that true or not? Okay.

4 I move that the NACIQI recommend that the New  
5 York State Board of Regents, State Education  
6 Department, Office of Professions' requested renewal of  
7 recognition with its current scope of recognition be  
8 granted for a period of five years, less any time  
9 during which recognition was continued to permit  
10 resubmission and review of compliance reports.

11 EXECUTIVE DIRECTOR LEWIS: I think we can just  
12 say for a period of five years.

13 MR. VANDERHOEF: All right.

14 This is the first one, folks. We're going to  
15 get better at this as time passes.

16 It's four years instead of five years? Okay.

17 CHAIR STUDLEY: The motion has been made by  
18 one of the -- Dr. Hong-Silwany, do you have a --

19 DR. HONG-SILWANY: I'm sorry. It's that the  
20 current scope of recognition is continued with the  
21 compliance, not that a renewal is granted. Is that  
22 right? Is that the verbiage?

1           CHAIR STUDLEY: The question was whether it is  
2 a continuation --

3           DR. HONG-SILWANY: Continuation.

4           CHAIR STUDLEY: -- a renewal, or a grant. I  
5 heard the staff suggest a return in 12 months to  
6 indicate compliance with these items. So the question  
7 is whether that should be reflected in the motion.

8           Excuse us.

9           (Pause)

10          MR. VANDERHOEF: So as to -- the staff did  
11 recommend that the agency -- there were several items  
12 that were thought not to be major problems, but  
13 nevertheless, there had to be assurance that there was  
14 compliance. And they were given -- Jennifer, help me  
15 for sure here -- they were given 12 months to do this,  
16 within 12 months.

17           So therefore, this would change to -- are we  
18 ready to start from scratch here?

19          CHAIR STUDLEY: Yes.

20          MR. VANDERHOEF: "Continue the agency's  
21 recognition and require the agency to come into  
22 compliance within 12 months, and submit a compliance

1 report that demonstrates the agency's  
2 compliance" -- with the issue identified below. We  
3 don't need that on there. Right?

4 DR. HONG-SILWANY: Right. The issues  
5 identified in the staff analysis.

6 MR. VANDERHOEF: Fine. All right.

7 CHAIR STUDLEY: Should that say continue for a  
8 period of years and come into compliance within 12  
9 months, or they do this within 12 months and then at  
10 that point we determine whether they continue?

11 Okay. So that was the motion in full. Do we  
12 have it on the screen? I'll be seeking a second as  
13 soon as we get the words of art up there.

14 MS. NEAL: While we're waiting, I just have a  
15 regulatory question. In the old days, the kind of  
16 motion that Larry started to make would have been  
17 typical. And now, of course, we have a different  
18 motion.

19 I know you've explained this in the past. But  
20 I'd like for you to explain again for me the change in  
21 the regulation that has prompted motions for 12 months  
22 as opposed to simply giving an extension and allowing

1 people to report back.

2 MS. GILCHER: The statute specifies that an  
3 agency has to be in compliance. In the past, there had  
4 been a sort of partial comply assessment that was made,  
5 and then, as you said, the determination would be made  
6 to renew, but then have them submit a -- what were they  
7 called? -- interim reports, I believe.

8 In the last negotiated rulemaking, we  
9 negotiated around that issue of what did it mean to be  
10 in compliance. And, as a result, the procedures were  
11 changed so that we were in accordance with the statute.

12 So an agency has to demonstrate full compliance before  
13 the renewal of recognition.

14 CHAIR STUDLEY: Thank you.

15 We now have a motion before us made by Larry  
16 Vanderhoef and seconded by Cameron Staples. Is there  
17 any discussion over the motion?

18 (No response.)

19 CHAIR STUDLEY: In that case, all in favor,  
20 please say aye.

21 (A chorus of ayes.)

22 CHAIR STUDLEY: Opposed?

1 (No response.)

2 CHAIR STUDLEY: The motion carries. Thank you  
3 very much for your staff work.

4 Do you have anything that you would like to  
5 share with us that relates to those questions that we  
6 invited you to think about?

7 MR. MURPHY: I think it's pretty well  
8 clarified. And I'll -- oh, the two questions?

9 CHAIR STUDLEY: Yes.

10 MR. MURPHY: Okay. I'm sorry.

11 CHAIR STUDLEY: The sort of broader questions  
12 about --

13 MR. MURPHY: Yes. Yes, I do.

14 CHAIR STUDLEY: The evolution of accreditation  
15 from your perspective would be helpful, if you have any  
16 thoughts about that now that the procedure here is  
17 secure on the specifics that were before us today.

18 MR. MURPHY: Okay. On the questions they gave  
19 to me, it was about some of the thorniest issues  
20 relating to criteria for registration.

21 CHAIR STUDLEY: Exactly.

22 MR. MURPHY: And two items that you believe

1 our agency does well? Is that what we're talking about  
2 here?

3 CHAIR STUDLEY: Yes. And you can use that as  
4 an invitation. Also, if you would prefer to do it  
5 after the second agency.

6 MR. MURPHY: Okay.

7 CHAIR STUDLEY: You know better how similar  
8 the challenges are or how you would like to think about  
9 those. So if you like, we can do the other entity that  
10 you're representing first.

11 MR. MURPHY: It's up to you. I'm prepared to  
12 answer the questions.

13 CHAIR STUDLEY: Sure. Go ahead.

14 MR. MURPHY: Yes. Okay.

15 CHAIR STUDLEY: You get two chances.

16 MR. MURPHY: Yes. A couple very unique issues  
17 that we have: We're getting more and more requests for  
18 out-of-state institutions to do clinical placements  
19 within New York State. And as you know, this is a  
20 federal issue as well that we're trying to grapple  
21 with.

22 In New York, we have very distinct regulations

1 that relate to whether a school out of the state can  
2 come in and, first of all, just do education in New  
3 York, and second, it gets even more complex when you're  
4 talking about clinical placements.

5 Our typical stance in New York State is as  
6 long as the school does not have a physical New York  
7 presence within New York, they can pretty much do  
8 whatever they want. We can't stop students from  
9 logging online and getting distance education.

10 But when it comes to clinicals, the one thing  
11 that we do have that we can fall back on, which  
12 actually has worked out well for our department, you  
13 need an exemption to practice in New York State,  
14 obviously, or you need to be licensed.

15 So our issues have been schools come in and  
16 they say, well, we want to do clinical placements at  
17 Memorial Sloan-Kettering. And we tell them, well, you  
18 need to go through a pretty in-depth process here, and  
19 you need to get official permission to operate in New  
20 York State.

21 What that does is it allows us to apply our  
22 registration standards to those institutions and put

1 very specific parameters on how many students they  
2 could place. They need to speak to the issues of  
3 whether it's going to affect our present New York State  
4 institutions because it's become actually a little bit  
5 more challenging now to place students into clinical  
6 internships.

7           This is a profession that, as far as the eye  
8 could see, they said there were going to be endless and  
9 endless shortages in every single department of  
10 nursing. And now, with a lot of the budgetary  
11 constraints and a lot of the issues that are going on  
12 with Medicaid reimbursement, we're actually seeing a  
13 bit of a mixed picture here.

14           Students are reporting that they're actually  
15 sometimes having trouble figuring out what their  
16 internship prospects are and job prospects. And we  
17 don't know whether this is going to be a short-term  
18 thing that may be alleviated once things in the economy  
19 start to pick up. But right now, it's certainly much  
20 more of a murky picture.

21           So it's become an issue with us when  
22 out-of-state institutions come in and just think that

1 they're going to place people anywhere they want. And  
2 so we have found this a real thorny issue.

3           The second thing is, they recently made a  
4 determination that small trade schools can apply to do  
5 practical nursing. We have three recognized nursing  
6 professions in New York State. One is licensed  
7 practical nurse. The other is the registered nurse,  
8 registered professional nurse. And the last is a nurse  
9 practitioner.

10           The LPN, a lot of people think, is just a wide  
11 open great Wild West where they can just open up a  
12 program, throw in a thousand students, and begin to  
13 collect tuition from the students. And the reason is  
14 because our model is, like many other models, you could  
15 even start a program that is not credit-bearing.

16           It can be a diploma. It could be a non-credit  
17 diploma. As long as it's a year-long program, you can  
18 start one up, make sure that you've got your clinicals,  
19 and you're good to go.

20           But we again hold these schools to very strict  
21 standards. We tell them whether it's realistic. We  
22 look at their facilities and their ability to place

1 people into clinical placements.

2 Many times, this is a long-term one-, two-,  
3 three-year process that is never guaranteed. But it's  
4 become a big issue with us because we're getting many,  
5 many applications. So we need to again make sure we  
6 balance that with our staff capacity.

7 As far as what we do well, I'll be brief here.

8 We've been doing this for a long time. And one thing  
9 we do well that may not be real unique -- I'm not sure  
10 how other nursing accrediting agencies do this -- but  
11 we are very open-door, proactive.

12 We are not just, come and see us when it's  
13 time for you to do a self-study and for us to do our  
14 official site visit. We've got many programs that just  
15 start up that have real difficulty trying to establish  
16 their faculty governance, make sure they've got the  
17 correct deans and directors, and make sure they've got  
18 the correct clinical affiliations.

19 Our agency says, look. If you're having  
20 issues, schedule an appointment, come up to Albany, and  
21 we'll talk to you. We've got nursing staff that have  
22 been doing this for a long time, and so we've got an

1 open-door policy. Of course, within our schedules, we  
2 do this. But we typically are able to work with these  
3 schools that are having issues.

4           The last, again, relates to distance  
5 education. I think we're getting more and more  
6 applications, especially related to nurse practitioner  
7 programs for nurses who are already licensed nurses who  
8 want to get advanced degrees. They're putting in a lot  
9 of distance components due to the person's scheduling  
10 issues. And I think we've got a real good process set  
11 up.

12           They have to first go through an institutional  
13 capability review. We keep that on file, and then  
14 whenever they add any program that's an extra distance  
15 ed program, we have to specifically review all the  
16 aspects of that program.

17           So we have both the institutional capacity  
18 review to do distance ed and whether they've got all  
19 the systems in place to do the correct faculty training  
20 and they've got the correct software. And it's  
21 equivalent in quality and outcomes to their brick and  
22 mortar program.

1           So I think those are the two things that I  
2 would say that we do real well. And I'll entertain any  
3 questions, if you have any.

4           CHAIR STUDLEY: Yes?

5           MR. ROTHKOPF: Yes. I have a question on this  
6 last comment you made, which is, I think, interesting  
7 and important, and it applies to many of the other  
8 agencies we're seeing, which is increased use of  
9 distance education technology.

10           You indicated that, in your judgment, the  
11 outcomes were comparable. Did you have an outside  
12 evaluation made, or was this something done by your  
13 staff? Because it's a subject of a great --

14           MR. MURPHY: Yes.

15           MR. ROTHKOPF: -- a great deal of discussion  
16 in the whole field of education as to the outcomes of  
17 distance education versus in-person education.

18           MR. MURPHY: Yes. It's a good question.  
19 There's two aspects of that. The one that we mainly  
20 have been dealing with is the one where the program  
21 hasn't launched yet.

22           So we have to determine whether they've got a

1 good plan in place, and we're convinced that the way  
2 they've got this set up is a reasonable assurance to us  
3 that this is comparable and there are going to be  
4 comparable outcomes.

5           Then the part comes where how do you now  
6 measure that? And that comes later. And again, we go  
7 back to -- I know this isn't a full measure of that,  
8 but you start with a quantitative, which is, how are  
9 they performing on the NCLEX exams?

10           Then you start to go into all the other  
11 aspects of it, where you begin to speak to the faculty  
12 and you make sure that they've got student surveys  
13 built into it so that you can look over student surveys  
14 and try to compare them to the student surveys of the  
15 on-campus education.

16           It's also a very difficult question because  
17 some schools say, well, you're asking us to make sure  
18 it's comparable in quality. We think it's actually  
19 going to be better. So I think that's another aspect.

20           It's tricky because you don't -- it's tricky because  
21 we even put in our registration letters when we  
22 register these programs, we want to make sure that

1 you're giving us assurances that your faculty and  
2 outcomes are comparable in quality.

3           In many cases, we know it's a mixed review  
4 because what they could do is give you a very short  
5 application that simply states, we're going to have the  
6 same curriculum, same syllabus, same outcomes, and  
7 therefore we want it to be approved. And we know  
8 that's not a realistic picture because distance  
9 education can be very different in its format, in its  
10 setup. The syllabi could be completely different.

11           Last is they need to make sure they're doing  
12 the clinicals the way they've always done them. That  
13 could change, but we want to make sure, look. When  
14 you're talking about distance education, make sure  
15 you're not telling us that you're not going to be doing  
16 clinicals.

17           I'm waiting for the day, though, where we're  
18 going to start to get more and more proposals where  
19 they start to do even some telemedicine. Then we'll  
20 have to really begin to deal with that, with clinicals.

21           But right now, the model is typically clinicals the  
22 way they typically are, onsite, and distance ed for the

1 didactic.

2 MR. ROTHKOPF: Just maybe a followup question.

3 Do you ever in your determination outcomes go to  
4 employers, the hospitals or whatever other institution  
5 the graduate is working at, to compare the results of  
6 an in-person versus a distance education? Is that part  
7 of the analysis of outcomes?

8 MR. MURPHY: Yes. We have done that, and in  
9 fact, we just started to do that, where we've spoken to  
10 people. And the way that we do that is, typically,  
11 when we have a site visit and we get to go to the  
12 clinical facilities.

13 Right now it's been more of a casual, just  
14 asking questions. I'm not going to pretend that we've  
15 got something that's real codified and set in place  
16 where we've got all this data that we've collected on  
17 that. But we've begun to at least ask the questions  
18 when we go out to the clinical sites and get feedback  
19 on that.

20 MR. ROTHKOPF: Thank you.

21 CHAIR STUDLEY: Thank you. As you can see, we  
22 are experimenting with this new format. We still are

1 on track in terms of our schedule.

2 Cam, do you have --

3 MR. STAPLES: May I ask just one question?

4 CHAIR STUDLEY: Sure.

5 MR. STAPLES: We're talking about -- we have  
6 policy recommendations later. And forgive us for  
7 veering off with questions that might be relevant to  
8 that.

9 But we talk a lot about the triad, the balance  
10 between federal and state roles in ensuring quality.  
11 I'm going to sort of put you on the spot. Do you think  
12 it's a little unnecessary for you to have to come  
13 before a federal agency, in the sense that you're a  
14 state body?

15 Aren't you capable of deciding whether  
16 students should access financial aid without going  
17 through a process of recognition by the federal  
18 government? Do you consider this to be to be a burden  
19 on your work that is essentially unnecessary because  
20 you're already publicly accountable?

21 MR. MURPHY: I wasn't prepared to answer that  
22 question.

1                   (Laughter.)

2                   MR. STAPLES:   Feel free.   Feel free.   Go right  
3 ahead.

4                   CHAIR STUDLEY:   I was going to say, maybe we  
5 should wait until he --

6                   MR. STAPLES:   No, I'm not offended by your  
7 answer.

8                   MR. MURPHY:   No.   Personally, I'm the person  
9 in my office that has to oversee 48 professions.   So we  
10 have -- one of the best parts of my job is I get to  
11 accompany all the different accrediting bodies, like  
12 LCME for medical programs, ACPE for pharmacy, massage  
13 therapy -- ACOMPT for massage.

14                   So I've always seen the accreditation process  
15 as helpful.   That's just the way I've looked at it.   It  
16 gets you to start to put yourself in the position of  
17 how you now are holding the schools accountable.

18                   One of the issues, actually, that was brought  
19 up in ours that makes us look in the mirror is a lot of  
20 the issues that have to do with the financial capacity  
21 to make sure that we're still keeping our  
22 process -- pretty much the summary issue of what all

1 the concerns are with the accreditation body here is  
2 that we make sure that our process is objective.

3 I have to tell you, when you've got nursing  
4 review staff that have been with your department for  
5 30-some years, at times you need to make sure that they  
6 also begin to get some objective feedback as well, as  
7 opposed to saying, well, we're the experts in the  
8 field. We know everything.

9 So from that aspect, I think the more we have  
10 to do our own self-studies for how we do the process, I  
11 think that's a value added right there. But to be  
12 honest with you, I haven't -- there were a couple other  
13 angles of how you were asking that, and I don't know  
14 if -- I'd need a little more time to --

15 MR. STAPLES: No, and I appreciate that. And  
16 I am putting you on the spot, and I'm not trying to  
17 make it --

18 MR. MURPHY: I haven't found that it's been a  
19 burden.

20 MR. STAPLES: This process, this recognition  
21 process by the federal government, is not a burden, you  
22 don't know, to the state?

1           MR. MURPHY: The only issue that really kind  
2 of vexing me again was this credit hour. I don't know  
3 how many more times we could try to address the issue.

4       But this goes along with any accrediting issue, is  
5 sometimes you get caught up in details. It's just part  
6 of the process.

7           But that was the only one that -- I was  
8 saying, how many more times can we try to prove that we  
9 account for credit hours and clock hours? So that was  
10 the only -- but that's just kind of a minor thing.

11          MR. STAPLES: Thank you. you

12          CHAIR STUDLEY: We're now going to move to the  
13 nursing education side of your presentation. And I  
14 apologize for bifurcating them, I had not focused on  
15 the fact that you were doing both.

16          So if we could have Larry and George do any  
17 additional introduction that you want related to the  
18 nursing education aspect of this, and then Dr.  
19 Hong-Silwany will follow up.

20          MR. FRENCH: Thank you, Madam Chair. And my  
21 colleague gave the overview of the New York State Board  
22 of Regents in the initial presentation. The only thing

1 that we would add would be the fact that it's already  
2 been indicated by Mr. Murphy that the Regents oversee  
3 the education, licensure practice, and conduct of  
4 practitioners of 45 of the 47 licensed professions.

5           The Commissioner heads the Education  
6 Department as the executive administrative arm of the  
7 Board of Regents. The Education Department has the  
8 responsibility of administering and implementing the  
9 policies established by the Regents.

10           Nursing schools and nurse education programs  
11 that lead to the associate degree, baccalaureate, and  
12 graduate degrees are included in the Regents's scope of  
13 recognition.

14           The last full review of the agency occurred in  
15 June 2006, after which the Secretary granted continued  
16 recognition for a period of four years. Of course,  
17 after the Secretary issued her decision on the agency's  
18 recognition, HEOA was passed in 2008, and of course,  
19 NACIQI was placed in somewhat abeyance. So now the  
20 agency finds themselves back here now for review.

21           We will turn it over to the staff  
22 representative.

1           CHAIR STUDLEY: Thank you very much.

2           DR. HONG-SILWANY: Thank you. Now I'll  
3 provide a summary of the staff recommendation for the  
4 New York State Board of Regents, State Education  
5 Department, Office of the Professions for Nursing  
6 Education.

7           The staff recommendation to the Senior  
8 Department Official is to continue the agency's  
9 recognition, and require the agency to come into  
10 compliance within 12 months, and submit a compliance  
11 report that demonstrates the agency's compliance with  
12 the issue identified in the staff analysis.

13           This recommendation is based on our review of  
14 the agency's petition, supporting documentation, and a  
15 file review at the State Education Department in  
16 Albany, New York on August 9, 2011.

17           The outstanding issue in the staff analysis  
18 requires document regarding the agency's application of  
19 its policy for requiring audited financial statements  
20 every other year, and evidence that programs comply  
21 with the agency's requirement for submission of a  
22 current catalogue.

1           Therefore, as I stated earlier, we are  
2   recommending to the Senior Department Official to  
3   continue the agency's current recognition and require  
4   the agency to come into compliance within 12 months,  
5   and submit a compliance report that demonstrates the  
6   agency's compliance with the issue in the staff  
7   analysis. Thank you.

8           CHAIR STUDLEY: Would you like to speak to  
9   those items?

10          MR. MURPHY: I have to get my nursing programs  
11   straight. I apologize. Yes. This was our shorter  
12   list here.

13          Yes. We basically, I think, have a simple fix  
14   for this. We typically have -- agencies have to give  
15   us their yearly report. And on the front page of this  
16   report that they have to submit to us, we're putting in  
17   language that states, you need to supply us with an  
18   audited financial statement.

19          I'm not sure of the exact wording of how we're  
20   going to do it, but it's basically going to say to make  
21   sure that every two years they submit the audited  
22   financial statement.

1           We have our own staff that reviews all  
2 colleges in New York State and higher ed institutions,  
3 and institutions that have associate/baccalaureate  
4 programs. But we do recognize the concern, so we're  
5 going to make sure that we drill down into all of the  
6 nursing programs by adding that language and  
7 requirement of the schools.

8           CHAIR STUDLEY: Is there anything you want to  
9 add, Jennifer?

10          DR. HONG-SILWANY: No.

11          CHAIR STUDLEY: Do you gentlemen have a motion  
12 to put before us? The same language?

13                           M O T I O N

14          MR. FRENCH: It will be the same language,  
15 Madam Chair, that we will continue recognition for 12  
16 months, with the stipulation that we will have the  
17 report of compliance 30 days before the 12-month  
18 period.

19          CHAIR STUDLEY: Do any Committee members have  
20 any comments or questions?

21          MR. KEISER: I'll second --

22          CHAIR STUDLEY: Oh, sorry. Thank you.

1 MR. KEISER: I'll second the motion.

2 CHAIR STUDLEY: Thank you. The motion's been  
3 made by President French and seconded by Mr. Keiser.

4 EXECUTIVE DIRECTOR LEWIS: One moment. I'd  
5 like to read the motion up on the board to make sure  
6 that we're all in agreement here, please.

7 CHAIR STUDLEY: Sure.

8 EXECUTIVE DIRECTOR LEWIS: I move that the  
9 NACIQI recommend the New York Board of Regents for  
10 Nursing recognition be extended to permit the agency an  
11 opportunity to, within a 12-month period, bring itself  
12 into compliance with the criteria cited in the staff  
13 report, and that it submit for review within 30 days  
14 thereafter a compliance report --

15 MR. FRENCH: Therefore. Therefore, not  
16 thereafter.

17 MS. GILCHER: It should be thereafter.

18 MR. FRENCH: No. Therefore. I read that  
19 language, Madam Executive Director, and "thereafter"  
20 would indicate that we would be back here a year from  
21 now and they would have a report 30 days after that.

22 I think we're suggesting we would like to have

1 the report 30 days before we come here.

2 EXECUTIVE DIRECTOR LEWIS: For the process,  
3 they need to submit it a year in advance of the  
4 meeting, I believe. No? Okay.

5 MS. GILCHER: The staff needs to have an  
6 opportunity to review what the agency submits.

7 MR. FRENCH: Right.

8 MS. GILCHER: And so we do have a -- they have  
9 to come into compliance within the 12 months, and we  
10 have typically had them provide us a report within 30  
11 days of the end of that 12 months.

12 EXECUTIVE DIRECTOR LEWIS: So it should be  
13 "thereafter."

14 MR. FRENCH: So we come back a year from now.  
15 Somebody would say we come back a year from --

16 EXECUTIVE DIRECTOR LEWIS: George, the agency  
17 has a year to come into compliance. They submit the  
18 report 30 days after that. And then the staff will  
19 have approximately six months to review it and to work  
20 with the agency and give them due process. And then,  
21 at approximately 18 months to two years from this date,  
22 the agency will come back for review before the NACIQI.

1           MR. FRENCH:  If that's the intent of the  
2 organization, that's fine.

3           EXECUTIVE DIRECTOR LEWIS:  It's that the  
4 agency come into compliance within a year.

5           MR. FRENCH:  So we say "thereafter," then?

6           CHAIR STUDLEY:  Yes.

7           EXECUTIVE DIRECTOR LEWIS:  Yes, please.

8           CHAIR STUDLEY:  Right.  Is that change being  
9 made?

10          VOICE:  Yes.

11          CHAIR STUDLEY:  Okay.  Thank you.

12          EXECUTIVE DIRECTOR LEWIS:  Thereafter.  And  
13 then to continue, a compliance -- so the agency will  
14 submit the staff report -- no.  The agency will submit  
15 the report for review within 30 days thereafter, a  
16 compliance report demonstrating compliance with the  
17 cited criteria and their effective application.  Such  
18 continuation shall be effective until the Department  
19 reaches a final decision.

20          CHAIR STUDLEY:  I think without the commas, it  
21 would be correct.

22          Frank, do you have a comment?

1           MR. WU: Yes. I have two suggestions. The  
2 first is that we not have a split infinite, so we move  
3 the "within a 12-month period" -- "an opportunity,  
4 within a 12-month period, to bring itself into  
5 compliance."

6           The second is I think there's either a word  
7 missing or there's some problem, even if it's  
8 "thereafter." The sentence is really awkward. And I  
9 don't think you can have "within 30 days, thereafter."  
10 It's either -- it should be a semicolon, a period, or  
11 there's a verb missing in the "thereafter" clause. I  
12 think it would just be cleaner if we broke it into two  
13 sentences.

14          CHAIR STUDLEY: I think we could just take it  
15 out -- "submit for review within 30 days a compliance  
16 report.

17          MR. WU: Just take out the word.

18          CHAIR STUDLEY: The "thereafter" is  
19 unnecessary.

20          MR. WU: Right. Yes. That's exactly right.

21          MR. FRENCH: Thank you.

22          CHAIR STUDLEY: Fine. And I think we'll keep

1     them separate.

2                     Okay.  And the mover and the second have  
3     accepted the changes to the language.  Were there any  
4     other comments or questions?  Anne?

5                     MS. NEAL:  I have just a question.  As best I  
6     read it, you need to put two new sentences on a form.  
7     It seems that it would be easier for them to do that,  
8     let us know.  And is it possible to expedite so that,  
9     by consent or otherwise, they could just get the  
10    process over with?

11                    MS. GILCHER:  We do provide an opportunity for  
12    the agencies to say when they would like to submit the  
13    report.  So they could do it in advance of that 12  
14    months in order to come back more quickly before the  
15    Committee.  Is that --

16                    CHAIR STUDLEY:  A very fair question.  But  
17    this is giving them the room that they need, and they  
18    can come back sooner than that.

19                    Anyone else, or are we ready to vote?

20                    MR. FRENCH:  Madam Chair, I would suggest that  
21    we make the same change on the first action that we  
22    took just based upon what was on the screen.

1           CHAIR STUDLEY: All in favor of the motion,  
2 please say aye.

3           (A chorus of ayes.)

4           CHAIR STUDLEY: Opposed?

5           (No response.)

6           CHAIR STUDLEY: Thank you very much. The  
7 motion carries.

8           I would like to, before we move on from this  
9 agency now that I see that we're not pushing the time  
10 clock, I have one question that goes back to your  
11 thoughtful initial suggestions. And that relates to  
12 the job placement issue.

13           As I understood it, you were observing that  
14 the field of vocational nursing, and perhaps it applies  
15 as well to the other nursing program, has been the  
16 subject of workforce projections and a great deal of  
17 publicity about the national need for growing our  
18 capacity in certain nursing and medical fields, but  
19 that other factors are intervening to change that.

20           How do you think about providing applicants  
21 with information about these job force trends and  
22 developments as they make decisions about whether to

1 get this kind of education or more specific choices  
2 once they have decided that they want to do it?

3 Can you help us understand how you help with  
4 the student information part of making that investment  
5 decision, really?

6 MR. MURPHY: Yes. Right now, we're actually  
7 in the middle of -- the New York State Education  
8 Department does an eight-year statewide higher ed plan.

9 And it's a very comprehensive document, and it  
10 basically shows what are the trends in New York State  
11 higher education.

12 We have one big piece of that, the Office of  
13 Professions. We have to do a real analysis of the  
14 trends in healthcare programs, especially healthcare  
15 professional licensure programs.

16 So we try our best to partner. There's  
17 actually schools that study this. One of them is  
18 within the State University, the SUNY system. They  
19 have an agency that puts together these studies. Their  
20 most recent one was on the dental hygiene profession in  
21 New York.

22 They drill down into where are shortages --

1           CHAIR STUDLEY: No pun intended.

2           (Laughter.)

3           MR. MURPHY: Yes. They drill down into where  
4 are the shortages? What's the ratio of dentists to  
5 dental hygienists? Are the areas in Upstate New York  
6 the ones that have the shortages? Et cetera.

7           So nursing, we did that a while back. We had  
8 a blue ribbon panel on nursing. And so now they're  
9 trying to revisit how we get back into -- do we need to  
10 put together another blue ribbon panel that updates  
11 some of the projections?

12           But this is absolutely one of the major  
13 focuses that we have right now in the State Education  
14 Department, to make sure that we're working with the  
15 Department of Labor to put out the correct projections  
16 and get it to the students.

17           In addition, the schools themselves, I have to  
18 tell you, are being held now to very rigorous standards  
19 as to what they have to report to the students and show  
20 them, what are the placements? This stuff usually is  
21 published alongside everything else -- graduation  
22 rates, retention rates, persistence rates.

1           So there's a level of -- even outside of what  
2   our scope would be and our charge would be in our  
3   office, I think more accrediting bodies are really  
4   holding some of these schools' feet to the fire on this  
5   to make sure that you're not just graduated 150, 200  
6   students at a time and they have nowhere to go.

7           What's tricky with ours is there's been a big  
8   growth in what we call -- in these different medical  
9   assistance programs. This is typically how a lot of  
10  times the schools get students into nursing programs.  
11  They tell them, we're going to accept you as a medical  
12  assistant student, and if you do well, we're going to  
13  progress you into our nursing.

14          So we've really had to try to control a lot of  
15  that as well. And that makes it even a little bit more  
16  challenging because I don't have a real great grasp on  
17  medical assistant professions. In New York, it's not a  
18  licensed profession, so I'm not even sure what the  
19  different jobs are related to those degrees and  
20  programs.

21          CHAIR STUDLEY: Thank you. I won't take  
22  further time at this point, but if there's anything

1 that you have that you could easily send us on  
2 the -- you mentioned rigorous standards for student  
3 information.

4 I think the whole question of how accreditors  
5 work with the institutions to be sure that they're  
6 providing useful information for students to make those  
7 decisions.

8 How they translate what they hear about in the  
9 newspapers or the marketing from the schools into a  
10 choice would be tremendously helpful to us in our  
11 policy side and in understanding what different  
12 practices accreditors use to understand what good  
13 practice in that area would look like. So I appreciate  
14 your comment that this is an area of serious interest  
15 for you.

16 Anyone else have a brief question for Mr.  
17 Murphy?

18 (No response.)

19 CHAIR STUDLEY: With that, thank you very  
20 much. We appreciate your being here on behalf of both  
21 of these agencies. And we appreciate your assistance,  
22 Jennifer, in reviewing both of them. We will now

1 release you from the hot seat.

2 MR. MURPHY: Thank you.

3 CHAIR STUDLEY: And thank you for trailblazing  
4 on the new questions that we've asked.

5 I'll just mention, as the American Podiatric  
6 Medical Association, Council on Podiatric Medical  
7 Education (CPME) prepares to come before us, that we do  
8 have times within the schedule, but each agency has  
9 been advised that we will move through the calendar as  
10 time permits.

11 So there may be spots where we accelerate  
12 against the time schedule that you've seen, and they  
13 have been alerted to be here early. We might slip  
14 behind -- we hope not -- and we even are in a position  
15 to, in some cases, move somebody from the following  
16 day's agenda in order to keep moving and keep  
17 progressing through the agenda.

18 So the staff is here. Are there agency  
19 representatives here for this agency? If you'd like to  
20 come forward and take places at the table. I have  
21 indication that Robert Yoho, Andrew Weiss, and Alan  
22 Tinkleman will be here for the agency. You're welcome

1 to come up and sit at the table.

2 The primary readers for this agency are Arthur  
3 Rothkopf and Cameron Staples. Which of you is first  
4 up? Thanks.

5 MR. STAPLES: Thank you, Madam Chair. The  
6 American Podiatric Medical Association, Council on  
7 Podiatric Medical Education is before us with a  
8 petition for renewal of recognition.

9 They were originally recognized in 1952, on  
10 the first list of recognized accreditors. Since that  
11 time, they've been periodically reviewed and approved  
12 by the Department, most recently in December 2005.

13 They accredit colleges of podiatric medicine.

14 At present, the agency accredits eight colleges of  
15 podiatric medicine and pre-accredits one. The agency's  
16 recognition enables its freestanding institutions to  
17 establish eligibility for Title IV. It currently  
18 serves as the Title IV gatekeeper for one of their  
19 institutions.

20 As I mentioned, they are before us today on a  
21 petition for renewal of recognition. And at this time,  
22 Madam Chair, I would defer to Steve to continue

1 discussion of their application.

2 MR. PORCELLI: Good morning. I am Steve  
3 Porcelli of the Department's accreditation staff.

4 The staff recommendation to the Senior  
5 Department Official regarding the Council on Podiatric  
6 Medical Education of the American Podiatric Medical  
7 Association, or CPME, is to continue the current  
8 recognition of the agency, and to require a compliance  
9 report in 12 months on the issues identified in the  
10 staff report.

11 In addition, Department staff recommends that  
12 the agency's official scope of recognition be revised  
13 to change the recognized pre-accreditation category  
14 from candidate status to provisional accreditation.

15 The staff recommendation is based on our  
16 review of the agency's petition, supporting  
17 documentation, and observation of the agency's  
18 accreditation committee meeting. In addition, the  
19 Department received no third party comments in  
20 connection with the agency's petition.

21 Our review of the agency's petition found that  
22 the agency is substantially in compliance with the

1 criteria for recognition. However, there are a number  
2 of issues that the agency needs to address.

3 In summary, the agency needs to thoroughly  
4 describe in a public document its interim standards  
5 review process, the steps taken before finalizing  
6 changes to standards, and the training provided to any  
7 appeals committee.

8 In addition, the agency needs to amend its  
9 recordkeeping policy to include substantive change  
10 decisions, its substantive change policy to indicate  
11 what a new comprehensive evaluation requires, and its  
12 disclosure policy to ensure the availability of the  
13 qualifications, employment, and affiliations of its  
14 decision-makers and staff.

15 Finally, the agency needs to demonstrate a  
16 consistent process for selecting representative members  
17 on its site teams and decision-making bodies; the  
18 effective application of its student achievement  
19 standards by its onsite teams; that it provides each  
20 institution and program with a detailed written report  
21 assessing its success regarding student achievement;  
22 that it requires and evaluates the public disclosure of

1 transfer of credit elements; and that the process for  
2 determining credit hour assignments is reviewed and  
3 evaluated by its site teams and by its decision-makers.

4 In closing, we believe that these issues will  
5 not place its institutions and students or the  
6 financial aid that they receive at risk, and that the  
7 agency can resolve the concerns we have identified and  
8 demonstrate its compliance in a written report in one  
9 year's time.

10 Therefore, as previously stated, we are  
11 recommending that the Senior Department Official  
12 continue the agency's current recognition, and require  
13 a compliance report in 12 months on the issues  
14 identified in the staff report. Thank you.

15 CHAIR STUDLEY: Would a representative of the  
16 agency like to comment on that report?

17 DR. YOHO: Good morning. I'm Robert Yoho.  
18 I'm the immediate past chair of the Council on  
19 Podiatric Medical Education. I'm also the dean of the  
20 College of Podiatric Medicine at Des Moines University.

21 I'm joined here this morning, to my far left,  
22 with my predecessor and former chair of the council,

1 Mr. Andrew Weiss, who is director of finance and  
2 systems at Georgetown University Hospital; and also, to  
3 my immediate left, by Mr. Alan Tinkleman, who is the  
4 director of the Council on Podiatric Medical Education.

5 I certainly welcome this opportunity to appear  
6 before the Committee today to represent the council in  
7 pursuit of the Secretary's renewal of recognition of  
8 the council as the professional accrediting agency for  
9 colleges of podiatric medicine, and the first  
10 professional degree of Doctor of Podiatric Medicine, as  
11 well as for continued recognition of the  
12 pre-accreditation category of candidate status for  
13 developing colleges of podiatric medicine.

14 In appreciation for the time that you've spent  
15 today on your regular schedule, I will limit my  
16 comments to a few general statements.

17 The staff analysis, as was said earlier by Mr.  
18 Porcelli, recommends that the Committee consider the  
19 council to be in noncompliance with certain aspects of  
20 the Department's criteria.

21 The council and I concur with this statement.

22 It takes this very seriously, and will take it upon

1    itself to respond in a timely and appropriate manner to  
2    each issue identified.

3                   With the exception of issues related to  
4    student achievement and credit hour assignments, all  
5    issues identified in the staff report have been placed  
6    on the agenda for the council's April 2012 meeting.

7                   Because the council conducts relatively few  
8    onsite evaluations, progress on addressing issues  
9    related to student achievement and credit hour  
10   assignments cannot be documented until the next onsite  
11   visit, which is scheduled to be conducted in June of  
12   2012.

13                   Finally, I do want to personally thank Mr.  
14   Porcelli for his consultation during the petition  
15   process, and wanted to specifically point out his  
16   communication to the council on the Department's new  
17   regulations and how helpful it was to us.

18                   We certainly welcome any comments and specific  
19   questions you may have for us at this point. Thank  
20   you.

21                   CHAIR STUDLEY: Thank you very much. We  
22   appreciate that.

1           Do any of the Committee members have comments  
2 or questions? I see Arthur and then Cam.

3           MR. ROTHKOPF: Yes. I just might want to ask  
4 Steve to comment about the fact that he attended an  
5 accreditation committee meeting within the relatively  
6 recent past and what your observations were. It's  
7 reflected in the staff report, but I think it would be  
8 useful to have that discussed in the public hearing.

9           MR. PORCELLI: The accreditation committee  
10 meets before the actual decision-makers meet, just  
11 prior to that, and they go through all the details of  
12 each of the schools, and the site visits, and the  
13 annual reports, any materials available on the school.  
14 And they prepare a recommendation for the  
15 decision-makers.

16           They were extremely thorough. They were very  
17 cognizant of what the Department requires, and I found  
18 it to be a very competent and, again, a very helpful  
19 process to have them make those recommendations for the  
20 decision-makers. Thank you.

21           CHAIR STUDLEY: Cam?

22           MR. STAPLES: Thank you, Jamie.

1           I have a couple questions, one about -- the  
2 recommendations seem to have two categories. One  
3 category is very minor modifications to statements or  
4 policies that I have a question about, which is that  
5 you were notified at one point by the Department in the  
6 initial report that there were issues with those  
7 particular policies, whether it was your records policy  
8 or some others.

9           Then you went back and you made revisions, and  
10 then there was still some very -- in my estimation,  
11 very minor lack of compliance with the modification.

12           So I guess I want to ask you about that  
13 process. Some of those seem to be bordering on  
14 insignificant. And I guess the Department is bound to  
15 say you're either in or you're out completely. So the  
16 failure to mention every fine point in your new  
17 disclosure policy renders you out of compliance.

18           I guess I'm asking, was there not in your mind  
19 sufficient communication the first go-around about what  
20 your modification needed to be? Because you in every  
21 instance made a change, and in many instances still had  
22 a small thing that was not sufficient. And I'm

1 wondering how that could have happened.

2 MR. TINKLEMAN: Good morning. I'm Alan  
3 Tinkleman.

4 Most of that fell on me. In providing revised  
5 policies and procedures to our agency, in a couple  
6 cases, at least, I made some very general statements  
7 that I thought were all-inclusive, and I was mistaken  
8 in doing that. I need to go back and be just that  
9 little bit more specific in our policies to meet the  
10 letter of the law and the criteria.

11 MR. STAPLES: So you thought that they  
12 were -- you didn't think that your all-encompassing  
13 statement was sufficient? Or are you just being nice  
14 today?

15 (Laughter.)

16 MR. TINKLEMAN: Both. At the time, I did  
17 firmly believe that they met the intent of the  
18 criteria.

19 MR. STAPLES: If it makes you feel any better,  
20 I thought the same when I read them, and I'm not  
21 faulting the staff. I think there's a level of  
22 specificity that is now standard review.

1           But it seemed to put you over the edge in a  
2 number of categories, so I was just curious how that  
3 could have happened unless there just wasn't an  
4 understanding, when that first communication was made,  
5 how specific you had to be. But that's just one  
6 question.

7           The other question I had was about the student  
8 achievement issues. I was curious about the statements  
9 around -- I understand that until you have your next  
10 site visit, you can't incorporate that. But what do  
11 you think about the general requirement in a couple of  
12 places that your report has to assess the institution's  
13 performance with respect to student achievement?

14           Staff analysis suggests that the onsite visit  
15 focuses primarily on process, and they're expecting  
16 your assessment of performance. And I guess I want to  
17 know, was that news to you? Is it new? Is that why  
18 you're not doing it presently, and that you're going to  
19 incorporate that into your next visit? Or is that a  
20 difference of opinion about what you think about the  
21 law requires?

22           MR. TINKLEMAN: In that case, it's neither.

1 The CPME adopted new requirements and procedures two  
2 years ago, and as Dr. Yoho mentioned earlier, we have  
3 very few onsite evaluations. The visit that we needed  
4 to use to document our compliance was the first visit  
5 using our new requirements that include extensive  
6 guidance for the onsite evaluation team related to  
7 student achievement.

8 The institution that we evaluated far exceeded  
9 both our own standards and their own internal measures  
10 of assessment, and it just was left out of the team  
11 report. And it was an unfortunate issue, but it's one  
12 that we're very cognizant of, and we'll make sure it  
13 doesn't happen again.

14 MR. STAPLES: Okay. So this is a  
15 well-understood requirement.

16 MR. TINKLEMAN: Yes.

17 MR. STAPLES: It's that you haven't had a  
18 chance or haven't done it yet in your site visits,  
19 which will be next year?

20 MR. TINKLEMAN: That's correct.

21 MR. STAPLES: Great. Thank you very much.

22 MR. TINKLEMAN: You're welcome.

1 CHAIR STUDLEY: Would you like to make a  
2 motion?

3 MR. STAPLES: I would, Madam Chair.

4 CHAIR STUDLEY: Realizing it's fraught, but  
5 it's going to get easier.

6 M O T I O N

7 MR. STAPLES: Well, I'm comfortable with the  
8 motion that we had before, and with the edits that  
9 Frank and others noted. I don't know if it's possible  
10 for the staff to retype that prior motion so I don't  
11 have to remember it from heart.

12 There was a request by the staff to make one  
13 additional line with that. So I think that providing  
14 the 12 months, as we state there, with the compliance  
15 report is the first part of the motion.

16 (Pause)

17 CHAIR STUDLEY: It's CPME?

18 MR. STAPLES: May I ask Steve a question right  
19 now, related?

20 Steve, since we're continuing accreditation,  
21 does the scope change need to be effective immediately,  
22 the one that you would add to this motion?

1 MR. PORCELLI: It would be a change in title.

2 MR. STAPLES: And that should happen now as  
3 opposed to 12 months from now?

4 MR. PORCELLI: Yes. It should happen.

5 MR. STAPLES: If I could add to this another  
6 sentence that would say, "In addition, the agency's  
7 official scope of recognition be revised to change the  
8 recognized pre-accreditation category from 'candidate  
9 status' to 'provisional accreditation.'"

10 MR. KEISER: May I ask a question?

11 CHAIR STUDLEY: Certainly. Go ahead.

12 MR. KEISER: What is the difference, and why  
13 would we make that change?

14 MR. PORCELLI: Previously, when the agency  
15 came before us in the past, they had two  
16 pre-accreditation categories. One was eligibility  
17 status where there were no students, but because  
18 they're medical schools, they needed to set this up for  
19 state approvals and so on.

20 Then they had a candidate status. Once the  
21 students were there they did a site visit, self-study,  
22 the whole nine yards. They decided that they wanted to

1 do a self-study, and they wanted to strengthen their  
2 review process.

3           So they changed the name from "eligibility  
4 status," when there were no students there, to  
5 "candidate status," from "eligibility status" to  
6 "candidate status." And they require a self-study and  
7 a site visit by a team.

8           Then they have a second level of review where  
9 they go in again, a second team, a second self-study,  
10 where the students are there. And they call that  
11 provisional accreditation.

12           So in the past, when the Secretary recognized  
13 them for candidate status, that was with students  
14 there. Now they've changed the name from "candidate  
15 status" to "provisional accreditation."

16           I hope that's not too confusing. It's really  
17 a name change, and they beefed up their process, when  
18 there are no students there, of their review of the  
19 school.

20           MR. KEISER: So does the Department recognize  
21 a candidate if it's a freestanding -- it's a  
22 not-for-profit institution?

1           MR. PORCELLI:  There seems to be a -- I'm  
2   having trouble locating the exact regulation, but there  
3   seems to be a difficulty in recognizing, for Title IV  
4   purposes, a status where there are no students present.

5   And it's kind of a moot question, because if there are  
6   no students, there are no students getting Title IV  
7   money, and so on.

8           So there will be students present for their  
9   provisional accreditation, which is their name for  
10  their candidacy where there will be students and  
11  they're recognized, and the students could get money,  
12  could get Title IV loans.

13          MR. KEISER:  But let me understand it.  So the  
14  school decides it wants to open an institution of  
15  podiatric medicine.  It then applies for candidacy,  
16  which is prior to the opening of the first class.

17          We recognize that status, and then are the  
18  students eligible before they get the provisional  
19  status?  I'm not sure that works.

20          MR. PORCELLI:  That would be something our  
21  lawyer may want to comment on.  But we are recognizing  
22  them for provisional -- we're recommending that they be

1 recognized for provisional, which would be with the  
2 students present.

3 MS. WANNER: Our changes are to accommodate  
4 your concern. Because of changes in terminology, only  
5 the provisional is a status where there are students.  
6 And we're not comfortable in recognizing accreditation  
7 of a school before it has any students.

8 MR. KEISER: So we're not going to recognize  
9 the candidate status, only the provisional status?

10 MS. WANNER: That's right.

11 MR. KEISER: That makes sense.

12 CHAIR STUDLEY: Does the agency want to add  
13 anything on that subject? Okay.

14 Anne?

15 MS. NEAL: I want to follow up a little bit on  
16 Cam's question. And I'll put a finer term on it. Some  
17 of these things seem a little picky.

18 I guess I want to ask you, as I understand it,  
19 you and most of the entities that we're seeing today  
20 are being asked to come back in 12 months. And as I  
21 understand it, if you don't fulfill the requirements in  
22 12 months, either you're then out on the street or

1 there has to be some special showing.

2 Do you have any concern that you'll have the  
3 same problem of kind of divining what it is that will  
4 be acceptable and what won't be acceptable when you  
5 come back in 12 months?

6 DR. YOHO: My sense is that the issues are  
7 fairly well articulated in the report. In speaking  
8 with Mr. Tinkleman, I think we feel extraordinarily  
9 confident that we'll be able to satisfy each and every  
10 one of those, as small as they might appear to be.

11 I think, to sort of add on Alan's comment, I  
12 think the grey zone really narrowed recently. So I  
13 think what we're attempting to do is to adjust to  
14 there's black, there's white, and there's a grey zone.

15 We understand that that shade of grey has  
16 narrowed quite a bit, and we really need to -- and we  
17 need to ask questions. If we're not exactly sure what  
18 we're doing, it would seem that it would be a  
19 reasonable request to follow up with appropriate  
20 consultation to make sure that we don't doom ourselves  
21 by not falling into compliance with these.

22 So I think later Alan -- or, I'm sorry,

1 Andrew -- may have some comments related to the  
2 questions that also may address your comment's last  
3 question.

4 MR. KEISER: I just wanted to comment briefly  
5 that I'm with Anne on this. I think having all of  
6 these agencies come back on really minor things just  
7 doesn't well-serve any public good. I know that we  
8 have to do that, but over time, I would hope that as  
9 the standards just become more and more clear, we'll  
10 greatly cut down on this, and the staff will work much  
11 more closely, and in part, the workload for us will go  
12 down.

13 But it's not that I don't want to do the work.  
14 It's the particular focus that we have might be better  
15 spent on bigger policy issues rather than what seem to  
16 be fairly arcane, fairly technical, not earth-shaking  
17 transgressions.

18 DR. YOHO: I don't think you'll get any  
19 argument from the CPME.

20 CHAIR STUDLEY: I think, when we talk about  
21 that as a process matter, I will want to separate out,  
22 at the very least, the difference between "coming

1 back" -- your phrase -- in the sense of completing the  
2 steps that, in this case, the agency agrees are  
3 sensible and need to be recorded and reflected, and  
4 "coming back" in the sense of making another in-person  
5 visit to us at a meeting where we gather.

6           It may be that the first is necessary in some  
7 efficient way, and the second can be done to something  
8 like the consent calendar or recognizing that those  
9 steps have been completed.

10           I'm sure that the lawyers want to be sure  
11 that -- and the staff want to be sure that we have tied  
12 down all of the remaining requirements in a reasonable  
13 and fair way. We may have ways that we can do it that  
14 are less burdensome, or only flag those things that do  
15 need our attention.

16           Cam?

17           MR. WU: Not to belabor this, but I do this  
18 pops up on more than one review, so if I could ask  
19 Sally a question about it.

20           Is it the Department's interpretation -- and  
21 Kay just mentioned this earlier, I think, about the  
22 revised negotiated rulemaking, which requires absolute

1 compliance in the sense that there is no substantial  
2 compliance -- there's no opportunity for us to say, for  
3 example, you're continued for five years. Submit back  
4 in six months a report indicating you made the  
5 following changes to your publication, sufficient to  
6 satisfy a Department review.

7           We're not permitted to do that. I guess,  
8 under your interpretation of the current requirement,  
9 that any even deviation on a minor point is  
10 noncompliance.

11           MS. WANNER: The statute simply says  
12 compliant. You have 12 months to become compliant.  
13 Now, what is compliant and what isn't compliant is a  
14 matter for this Committee to make recommendations on  
15 and for the staff to make recommendations on.

16           CHAIR STUDLEY: Arthur?

17           MR. ROTHKOPF: Do you mind if I --

18           CHAIR STUDLEY: Sure.

19           MR. ROTHKOPF: It may be a conversation to  
20 have further when we get into our policy discussions  
21 about how to refine the future regulations and/or  
22 statutes. I would say, just for this agency, at least

1 from my view, they should still come back on the  
2 achievement issues.

3 So I mean uncomfortable with them coming back  
4 on -- that is substantive. The rest of it I'm not so  
5 sure about.

6 CHAIR STUDLEY: Arthur?

7 MR. KEISER: The other dynamic that -- I  
8 noticed in one of the ones I was assigned to is a  
9 school could be in compliance because -- well, they  
10 were found to be out of compliance. The draft report  
11 went to the school or the agency.

12 The agency then made the changes but wasn't  
13 able to document the actual implementation of those  
14 rules because they didn't have -- let's say it was a  
15 train-out or something like that, and they weren't able  
16 to document it.

17 But the bylaw changes or the channels were  
18 made in their process, and we cited that for  
19 noncompliance. That's another thing we could look at:

20 How do we deal with ones where they weren't able to  
21 actually show the implementation because of timing  
22 issues?

1           Some of these things could come up where it  
2 would last greater than a year, and they'd still be out  
3 of compliance in 12 months now because they didn't have  
4 a teach-out or a train-out during the period of time.

5           CHAIR STUDLEY: I just want to clarify that  
6 when we do the analysis, if it is the kind of  
7 occurrence that would not likely happen within 12  
8 months, we do not hold them to the requirement for the  
9 application.

10           MR. KEISER: Well, I didn't see that  
11 differentiation in the report. It would just show that  
12 they ruled, they passed the changes in their bylaws,  
13 and then it just said there was no evidence, and then  
14 they wrote that as a noncompliance.

15           MS. GILCHER: If they're found out of  
16 compliance, indeed that would be the case. But there  
17 are those where they're found in compliance where they  
18 wouldn't have had an opportunity to apply it, and we  
19 determined that that wouldn't be logical, to expect  
20 that to happen within that 12-month period of time.  
21 And a teach-out is a good example.

22           I think we've identified a fruitful area for

1 further conversation in terms of the rules going  
2 forward. Frank?

3 MR. WU: I have a suggestion or a thought  
4 because policy and rule changes take some time.  
5 Meanwhile, would it be appropriate for us in one of the  
6 motions with an agency where there is real consensus  
7 that everything is relatively minor, simply to add,  
8 when we move, that what we're recommending is that they  
9 be found in substantial compliance?

10 Couldn't we just recommend that? Because the  
11 Secretary is free to decline that and say, no, you're  
12 not allowed to do that. But there's nothing that would  
13 prohibit us from adding a sentence that says something  
14 along those lines to sort of try it out as a concept.

15 MS. WANNER: This is an independent body and  
16 you can frame recommendations as you wish. And  
17 depending on what they are, the department will make  
18 recommendations to the Secretary as to whether or not  
19 they comply with the law.

20 MS. NEAL: Along those same lines, in looking  
21 at the student achievement aspect, correct me if I'm  
22 wrong, but you all have a requirement that a school

1 have an assessment plan; that is establish competencies  
2 or student learning outcomes; that there be  
3 identifiable program outcomes; and then you also have  
4 acceptable floors for placement on graduation.

5           So you actually have a lot more standards than  
6 we often see. So would you address that? I mean, it  
7 says that there was some concern about process. You're  
8 saying it just simply, somehow it didn't appear in the  
9 report, even though it's very clear that these are the  
10 various criteria that your entities have to satisfy in  
11 order to be accredited.

12           DR. YOHO: I think that clearly the  
13 accrediting committee has made some very strong  
14 recommendations with respect to how we monitor  
15 standards and requirements, particularly those related  
16 to student outcomes. My sense is to improve the  
17 overall realm of podiatric medical education to  
18 actually have a rather robust requirement, I think,  
19 speaks well for the council.

20           My sense, though, is because of the recent  
21 change in the documents, we've sort of used an  
22 alternative pathway, and that is, all colleges are

1 required to submit an annual report. And in that  
2 annual report, they're required to respond to I think  
3 it's Standard 8, which is educational effectiveness,  
4 which includes all of these.

5           So in that sense, all of that information is  
6 provided to the accreditation committee and the council  
7 on an annual basis, including trending data. I think  
8 the omission was that when a team recently went out,  
9 they were very familiar with the outcomes for that  
10 particular college based upon these annual reports, and  
11 therefore, probably just out of omission, did not  
12 mention that in the response to the self-study or their  
13 full site visit response to the council.

14           So in that sense, I think we have all the  
15 pieces in place. We just sort of approached it from an  
16 alternative pathway, and clearly, with the upcoming  
17 visit, that the evaluators will be trained on what to  
18 look for and to respond in an appropriate manner to  
19 that section of the 120 document.

20           CHAIR STUDLEY: Any other comments or  
21 questions from the Committee?

22           (No response.)

1 CHAIR STUDLEY: Would you like to make a  
2 motion?

3 MR. STAPLES: I think I did. I think the  
4 motion --

5 CHAIR STUDLEY: Yes. Okay. That's true.

6 MR. STAPLES: -- is up there on the screen.  
7 will now make official.

8 CHAIR STUDLEY: Great.

9 MR. KEISER: I'll second.

10 CHAIR STUDLEY: Excuse us. We're hearing a  
11 catlike sound from the back.

12 (Laughter.)

13 CHAIR STUDLEY: Is there any further  
14 discussion now that the motion is before us?

15 (No response.)

16 CHAIR STUDLEY: All in favor, please say aye.

17 (A chorus of ayes.)

18 CHAIR STUDLEY: Opposed?

19 (No response.)

20 CHAIR STUDLEY: The motion carries.

21 I definitely from that conversation do hear  
22 the hunger for us to look at the options that we have

1 about these approvals and about the recommendations and  
2 about the process that follows, also, to make it as  
3 smooth and as minimally invasive as possible, both on  
4 behalf of the agencies and in consideration of our  
5 time.

6 I would like to extend the same invitation to  
7 you, if you were here earlier to hear the previous  
8 group, whether you would like to take just a few  
9 moments to comment on either the thorniest challenges  
10 question or the notion that we had that you may be  
11 doing something that you think other agencies might  
12 find helpful.

13 It looks like you're eager to take that up.  
14 Thank you.

15 MR. WEISS: Thanks. Good morning. As my work  
16 title suggests, I'm not a podiatrist. I'm in my third  
17 and final term as a public member on the council, so  
18 it's been a learning experience for me and continues to  
19 be so.

20 I mulled over your questions at length, and  
21 it's hard to answer them without being cliché in  
22 generalities. But that said, regarding challenges, my

1 focus was centered on ensuring that the council  
2 maintained relevance while balancing the realities of  
3 student demand and residency placement needs. Podiatry  
4 has some very big concerns in that area, and the  
5 council has been at the epicenter of those questions.

6 Managing the ebb and flow of the professional  
7 needs while concurrently refining the role of the  
8 accrediting body has stretched our boundaries and  
9 limits, to be sure.

10 Because podiatric medicine is still wrestling  
11 with identity issues, and that being its insular  
12 profession versus mainstreaming with allopathic  
13 medicine, the CPME ends up being the mortar that tends  
14 to hold the education process together for podiatry.

15 That's a tough spot to be in when the historic  
16 persona of the council has been to gently guide and  
17 cajole the entities that it oversees into positive  
18 directions. That said, where the new accreditation  
19 criteria seem to suggest a more objective approach, it  
20 often gives us a little less room for subjectivity,  
21 which is a valuable tool when we're considering our  
22 peer institutions.

1           So it's been a challenge to look at the new  
2 criteria and implement them into our existing  
3 structure, but I think a rewarding one. I think we  
4 have been very much benefitted from the process.

5           As to what CPME does well, I've found that the  
6 greatest value in the organization is it is a  
7 deliberative body that leverages history effectively.  
8 This organization uses precedent and prior effort more  
9 effectively than most I've encountered in the past.

10          In short, I feel like CPME has established a  
11 level of continuity that ensures consistency in the  
12 application of guidelines and the thoughtful management  
13 of aberrant behavior.

14          There are no tools or tricks that are an  
15 effective substitute for consistency. I think that  
16 CPME applies the same mode of thought throughout the  
17 process, all the way from font usage and sentence  
18 structure in our correspondence and policies and  
19 procedures. It is that level of consistency that I  
20 think has enabled the profession to look to CPME as a  
21 source of truth.

22          In CPME, there is active involvement of expert

1 and practicing podiatrists in the accrediting process.

2 And I think that the combination of lay persons and  
3 academicians with the professional community has really  
4 been a great benefit to the process as a whole. This  
5 results in a finely tuned review that benefits  
6 institutions engaged in the continuous improvement  
7 process. And I think it also safeguards and advances  
8 the profession as a whole.

9 So I think we do a lot of things well, and  
10 we've refined them and we do them very consistently.  
11 And I think that's benefitted the profession greatly.

12 CHAIR STUDLEY: Thank you very much. We  
13 appreciate that.

14 Do the Committee members have any questions  
15 for this team?

16 (No response.)

17 CHAIR STUDLEY: Thank you. Appreciate you  
18 being here, and I appreciate your observations.

19 AGENCY REPRESENTATIVES: Thank you.

20 CHAIR STUDLEY: We are going to move into the  
21 next agency, the North Central of Colleges and Schools,  
22 Higher Learning Commission, before we take our break.

1           This item before us is an informational  
2 report. There are no Committee readers assigned to the  
3 item, and there are no staff who will be presenting.

4           DR. LEWIS: And as --

5           CHAIR STUDLEY: Earl, do you need to --

6           DR. LEWIS: I'm going to recuse myself, yes.

7           CHAIR STUDLEY: Earl Lewis has recused himself  
8 and is -- the staff is saying that since there's no  
9 vote, you don't need to recuse yourself. And if it's  
10 only an informational report, you can listen from your  
11 regular seat. But we appreciate your respect for  
12 process.

13           The representative of the agency is its  
14 president, Sylvia Manning, and we appreciate your being  
15 here to give us your report.

16           DR. MANNING: Thank you. Your agenda  
17 indicates that Karen Solomon, our vice president for  
18 legal and governmental affairs, would be here as well.

19           But unfortunately for me, Karen is serving the greater  
20 good by acting on jury duty at the moment.

21           CHAIR STUDLEY: I heard that coming.

22           (Laughter.)

1 DR. MANNING: My task before you is simply to  
2 report on those initial accreditations that our agency  
3 has granted within the past year, the past year running  
4 from November 1st through October 31st.

5 I have submitted as well an extensive written  
6 report on the process. Let me just very, very briefly  
7 use that as a frame to describe the two accreditations  
8 that were granted.

9 These are institutions that have been granted  
10 initial accreditation. And that means that they have  
11 been through the entire process, beginning with a  
12 preliminary interview with staff; a letter of intent; a  
13 submission of extensive documentation to indicate that  
14 they have met all the eligibility requirements; a  
15 review of that documentation and its acceptance; a  
16 self-study for candidacy; a site visit for candidacy  
17 which once again reviewed all the eligibility  
18 requirements; and, in addition, the criteria for  
19 accreditation.

20 In order to be admitted to candidacy, the  
21 institution must fully meet all the eligibility  
22 requirements and then must demonstrate that it is

1 likely to meet all the criteria in full within the  
2 period allowed for candidacy.

3           At the time that these institutions that we're  
4 talking about went through the process, we had a  
5 two-year candidacy and then a renewal of candidacy for  
6 two years.

7           We have since changed that to make it clear  
8 that the default position is a four-year candidacy,  
9 although in certain circumstances, institutions may  
10 apply for initial accreditation after two years. And  
11 the board does retain the authority to waive candidacy  
12 in what we expect will be very rare circumstances.

13           This is a process that, I do want to point  
14 out, weeds out a lot of institutions. There are lots  
15 of hoops to jump through. It is important to notice  
16 that many institutions, in fact, fail to jump through  
17 all those hoops.

18           Just to give you some sense of it with a  
19 couple of numbers, I did make a study of what we did in  
20 the decade 2000 to 2010. And in that decade, 120  
21 institutions began this process.

22           At the end of the decade, 37 of them were

1 accredited. That's 31 percent. And at the end of the  
2 decade, 49 of them, or 41 percent, had either timed  
3 out -- that is, they had failed to meet the time  
4 restrictions at various stages in the process -- or had  
5 dropped out, or had been denied and had not moved  
6 forward. The remainder were still in the process  
7 because it does take, in fact, several years to get  
8 through.

9           In the past year, we have, as I indicated,  
10 granted initial accretion to two institutions. One of  
11 them is Colorado State University Global Campus,  
12 commonly referred to as CSU-Global. This campus was  
13 developed out of the other two campuses in the system,  
14 Colorado State at Fort Collins and Colorado State at  
15 Pueblo.

16           In 2008, we reviewed a petition from those two  
17 campuses, which were fully established and fully  
18 accredited, to award degrees to students, most of whose  
19 course work, or possibly all of whose course work,  
20 would be taken from CSU-Global. This third campus was  
21 almost literally spawned from the other two campuses.

22           Then in December of 2009, CSU-Global, as a

1 separately accreditable, or potentially separately  
2 accreditable, entity, went through the eligibility  
3 process. They had a candidacy visit in October 2010.

4           The site visit team recommended that candidacy  
5 be waived and they be granted immediate initial  
6 accreditation. This was a little awkward because site  
7 visit teams aren't supposed to do that. Only the board  
8 is supposed to do that. But nonetheless, they did.

9           The case then went into our decision process,  
10 the first part of which is a review by something that,  
11 at the time, we called a review committee. That  
12 committee, a little more mindful of the protocols,  
13 recommended candidacy.

14           The case was scheduled to come before our  
15 board at its meeting in February 2011, and two glitches  
16 then appeared. One was, there was a certain lack of  
17 clarity, to put it weakly, in statements from the  
18 institution as to whether or not it had graduated any  
19 students under its own authority.

20           We do not grant initial candidacy -- initial  
21 accreditation to an institution until it has graduated  
22 at least one student. That is how we know it is a

1 fully degree-granting institution.

2           The problem is that had CSU-Global at that  
3 point graduated students under its authority, that is,  
4 under its name, those students would have been  
5 graduating from an unaccredited institution, and we  
6 didn't know that if that had happened, that the  
7 students knew that was happening. That would have been  
8 a very serious situation.

9           The other thing that became apparent was that  
10 there were places on the institution's website that  
11 appeared to say that the institution had been granted  
12 full accreditation in 2008, which was the time at which  
13 we had made this provision which is admittedly a bit  
14 arcane, even for people, perhaps, managing websites at  
15 institutions, which permitted them to teach students  
16 but not actually to grant the degree.

17           Both those issues were cleared up between  
18 February and June, and at the June meeting, the board  
19 did waive candidacy and grant initial accreditation,  
20 with the provision that the institution graduate its  
21 first class within 30 days of the board's action in  
22 June.

1           The institution, in fact -- and we knew this  
2 would happen -- graduated its first class seven days  
3 later, and the initial accreditation became effective  
4 on that date, which was June 30th.

5           Should I just keep going?

6           The second institution, a much simpler case:  
7 St. Gregory the Great Seminary, which is an  
8 undergraduate Roman Catholic institution in Seward,  
9 Nebraska, which has a single BA degree program and  
10 certificate. It has an enrollment of fewer than 50  
11 students. It prepares students for the priesthood.

12           This institution completed eligibility in  
13 February of 2007. It was awarded candidacy in 2008.  
14 It had its onsite review for initial accreditation in  
15 April 2010, and the board awarded an initial  
16 accreditation with no contingencies in November 2010.

17           That completes my report.

18           CHAIR STUDLEY: Thank you very much.

19           Arthur?

20           MR. ROTHKOPF: Yes. I'd like to go back and  
21 be sure I understand your comment about there were 120  
22 institutions that were seeking accreditation, initial

1 accreditation, and at the end of the process, only 37  
2 were granted. Tell me what exactly.

3 DR. MANNING: Well, 34 were still in the  
4 process.

5 MR. ROTHKOPF: What's that?

6 DR. MANNING: Thirty-four were still in the  
7 process.

8 MR. ROTHKOPF: Still in the process.

9 DR. MANNING: Right.

10 MR. ROTHKOPF: I guess my question is, of  
11 the -- I'm going to leave my arithmetic here -- of the  
12 slightly under 90 who did not make it, were they  
13 accredited by other accrediting agencies beforehand?  
14 And then what's happened to them? Where are they in  
15 the process, and are students getting financial aid in  
16 those 90 institutions that you turned down?

17 DR. MANNING: Let me just clarify because  
18 we're not that rigorous, although we might be. It's  
19 120, and 37 we accredited. But an additional 34, at  
20 the time that I did this snapshot, were still in the  
21 process. So we might still be about to accredit them.

22 For instance, the two that we just described would

1 have been in the process.

2 But, nonetheless, to take the basis of your  
3 question, there are 49 institutions which were  
4 definitely gone which we had not accredited.

5 MR. ROTHKOPF: And my question: Where are  
6 they, and are they out there right now giving -- do we  
7 have financial aid being granted to students in those  
8 49 institutions, somehow, somewhere?

9 DR. MANNING: That's an interesting follow-on  
10 study that perhaps we should do and could do. I do not  
11 know the answer to that.

12 I can tell you that many institutions that  
13 come to us for accreditation are already accredited by  
14 a national or specialized accreditor, and therefore  
15 their students do have eligibility for Title IV under  
16 the aegis of another accreditor.

17 Some of them, I believe, do not have  
18 accreditation through any recognized gatekeeping  
19 agency. And those studies, I assume, are not getting  
20 Title IV funds. But I'm just giving you the general  
21 range of possibility. I don't have the data to your  
22 question. But we could get it.

1           MR. ROTHKOPF: Yes. Thank you. I'd be  
2 interested. I mean, it's a question that really slips  
3 over into the conversation we start tomorrow afternoon  
4 about what the policies ought to be if you've got  
5 institutions that have not met the standards of one of  
6 the regions, yet they've met the standards of somewhere  
7 else, some other accrediting body.

8           Is that significant? Should we be talking  
9 about it? It is an issue that the Department and  
10 perhaps the Congress ought to take a look at.

11          DR. MANNING: I can get that information, if  
12 you wish, and transmit it to staff.

13          MS. NEAL: A similar question. In looking at  
14 your response to the education department, you have  
15 undertaken some various policy changes. And from what  
16 I understand now, when you have a new initial -- an  
17 entity attempting to be accredited for the first time,  
18 you've taken what used to be a two-year process and you  
19 have now, as your default, made it a four-year process.

20          So, on its face, it takes longer than it did  
21 before. And based on your report, it appears that  
22 there are teams of four or more, and that they can come

1 to these institutions for onsite evaluations over the  
2 course of three days.

3           Now, in your discussion, you talked about  
4 jumping through hoops and weeding out. I'm wondering  
5 if one might also conclude from this that because it is  
6 longer and potentially costlier that that may in some  
7 cases prove a barrier to some institutions that would  
8 like to be able to provide new deliveries to  
9 institutions; but because of this new, longer, and  
10 potentially costlier process, they won't, in fact,  
11 carry it out.

12           DR. MANNING: Right. The four-year is the  
13 default. And let me explain to you one reason why we  
14 did that.

15           Under the way we had it before, which was two  
16 years plus two years, if at the end of the first two  
17 years the institution petitioned for  
18 accreditation -- that is, initial full  
19 accreditation -- and did not receive it, that was  
20 understood as a denial of accreditation. It was  
21 therefore an adverse action and was subject to appeal.

22           This, frankly, produced a lot of expense on

1 both sides, and a lot of expenditure of time as well as  
2 money, in an effort that seemed essentially like a  
3 waste of resources.

4           What we wanted to do was to say, if the  
5 commission determines that the institution is not ready  
6 for full accreditation, that's it. So the analogy we  
7 used inside the academy was, it's like coming up for  
8 tenure early. In a law firm, it's like coming up for  
9 partner early.

10           So that's the way we phrased it. It is still  
11 possible for an institution, at the end of two  
12 years -- every institution has a midterm candidacy  
13 review. An institution may at that time, or may a bit  
14 earlier or a bit later, request review for initial  
15 accreditation. It may do so once within that four-year  
16 period, and we will, in fact, review it.

17           So it is still possible for an institution  
18 that is ready to get accreditation in two years. It's  
19 even possible in less, as the Colorado State example  
20 shows, where there was, in fact, no candidacy once we  
21 had cleared up the uncertainties around their petition.

22           MS. NEAL: When you were responding to Arthur,

1 would it be possible for you to also indicate if in  
2 fact there were applicants that just decided it was a  
3 process that they could not pursue for cost or whatever  
4 reason? Will you be able to supply us with that as  
5 well?

6 DR. MANNING: That may be harder. I don't  
7 know. I don't know what sort of records we have, and I  
8 don't know what they tell us. When an institution  
9 withdraws from candidacy or withdraws from the process,  
10 it is not inclined to say favorable things about us.

11 (Laughter.)

12 CHAIR STUDLEY: Are there any other questions  
13 or comments?

14 (No response.)

15 CHAIR STUDLEY: Thank you very much. We  
16 appreciate your giving us this informational annual  
17 report on the new accreditations, and thank you for  
18 that. That last answer was interesting, about how the  
19 procedural expectations drive the burden within the  
20 system, and the stages that you need to go through  
21 before, with an early option instead of two and a  
22 denial. It was interesting to understand.

1 DR. MANNING: Thank you.

2 CHAIR STUDLEY: Thank you very much.  
3 Appreciate it.

4 We will now take a 15-minute break. And we  
5 will reconvene, by my watch, at 5 of the hour. Thank  
6 you.

7 (A brief recess was taken.)

8 CHAIR STUDLEY: Would you please take your  
9 seats? And I would ask the people who are standing in  
10 the back to be quiet, and also ask you as a favor, the  
11 conversations in the hall have apparently made it  
12 difficult for people in the audience to hear. So we  
13 are going to close the doors. Obviously, you can still  
14 go in and out. But please try and help us keep the  
15 proceedings audible to everyone.

16 Thank you very much. We're going to move on  
17 now to the Council on Chiropractic Education,  
18 Commission on Accreditation, known as CCE. They're  
19 before us for a petition on renewal of recognition, and  
20 the primary readers are Arthur Rothkopf and Frank Wu.

21 The court reporter has asked me to ask you, on  
22 behalf of CCE, when you speak, to introduce yourselves,

1 identify yourselves, so that he can get the proceedings  
2 reported correctly.

3 With that, I will hand it off to the primary  
4 readers. And I understand that Arthur Rothkopf will  
5 lead off.

6 MR. ROTHKOPF: Yes. Thank you.

7 The Council on Chiropractic Education is  
8 recognized as a specialized accreditor. It currently  
9 accredits 15 Doctor of Chiropractic programs at 18  
10 sites in 13 states.

11 Of these programs, CCE accredits one program  
12 that is offered through a single-purpose institution.  
13 It's one single-purpose chiropractic institution uses  
14 the agency's accreditation to establish eligibility to  
15 participate in Title IV programs. Accreditation also  
16 allows its 15 programs to participate in non-Title IV  
17 programs offered through the Department of Health and  
18 Human Services.

19 Let me talk a little bit about its recognition  
20 history. CCE was first recognized by the Commissioner  
21 of Education in 1974, and has received periodic renewal  
22 of recognition since that time.

1           It was last reviewed for continued recognition  
2 at the spring 2006 NACIQI meeting. At that time, it  
3 received a continued recognition for a period of five  
4 years, and was requested to submit an interim report on  
5 items related to four criteria.

6           The agency's subsequent interim report was  
7 reviewed and accepted by NACIQI at its fall 2007  
8 meeting. I would note that there were considerable  
9 written comments submitted, somewhere in the  
10 neighborhood of 4,000. And I do note that we have a  
11 substantial number of oral commenters here today.

12           CHAIR STUDLEY: Arthur, before we move on to  
13 the staff, just recap what the procedure is.

14           The Department staff will speak to us about  
15 the Department review. Then we will invite agency  
16 representatives to make their comments, and then we  
17 will invite presentations by third party  
18 representatives, starting first with those who signed  
19 up to make oral comment who are listed in the agenda,  
20 and then those who signed up onsite. There are two of  
21 those in addition to the names listed in the agenda.

22           Each commenter is requested to speak for under

1 three minutes, up to three minutes, and the executive  
2 director will keep time at that point. Then there will  
3 be an opportunity for the agency to respond, if it  
4 chooses, to third party presentations; for the  
5 Department to respond to agency and third party  
6 presentations; and then the Committee will discuss and  
7 vote.

8 So with that, we appreciate the report by the  
9 staff. Rachael Shultz.

10 Dr. SHULTZ: Good morning. I'm Rachael  
11 Shultz, and I will be presenting information regarding  
12 the petition submitted by the Council on Chiropractic  
13 Education, or CCE.

14 The staff recommendation to the Senior  
15 Department Official is to continue the agency's current  
16 recognition and require a compliance report within 12  
17 months on the issues identified in the staff report.  
18 This recommendation is based upon the staff review of  
19 the agency's petition and supporting documentation, as  
20 well as the observation of a site visit in Greenville,  
21 South Carolina in October 2011.

22 Our review of the agency's petition revealed

1 several issues in several areas of the criteria. In  
2 particular, in the area of organizational and  
3 administrative requirements, the agency must provide  
4 more information on the selection and categorization of  
5 its representatives, including appeals panel members,  
6 conflicts of interest, and recordkeeping.

7           In the area of required standards and their  
8 application, the agency must provide additional  
9 documentation regarding student achievement, site  
10 review information and followup, and program-level  
11 growth monitoring.

12           In the area of required operating policies and  
13 procedures, the agency must provide additional  
14 information on or modify its policies related to  
15 substantive changes, teach-outs, credit hours, appeals,  
16 and various notifications.

17           Since many of the issues identified in the  
18 staff analysis only require the need for policy  
19 modifications or additional documentation, we believe  
20 that the agency can resolve the concerns we have  
21 identified and demonstrate its compliance in a written  
22 report in a year's time.

1           Therefore, as I stated earlier, we are  
2 recommending to the Senior Department Official that  
3 CCE's recognition be continued and that the agency  
4 submit a compliance report in 12 months on the issues  
5 identified in the staff report.

6           I would also note that the Department received  
7 a number of negative third party comments regarding the  
8 CCE. These comments were based largely upon a  
9 longstanding philosophical disagreement within the  
10 chiropractic community, and continue a pattern of  
11 oppositional comments that have been received by the  
12 Department each time the CCE has been reviewed for  
13 continued recognition over the years.

14           Many of the current comments pertain to the  
15 agency's most recent review of its standards and  
16 disagreement as to what terminology should be included  
17 in those standards.

18           After reviewing the agency's information and  
19 documentation related to its standards review process,  
20 ed staff found that the agency had met the Department's  
21 requirements that it consider, although not necessarily  
22 accept, the third party comments it received during its

1 standards review process.

2 Obviously, there are CCE representatives here  
3 today, and we will be happy to respond to the  
4 Committee's questions. Thank you.

5 CHAIR STUDLEY: We invite the agency to make  
6 your comments. Thank you, Rachael.

7 DR. WICKES: Thank you, Madam Chair, and a  
8 special thanks to Dr. Shultz for the work that she's  
9 put into preparing the report, and also going on the  
10 recent site visit in October.

11 With me today -- I'm Dr. David Wickes. I am  
12 the chair of the Council on Chiropractic Education. To  
13 my left is Dr. Craig Little, who is the chair of one of  
14 the standing committees, the council development  
15 committee. And to my right is Mr. Ray Bennett, who is  
16 the director of accreditation services. He's one of  
17 our full-time administrative staff members in the  
18 office.

19 I'd like to start by saying that we concur  
20 with the findings that have been reported to you by  
21 staff, and are already working diligently on making the  
22 policy changes that will address many of those areas.

1           I asked during the break if it would be okay  
2 if I addressed some of the questions, the three  
3 questions that have been imposed to each of the  
4 agencies at this time. So with your indulgence, I'll  
5 go ahead and weave that into my comments.

6           The first question had to do with the most  
7 significant issues that we face as an accrediting  
8 agency. And there are two areas that I'd like to bring  
9 out that we have dealt with over the past several  
10 years.

11           One is the organization of the council itself.

12       The accrediting agency in the past was comprised of  
13 two relatively separate bodies, a 12-person board of  
14 directors and a 12-person commission on accreditation.

15       In March of 2009, the bylaws were changed and voted  
16 into acceptance by the members to consolidate this into  
17 a single body, a 24-person council.

18           So we have been growing since March of 2009  
19 and adjusting to this new entity and working with our  
20 policy revisions and so forth, and I think that some of  
21 the things that had been pointed out as weaknesses in  
22 the staff report are simply because we haven't been

1 able to get to everything that we want to accomplish in  
2 that area.

3 But the reasons that we effected that change  
4 was to make the organization more efficient in its  
5 operations and to minimize the influence by the various  
6 program presidents, the college presidents, and thereby  
7 eliminate some of the conflicts of interest that had  
8 come up in previous NACIQI hearings.

9 So we now have a cap on the council membership  
10 of three college presidents at any given time. And we  
11 currently have just two college presidents. One is the  
12 president of Life University, which is the largest  
13 chiropractic program; and the other one is the  
14 president of the program at the Southern California  
15 University of Health Sciences.

16 It also means that we now have 24 people  
17 involved in every accreditation decision, and we have  
18 been successful in reaching a full consensus in every  
19 single decision that we have made. And that's quite an  
20 accomplishment, and we're very proud of that.

21 Those 24 people widely represent the colleges,  
22 the philosophical backgrounds that were alluded to

1 earlier. They represent various levels of expertise in  
2 higher education and administration and finance. And,  
3 of course, our public membership is very critical to  
4 us.

5           We are sensitive to the areas regarding the  
6 comments from staff on public membership, and we are  
7 revising our policies to make it more clear as to how  
8 those people are vetted. It goes through a relatively  
9 lengthy process; we just apparently have not been very  
10 clear in our descriptions of that, and we'll do a  
11 better job.

12           The other area that has been a challenge to us  
13 is the adoption of new accreditation standards. We  
14 went through a five-year process which just concluded  
15 in January of 2011 with the adoption of a complete  
16 revision of our accreditation standards.

17           These are now heavily outcomes-based.  
18 Previously, our standards had quite a few quantitative  
19 requirements, and we are now focusing on clinical  
20 competencies. And this has also put us at a little bit  
21 of a quandary, and this goes into the next area in  
22 terms of challenges, in that we have been moving more

1 towards outcomes-based assessment and less towards  
2 check boxes and itemization of things.

3           So we're sensitive to the comments that have  
4 been made regarding the various little details that we  
5 have to attend to. So it puts us in a little bit of a  
6 quandary.

7           These new standards provide much greater  
8 flexibility for the programs. They set minimum  
9 requirements, but not limitations on what programs can  
10 teach. Our task force met for over five years. It  
11 involved over 20 people at various times representing a  
12 wide variety of groups within the profession.

13           We had close collaboration with several  
14 subgroups of the American -- excuse me, the Association  
15 of Chiropractic Colleges, which represents all of the  
16 U.S. Doctor of Chiropractic programs. And we had two  
17 rounds of public commentary of 60 days for each one,  
18 and we received a fairly large volume of input over  
19 those two rounds. This culminated in the unanimous  
20 approval of the new standards in January of 2011.

21           So what are the thorniest challenges that we  
22 have faced relating to the accreditation requirements,

1 the federal regulations? Well, part of this has to do  
2 with the public comment period and the expectations  
3 that we receive and reflect upon the input from our  
4 public constituents.

5           We have a long history in the chiropractic  
6 profession of facing obstacles and resistance. That's  
7 just been part of our portfolio since 1895. There's  
8 great passion in the profession, and anything that is  
9 perceived that may pose a threat to the practice of the  
10 profession is an adverse action to it.

11           We understand that. We respect that. But as  
12 an accrediting agency, we have tried to focus very hard  
13 on differentiating between professional issues, things  
14 that affect the practice of the profession, and  
15 regulatory issues, versus those things that we need to  
16 concentrate on in assuring educational quality and the  
17 accreditation of our programs.

18           So we're learning to better deal in getting  
19 information out to our public groups, and in dealing  
20 with the feedback we get from that. We met on 20  
21 different occasions with major groups throughout the  
22 nation to discuss our proposed revisions.

1           We got great feedback along the way, but we  
2 need to do a better job in the future. The thing that  
3 we do exceptionally well that we'd like to highlight is  
4 the training that we put into our site team visitors.  
5 We regularly put on training, and this is attended by  
6 in excess of 90 percent of the members of our site team  
7 pool.

8           We get great reports on this. These include  
9 everything from mock scenarios to even mock  
10 accreditation hearings. And I think that we've done a  
11 great job of preparing our people to go out and do  
12 consistent evaluations of our programs.

13           So with that, I'll pass it back to you.

14           CHAIR STUDLEY: Thank you very much. As I  
15 said -- we want to follow our steps here -- the next  
16 item on our agenda will be to take the public comment,  
17 unless staff have questions -- have any clarification  
18 at this point.

19           MR. WU: You're not going to take questions  
20 from us, or are you going to wait till afterwards?

21           CHAIR STUDLEY: The structure that I described  
22 was to have Committee discussions and voting afterward.

1 If you have a point of clarification right now while  
2 it's fresh --

3 MR. WU: Not a clarification, a comment. It's  
4 a little bit significant comment, but let's wait till  
5 afterwards.

6 CHAIR STUDLEY: Right. So we're going to do  
7 the comments by third party representatives. We'll do  
8 them in the order that they appear in the agenda on  
9 page 5. I'm told that all of these people are here.  
10 We will time them. And then we now have learned that  
11 there is an additional commenter application that was  
12 filed timely, so there will be three commenters not  
13 listed on your list here.

14 I apologize if I mispronounce anyone's name.  
15 But if you would please be prepared to speak and to  
16 come to the table quickly.

17 First up is Robert Braile.

18 DR. BRAILE: Thank you. The Georgia Council  
19 of Chiropractic appreciates the opportunity to provide  
20 input to NACIQI regarding the CCE. We also praise the  
21 staff for their comprehensive report on the agency.

22 The public deserves accountability. Based on

1 the experiences of the CCE handling of the GCC's formal  
2 complaint against the agency and one accredited program  
3 in December of last year, the CCE's performance, in our  
4 opinion, is not acceptable.

5           After a long period of silence in contemplated  
6 process, the CCE informed us last month of their final  
7 decision regarding GCC's complaint outcome -- no  
8 violations. Quite a contrast to the 41 areas of  
9 violation cited by the staff report, two of which were  
10 included in the GCC's original complaint.

11           The CCE process for handling complaints is  
12 unfair and designed to impede any attempt to address  
13 violations either by CCE-accredited programs or the  
14 agency itself. For example, GCC did not receive a  
15 response to its complaint until eight months later.  
16 CCE then requested GCC to send comments within 10 days.

17           CCE took five long years revising its  
18 standards under questionable processes and  
19 circumstances. The results led to further violations  
20 in the areas of student services, recruiting  
21 admissions, career placement, and student complaints.

22           The GCC provided third party comments to

1 request, at the time of acceptance, students must be  
2 advised of the total expected cost of the chiropractic  
3 education, program graduation rate, and career  
4 placement information. Additionally, the CCE has not  
5 demonstrated significant efforts to engage students in  
6 the standards review process, in violation of  
7 602.21(b)(4).

8 CCE's standards failed to address the issue of  
9 graduates preparing for Medicare compliance and a  
10 curriculum of its accredited programs, in violation of  
11 602.21(a). The vertebral subluxation is central to the  
12 chiropractic practice, and clinical skills are  
13 mandatory for chiropractors to manage Medicare patients  
14 in 50 states. The CCE has removed this important and  
15 federally-required component from the standards.

16 The underlying cause of the problem with the  
17 CCE is the true culture, which has been operating in  
18 protecting of its ruling group and their agenda. The  
19 CCE make readily available to the public the  
20 qualifications and relevant employment and  
21 organizational affiliations of its members and  
22 principal staff -- not really. They guard this

1 information like a secret so that no one recognizes  
2 they mostly recycle the same people over in different  
3 positions.

4 We would like NACIQI to recommend to the CCE  
5 to institute an open, transparent, and democratic  
6 process of leadership, succession, ensuring  
7 participation and involvement from other constituents.

8 The days of changing the rules to protect those who  
9 rule need to come to an end. Only this way will the  
10 CCE then represent balanced judgment in the execution  
11 of its duties.

12 In conclusion, given these concerns, the  
13 Department staff is right to request the agency to come  
14 into compliance within 12 months. The GCC also  
15 requests that the CCE be directed to postpone the  
16 implementation of its new standards until the CCE and  
17 the new standards meet the criteria. Additionally,  
18 directors should be given to speak to self-governance  
19 of the CCE to ensure token service is not paid to these  
20 serious concerns.

21 I thank you. If there are any questions?

22 MR. STAPLES: Just one technical question.

1     Could you explain who you represent? I'm not sure I  
2     understand the acronym.

3             DR. BRAILE: The Georgia Council of  
4     Chiropractic. I'm sorry if I used just GCC.

5             MR. STAPLES: Georgia Council of Chiropractic.

6             DR. BRAILE: Yes.

7             MR. STAPLES: And that's the association of  
8     chiropractors within Georgia?

9             DR. BRAILE: Within the state of Georgia. We  
10    officially put a complaint forth to the CCE regarding  
11    these issues.

12            MR. STAPLES: Thank you.

13            CHAIR STUDLEY: Thank you very much.

14            DR. BRAILE: Thank you.

15            CHAIR STUDLEY: The next speaker is Clint  
16    Erickson. I would note that at 30 seconds, the light  
17    turns to yellow, and when time is up, it turns red.  
18    And I would appreciate people completing the sentence  
19    that they're speaking when they see that the light has  
20    turned red.

21            You may begin. Thank you very much.

22            DR. ERICKSON: Thank you for your time. As a

1 graduate, a new graduate of just three years, and an  
2 active practicing chiropractor, I would like to present  
3 to the Committee Section 602.21 as a point of concern  
4 about the CCE.

5           If the CCE were to provide the data of  
6 students' incoming and outgoing GPA as well as national  
7 board scores and student Title IV loan default rates,  
8 these should be a linear relationship between high  
9 scorers in school and on national boards and lower  
10 individual student loan default rates. These results  
11 reflect the educational dictum of the CCE.

12           To request such information seems well within  
13 the purview of the Committee's legislatively ordained  
14 powers under its most recent incarnation. If such a  
15 step as this is not taken, the CCE is being told that  
16 there is no educational accountability for causing our  
17 institutions to turn out an inferior product, and  
18 providing government funding for students under Title  
19 IV loans is directly linked from the accreditation  
20 decisions made by this knowledgeable Committee.

21           Arne Duncan stated, "This Committee will play  
22 a vital role in ensuring the highest standards of

1 accountability for accrediting agencies." These  
2 agencies have the formidable task of assuring the  
3 schools participating in federal student aid programs  
4 provide a quality education to their students. The  
5 vital step I pointed will aid the Committee in  
6 fulfilling Arne Duncan's mandate.

7           It is my observation that the current  
8 direction of chiropractic education turns out licensed  
9 chiropractors that are ill-prepared for the field of  
10 chiropractic, as legally defined. It would be my  
11 desire to have the Committee recognize this fault and  
12 fill its role in directing high education standards.

13           Thank you.

14           CHAIR STUDLEY: Thank you. Are there any  
15 questions from the Committee?

16           (No response.)

17           CHAIR STUDLEY: Thank you very much.

18           Christopher Kent.

19           DR. KENT: My name is Christopher Kent. I'm a  
20 chiropractor and an attorney. I'm making this  
21 presentation in my capacity as president of the  
22 Foundation for Vertebral Subluxation, a 501(c)(3)

1 nonprofit focusing on policy, education, research, and  
2 service.

3           The Foundation commends the staff for  
4 identifying over 40 issues or problems listed on the  
5 recommendation page. In addition, the Foundation has  
6 concerns, included in our written submission,  
7 specifically Section 602.16(a)(1) and (2) regarding  
8 outcomes assessments and curriculum. Issues relating  
9 to conflicts of interest and stockholder representation  
10 under 602.15(a)(6) and 602.21(6)(4) (sic) also should  
11 be addressed.

12           When CCE last faced this Committee, members  
13 made an extraordinary observation. Commissioner  
14 DeNardis, "Some of this, maybe most of this, is a  
15 consequence of, at least as I see it, a monopoly  
16 control of a profession, which has led to the  
17 establishment of a virtual cartel."

18           Chairperson D'Amico responded, "Dr. DeNardis,  
19 I don't know if you hate cartels and monopolies more  
20 than me. I think it would be real contest. So I am  
21 sympathetic to your notion of, can we send a message  
22 about cartels and monopolies and inclusion? And the

1 answer I am hearing is yes."

2 FES is troubled by CCE's continuing efforts to  
3 disenfranchise a significant segment of profession. It  
4 has been suggested that philosophical disputes in the  
5 profession are not within the jurisdiction of the  
6 Department.

7 Yet it is necessary and proper to address the  
8 fact that CCE's involvement in the cartel and the  
9 exclusion of dissenting points of view is the  
10 underlying cause of some violations. The accreditation  
11 process should not be used to force an institution to  
12 adopt a mission contrary to its purpose.

13 There are aspects of the accreditation process  
14 that are invisible to those outside of it, yet have a  
15 profound impact on institutional decision-making. An  
16 example would be undocumented discussions at site  
17 visits, which reflect conflict of interest issues and  
18 compromise institutional autonomy.

19 So what should be done? FES seeks application  
20 of the principles of good governments, including  
21 transparency, accountability, and meaningful  
22 participation for all stakeholders. Accreditation

1 should be a collegial, not an adversarial, process for  
2 all participants regardless of philosophy.

3 We ask that the Committee, given the totality  
4 of circumstances, defer action on CCE's petition for  
5 renewal of recognition for 12 months to investigate  
6 these concerns and to obtain additional information.  
7 Thank you.

8 CHAIR STUDLEY: Thank you.

9 Mattie Leto, or Leto.

10 DR. LETO: Thank you. My name is Mattie Leto.

11 I am testifying today for Dr. Arnold Burnier. His  
12 testimony has been certified by a public notary.

13 "I have been in active chiropractic practice  
14 since 1978. I am an educator, mentor, public speaker,  
15 and a leader in my profession through my commitment to  
16 quality and integrity.

17 "Hopefully it's known by all present that the  
18 CCE has violated its mandate, bylaws, forwards, and  
19 mission. It has done so blatantly, in 2002 by  
20 withdrawing Life University Chiropractic College's  
21 accreditation.

22 "That decision prompted a federal judge to

1 refer to the cartel-like actions of the CCE as, 'An  
2 aggressive group of leaders of the eight liberal  
3 chiropractic schools who had only one-third of the  
4 chiropractic students had undertaken a series of  
5 corporate manipulations in order to reduce the  
6 representation and dominance of the eight conservative  
7 chiropractic schools, who had approximately two-thirds  
8 of all the chiropractic students; that these corporate  
9 manipulations, which may very well have violated CCE's  
10 corporate charter, were calculated to give dominance to  
11 the liberal minority group over the conservative  
12 majority group; that the end result has been the  
13 disaccreditation of the largest of all the colleges of  
14 chiropractic and the turning loose of hundreds, perhaps  
15 thousands, of students to be attracted to the other  
16 schools. Actions which would violate the antitrust  
17 laws, if incorporated in an accreditation procedure,  
18 per se, indicate a lack of due process.'

19            "In the 2006 re-recognition hearings, the CCE  
20 was asked to reform its behavior, yet since 2006 the  
21 CCE has become bolder in pushing their agenda forward.  
22 The CCE is also guilty of self-appointing its members

1 in its selection and election process. An example of  
2 this is Gerry Clum's writing.

3 "When one of the council members asked about  
4 several executive committee members who sat on  
5 committees, what got them to the executive committee,  
6 and how these positions were going to change, it was  
7 responded to with a chuckle from the chairman, who  
8 explained, 'We will all still be here. We will just  
9 shuffle among the committee chairs.'

10 "The CCE excludes the views and opinions of  
11 differing perspectives from their minority agenda. It  
12 is a dictatorship in all its actions, and as such  
13 generates a culture of fear within the college  
14 faculties, administrations, and student bodies of  
15 dissenting views.

16 "The CCE has not only failed to unite the  
17 profession, it has contributed to a wider schism. We  
18 are asking that:

19 "1) The CCE be placed on probation for as long  
20 as it takes to remedy its behavior, and until integrity  
21 is restored and secured for the future.

22 "2) That all members currently present in the

1 CCE who were engaged in the removal of Life  
2 University's accreditation in 2002 be permanently  
3 removed from their positions within the CCE.

4 "3) The reformation of the selection and  
5 election process of new members to prevent  
6 self-appointment and rotation of members promoting  
7 and/or representing a particular ideology.

8 "4) That the CCE publish its reforms, new  
9 rules, and proof of integrity for the entire profession  
10 to examine prior to ending its probation period."

11 In closing, we are appealing to the conscience  
12 of the Committee members to do what is right. Thank  
13 you for your time and consideration. It was an honor  
14 to speak here today. Thank you.

15 CHAIR STUDLEY: Are there any questions?

16 I have a question. Could you briefly explain  
17 the terms, as you're using them in this setting,  
18 "liberal" and "conservative" perspectives? Thank you.

19 DR. LETO: Those were the terms used by the  
20 federal judge that made that statement. I would say  
21 that in this case, the liberal chiropractic schools  
22 were more of the schools that are pushing the

1 profession of chiropractic into medicine, and the  
2 conservative chiropractic schools are the chiropractic  
3 schools that stick to the long-held principles of  
4 chiropractic, which is vertebral subluxation.

5 CHAIR STUDLEY: Thank you very much.

6 Any other questions?

7 (No response.)

8 CHAIR STUDLEY: Thank you.

9 Kathleen Linaker.

10 DR. LINAKER: Thank you for the opportunity to  
11 speak here today. My name is Kathleen Linaker, and I  
12 am the executive director of the chiropractic program  
13 at D'Youville College in Buffalo, New York. I'm also a  
14 PhD candidate in higher education at Loyola University.

15 To give you some background on me, I have had  
16 the opportunity to be involved in accreditation in  
17 three different countries at several different  
18 institutions as consultant, faculty, or administrator.

19 I am here today to just mention or discuss how  
20 CCE has assisted D'Youville in starting its program.  
21 We are the newest chiropractic program to undergo the  
22 entire accreditation process.

1           The process and procedures that outlined by  
2 CCE are very easy to follow. The staff at CCE is very  
3 helpful in helping us understand the process and to  
4 meet the standards and to use the accreditation process  
5 to improve the educational process for our students and  
6 to improve the quality of our graduates.

7           The CCE has evidenced itself that it's very  
8 collegial in its site team visits. The several site  
9 team visits that we've undergone have been very  
10 productive and very helpful to us.

11           Additionally, CCE has assisted D'Youville in  
12 addressing the handful of states whose licensure boards  
13 do not recognize CCE or who require additional  
14 accreditation processes for their individual states.

15           CCE has gone above and beyond for our college  
16 to accompany me, along with our legal counsel, to  
17 several state boards to ensure that our graduates can  
18 be licensed in those states. For instance, California  
19 does not recognize CCE and requires that a college go  
20 through an accreditation process to meet that state  
21 standard. CCE was invaluable to us in that nature.

22           So that is pretty much all I wanted to say

1 today, unless you have questions for me.

2 CHAIR STUDLEY: Do any Committee members have  
3 questions?

4 (No response.)

5 CHAIR STUDLEY: Thank you very much.  
6 Appreciate your appearance.

7 Michael McLean.

8 DR. MCLEAN: My name is Michael S. McLean. I  
9 have practiced chiropractic in Virginia Beach for  
10 nearly four decades. I've had the honor to be selected  
11 by the second Bush administration to serve as a member  
12 of the VA Chiropractic Advisory Committee to help the  
13 Secretary of the VA integrate chiropractic into their  
14 health system.

15 I was also honored to serve on the Department  
16 of Defense Chiropractic Health Benefits Advisory  
17 Committee to help that Secretary integrate chiropractic  
18 into the DOD health system.

19 I sit here today to urge you to rein in an  
20 out-of-control CCE. The same, small, self-elected  
21 group that controls the CCE has ruled with impunity the  
22 profession it regulates, and has created a climate of

1 fear so deep that no college administrators dare  
2 criticize CCE for fear of CCE withdrawing their  
3 accreditation, a virtual death sentence, as it did to  
4 Life College of Chiropractic in 2002 after Life's  
5 president criticized CCE to the Department of  
6 Education. It took Federal Judge Charles Moye's  
7 intervention to undo this travesty.

8           In 2006, NACIQI should have cleaned house of  
9 these malefactors, but in the end decided to "send them  
10 a message" to change their ways. They have instead  
11 shown contemptuous disregard of NACIQI's concerns in  
12 2006.

13           A primary duty of the Department of Education,  
14 as I understand it, is to make certain the agencies  
15 they affirm require and enforce educational standards  
16 that adequately prepare their graduates for practice.  
17 For the CCE not to require its institutions to mandate  
18 proficiency in detecting and correcting subluxations is  
19 as fatuous as it would be were the dental accrediting  
20 agency not to require proficiency in locating and  
21 correcting cavities.

22           Subluxation correction is the only

1 chiropractic service covered under the federal Medicare  
2 program. Despite assurances to the contrary, CCE does  
3 not require it be taught in its new standards. The  
4 educational ramifications of CCE's continuing  
5 malfeasance have been the generation of DCs who are  
6 less educated in the very skills expected of them by  
7 the public, the skills that make the difference between  
8 a successful DC and one who struggles in financial  
9 matters, including the ability to repay student loans.

10 I sit here today to urge you to rein in an  
11 out-of-control CCE, not to simply send them a message.

12 The 2006 NACIQI sent them a message; they didn't get  
13 it. The 4,000 aggrieved DCs who complained of CCE's  
14 new standards sent them a message; again, they didn't  
15 get it. The CCE has not been listening to its  
16 messages.

17 I entreat you to require substantive  
18 governance reforms that will produce well-educated DCs  
19 before reaffirming. Thank you very much.

20 CHAIR STUDLEY: Thank you very much.

21 Are there any questions from the Committee?

22 (No response.)

1 CHAIR STUDLEY: Thank you, sir.

2 Joe Merlo.

3 DR. MERLO: Madam Chair, honorable Committee  
4 members, I am grateful for this opportunity to address  
5 this Committee. My name is Joe Merlo, and I've been  
6 practicing chiropractic for over eight years.

7 I'm a spokesperson for a grassroots movement  
8 for chiropractic quality and integrity. This movement  
9 greatly contributed to the 4,000 complaints to the CCE  
10 last year regarding their changes to the standards, and  
11 thousands of comments you received last September  
12 regarding the various violations of the Secretary's  
13 criteria for recognition. It also gathered over 13,000  
14 signatures on a petition to restore quality and  
15 integrity to the CCE.

16 Of the many violations most notable is the  
17 failure of the CCE to recognize and respond  
18 appropriately to the wishes of the institutions, the  
19 faculty, the practitioners, and the students. This is  
20 a direct violation of Section 602.13, Acceptance of the  
21 Agency by Others.

22 Since the CCE's governing structure allows for

1 no new members not picked by the current ones, we have  
2 no way to change the CCE's leadership. For this  
3 reason, our only options are to appeal to the federal  
4 government.

5 Our group decided to share the information on  
6 CCE's undermining of our profession and encourage  
7 everyone who might be concerned with CCE's actions to  
8 let the Department of Education know.

9 I have spent hundreds of dollars of my own  
10 money and hundreds of hours of my life contacting DCs  
11 to educate them about what is going on. The majority  
12 of the profession did not know.

13 Many of us were deeply concerned that the CCE  
14 sought to dismiss these comments to the staff and  
15 readers as simply expressions of philosophical  
16 differences. I and many thousands of others  
17 fundamentally disagree.

18 Our concerns are with fairness,  
19 anti-competitive behavior, gross imbalance in the  
20 governance of the agency, and the very real potential  
21 for injury to non-favored institutions, and ultimately  
22 to the integrity and credibility of the chiropractic

1 accreditation in general.

2           These thousands of complaints have been  
3 dismissed as inconsequential. But I ask you, how many  
4 of the agencies you oversee have had 4,000 complaints,  
5 or 400, or even 40? How about just 4? There is  
6 definitely substance to these complaints, and it is a  
7 fear of producing graduates with inadequate  
8 chiropractic skill that they will fail in practice and  
9 leave the profession, which will incidentally cause  
10 student loan defaults to soar.

11           You are our first stop on this journey. We  
12 will not stop until this monopoly agency, acting to the  
13 benefit of some institutions and to the detriment of  
14 others, has been reformed to give the stakeholders a  
15 voice in the future direction of the profession.

16           We will take it to the Congress if we must,  
17 and we will take it to the courts if that fails. We  
18 would prefer to see this solved right here, right now.

19           But we will pursue a democratic rule of the profession  
20 wherever we must. We beg you to mandate such.

21           Thank you in advance for your consideration of  
22 the comments by the silent majority of the chiropractic

1 profession.

2 CHAIR STUDLEY: Questions?

3 MR. ROTHKOPF: Is the issue which you and  
4 those who have signed your petitions and submitted to  
5 the Department and elsewhere -- do they relate to the  
6 teaching methods at the schools that was described  
7 earlier as liberal and conservative? Is that the heart  
8 of the issue for you and your people that you  
9 represent?

10 DR. MERLO: Yes, sir. It's part of the  
11 quality of education that these chiropractors are  
12 receiving currently. They're not receiving education  
13 to be chiropractors, so they're not successful and  
14 they're not thriving.

15 MR. ROTHKOPF: And is there data that you have  
16 that shows that the graduates of the liberal  
17 institutions are not doing well and are not able to  
18 repay student loans, et cetera, and not have successful  
19 outcomes as practitioners?

20 DR. MERLO: I don't have that with me, but I'm  
21 sure I can get some of that. Yes, sir.

22 CHAIR STUDLEY: Earl, and then Ann.

1 DR. LEWIS: I have a question. If CCE were to  
2 disappear, is there an alternative body to accredit the  
3 chiropractic industry?

4 DR. MERLO: From what I believe, there are  
5 people that are working on another accrediting body. I  
6 know previously there was a body that was created. So  
7 yes, there are people that are ready to create that.  
8 Absolutely.

9 DR. LEWIS: But it does not exist at the  
10 moment?

11 DR. MERLO: Not currently.

12 DR. LEWIS: Thank you.

13 CHAIR STUDLEY: Anne?

14 MS. NEAL: In looking at the staff's report,  
15 it says that CCE currently provides Title IV  
16 accreditation for one single-purpose institution, and  
17 that it allows non-Title IV programs offered through  
18 Department of Health and Human Services.

19 Are you suggesting that there would be many  
20 more that would be able to, say, get reimbursement for  
21 the federal Medicaid program if CCE would accredit  
22 these bodies, but they're not? I'm just trying to

1 understand. What universe are we talking about here?  
2 Because it seems fairly small, in looking at the  
3 description.

4 DR. MERLO: Can you clarify that question,  
5 please?

6 MS. NEAL: It says here the agency has one  
7 single-purpose chiropractic institution which uses  
8 accreditation for Title IV, and that accreditation also  
9 allows 15 programs to participate in non-Title IV  
10 programs offered through HHS.

11 DR. MERLO: I'm not sure how to answer that,  
12 to be honest. From what I know, the CCE does have  
13 limitations on how they're providing to the different  
14 schools.

15 CHAIR STUDLEY: There may be others that you'd  
16 want to follow up with, on that question with.

17 DR. MERLO: Yes.

18 CHAIR STUDLEY: Are there any other questions  
19 for Mr. Merlo?

20 (No response.)

21 CHAIR STUDLEY: Thank you very much.

22 DR. MERLO: Thank you, Committee.

1           CHAIR STUDLEY: Sarah Mongold.

2           MS. MONGOLD: Good morning, commissioners and  
3 staff. My name is Sarah Mongold, and I am a second  
4 year chiropractic student. I have flown here today  
5 immediately following my final exams because I believe  
6 it is important for you to hear from at least one of  
7 the 10,000 students who are affected by the Council on  
8 Chiropractic Education.

9           The CCE is currently in violation of Section  
10 602.15, subsection 6, of the Secretary's criteria for  
11 recognition, which states that there must be clear and  
12 effective controls against conflicts of interest, or  
13 the appearance of conflicts of interest, by the  
14 agency's board members, commissioners, evaluation team  
15 members, consultants, administrative staff, and other  
16 representatives.

17           The council's election procedures, detailed in  
18 the current CCE bylaws, is a source of concern and  
19 holds the potential for this violation. As is  
20 currently outlined in Section 6.03 of the bylaws,  
21 anyone, including students, can make a nomination for  
22 an open position on the council. The nominations are

1 then forwarded to the nominating committee, which is  
2 where the potential problem arises.

3           The chair of the nominating committee is  
4 appointed by the current council, and the remaining  
5 members are appointed by the current council chair.  
6 Consequently, only the interests of the current  
7 council, and not those of the profession at large, are  
8 represented in the nominating committee.

9           Once the committee has been formed, there is  
10 no regulation of what the committee must do with the  
11 received nominations, which could potentially allow  
12 them to ignore nominations that have been received or  
13 create their own nominations altogether.

14           Then, as there are insufficient guidelines  
15 regarding the structure of the ballot, the committee  
16 has the power to create a head-to-head format where one  
17 candidate is pitted against another. This limits the  
18 free will of the voters, as the election is no longer  
19 decided by who has the most votes.

20           As a result, the council is potentially able  
21 to manipulate the election process and perpetuate its  
22 own agenda, without regard to the will of the

1 profession as a whole and without regard to the goal of  
2 graduating excellent chiropractors who will be  
3 successful in practice.

4           This is a clear conflict of interest, and  
5 therefore prohibited by the Secretary's criteria.  
6 Urgent attention is required in this matter so that I  
7 and my fellow students may become part of a profession  
8 with an accreditation agency that is beyond reproach in  
9 terms of its policies and procedures, and is fair and  
10 inclusive of all.

11           Thank you.

12           CHAIR STUDLEY: Are there any questions for  
13 this witness? Frank?

14           MR. WU: So I've been trying to put together  
15 what I've heard. And let me try to summarize, I think,  
16 what a number of the speakers have said. And I'm not  
17 saying that this is something that I think is  
18 persuasive or not; I just want to make sure I have  
19 grasped what people are saying.

20           I've heard four different claims. The first  
21 claim is that in chiropractic, there are two schools of  
22 thought. One is more liberal. One is more

1 conservative. I've seen also that that's referred to  
2 as "mixers" versus "straights."

3           The liberals, or mixers, if I have this right,  
4 are the people who want to blend chiropractic with some  
5 other forms of treatment, whether that's drugs or  
6 surgery, et cetera. The conservatives are or the  
7 straights are the ones who don't want that. They  
8 believe in certain philosophies established in the 19th  
9 century. So that's the first claim, that there are  
10 these two opposing schools of thought.

11           The second claim that I'm hearing is that CCE  
12 is aligned very heavily with the mixers or the  
13 liberals. Right? And the third claim, then, is that  
14 CCE has disfavored institutions that are aligned with  
15 the straights or conservatives. Right?

16           And then the fourth claim is that the  
17 mechanism by which they do this is they are selecting  
18 individuals who are part of the process who, because as  
19 schools, these types of schools compete with each  
20 other, the liberals dominate CCE and want to drive out  
21 the conservative schools, such as this Life school that  
22 sued, successfully, in 2002.

1           So those are the four claims: one, that  
2 there's a division; two, that CCE has taken sides;  
3 three, that CCE disfavors schools that are on the other  
4 side; and four, that the mechanism that we ought to be  
5 concerned about is some sort of conflict. Right?  
6 There's a conflict of interest within CCE.

7           Have I got that? That's the claim that's  
8 being made.

9           MS. MONGOLD: I believe you're fairly accurate  
10 in your summary. But if it's all right with you, I'd  
11 only like to speak on the mechanism that I spoke about.

12          MR. WU: Right. I'm trying to summarize what  
13 you and many others have said. Right.

14          (Laughter.)

15          VOICE: Smart girl.

16          MR. WU: Thank you.

17          CHAIR STUDLEY: Dean Wu just had to pick a  
18 spot to see if he and we were understanding what we  
19 were hearing. For what it's worth, I saw a fair amount  
20 of nodding, so at least some people think you captured  
21 the essence.

22          Are there any questions for Ms. Mongold?

1 (No response.)

2 CHAIR STUDLEY: Thank you very much.  
3 Appreciate it.

4 MS. MONGOLD: Thank you.

5 CHAIR STUDLEY: The next speaker is Judith  
6 Nutz Campanale.

7 DR. CAMPANALE: It's Judith Nutz Campanale.  
8 Thank you, Madam Chair. You're not the first person,  
9 obviously, to have said that.

10 Good morning, Madam Chair and Committee  
11 members. Thank you for the opportunity to speak with  
12 you today. I represent the International Federation of  
13 Chiropractors & Organizations, the IFCO, and I do very  
14 much appreciate your allowing me to be here this  
15 morning.

16 It's the position of the IFCO that the CCE has  
17 adulterated the accreditation process by using their  
18 power and influence as a political tool to change the  
19 objective of chiropractic from a separate and distinct  
20 profession that specifically contributes to patient  
21 health through the care of the spine and nerve system  
22 into the medical role of a primary care physician.

1           They have attempted to achieve this transition  
2 through various tactics. In fact, the very thorough  
3 staff that reported to you on this matter noted over 40  
4 different ways that they are failing to comply with the  
5 Secretary's standards. However, for the purpose of  
6 this brief presentation, I wish to focus solely on one.

7           Specifically and intentionally, the CCE has  
8 failed to comply with a criteria for recognition under  
9 Section 602.13. 602.13 deals with the acceptance of  
10 the agency by others and states, and I quote:

11           "The agency must demonstrate that its  
12 standards, policies, procedures, and decisions to grant  
13 or deny accreditation are widely accepted in the United  
14 States by," and then under subsection (b), "licensing  
15 bodies, practitioners, and employers in the  
16 professional or vocational fields for which the  
17 educational institutions or programs within the  
18 agency's jurisdiction prepare their students."

19           Now, there are two ways that I believe that  
20 the CCE is violating this code. First, the CCE's own  
21 accreditation standards as of January 2012 defined a  
22 chiropractic practitioner as a primary healthcare

1 physician. The time I have today does not allow me to  
2 go into that exact definition, although it has been  
3 previously forwarded to the Committee.

4           This migration of the definition of  
5 chiropractic is clearly in violation of 602.13 as it is  
6 not widely accepted. A review of chiropractic state  
7 practice acts, as listed by the Federation of  
8 Chiropractic Licensing Boards, which has also been  
9 previously provided to this Committee, revealed that  
10 the majority of states, 41, to be exact, do not allow  
11 for chiropractors to serve the public in the broadly  
12 defined role of primary care physician. The remaining  
13 states that do allow for a broader scope of practice do  
14 not define chiropractors as being the coordinators in  
15 the public's use of the health system in the way that  
16 the CCE standards do.

17           The second way that CCE violates 602.13 is  
18 that the recently adopted 2012 CCE Standards and  
19 Policies has eliminated the requirement of chiropractic  
20 programs to train candidates in the detection and  
21 correction of vertebral subluxation. This is the focal  
22 point of chiropractic, as widely recognized by the

1 Association of Chiropractic Colleges, federal programs,  
2 most state licensing boards, and the majority of  
3 practitioners throughout the world.

4           One need look no further than the Code of  
5 Federal Regulations to find the widely accepted  
6 fundamental of what chiropractic is. Under those  
7 regulations, Medicare Part B pays only for a  
8 chiropractor's manual manipulation of the spine to  
9 correct a subluxation.

10           CHAIR STUDLEY: Would you please --

11           DR. CAMPANALE: In summary, the CCE is in  
12 violation of 602.13 by inappropriately classifying  
13 doctors of chiropractic as primary care physicians,  
14 contrary to licensing statutes, and by removing the  
15 requirement to train a candidate to detect and correct  
16 vertebral subluxation, which is contrary to the widely  
17 accepted standard of what chiropractic is on a federal  
18 level, on a state level, on a collegiate level, and on  
19 the chiropractic practitioner's level as well.

20           Thank you very much for allowing me to comment  
21 today.

22           CHAIR STUDLEY: Thank you very much.

1 Does anyone have any questions? Cam?

2 MR. STAPLES: Could you identify a little more  
3 clearly who you represent, what the membership is?

4 DR. CAMPANALE: I represent the International  
5 Federation of Chiropractors & Organizations. We're an  
6 international chiropractic organization representing  
7 chiropractors and organizations who are aligned with  
8 the concept of locating, analyzing, and correcting  
9 vertebral subluxation in and of itself because it is a  
10 detriment to the fullest expression of life in people.

11 MR. STAPLES: So you have individual  
12 chiropractors as your members? Do you have any  
13 institutions?

14 DR. CAMPANALE: We do. We also have  
15 organizations as our members. We have organizational  
16 members and practitioners.

17 MR. STAPLES: But not colleges of chiropractic  
18 or institutions?

19 DR. CAMPANALE: We do not currently, not  
20 because we are not open to that.

21 CHAIR STUDLEY: Anne, and then Brit, and then  
22 Arthur Rothkopf.

1 MS. NEAL: Is there anyone accredited by CCE  
2 currently that advocates or teaches vertebral  
3 subluxation?

4 DR. CAMPANALE: Indeed there currently are,  
5 but the standards are changing for 2012. So I guess  
6 that remains to be seen what will happen.

7 MS. NEAL: So you're looking ahead. Your  
8 concern is what's going to happen to you in the future.

9 DR. CAMPANALE: Well, without -- I suppose. I  
10 mean, without a mandate to teach it, and as has been  
11 mentioned previously in some of the oral presentations,  
12 the climate at the academic level is one of fear. Yes.  
13 So we are concerned with what will happen at the  
14 academic level.

15 DR. KIRWAN: You mentioned who belongs to your  
16 organization, but you didn't say how many members you  
17 have. So how many domestic -- by domestic, I mean,  
18 U.S. members -- do you have?

19 DR. CAMPANALE: Organizational members or --

20 DR. KIRWAN: However you want to describe it.

21 DR. CAMPANALE: I don't have that number off  
22 the top of my head.

1 DR. KIRWAN: Just roughly.

2 DR. CAMPANALE: Under a thousand, I would say.

3 DR. KIRWAN: But over 500?

4 DR. CAMPANALE: Yes.

5 MR. ROTHKOPF: A question which wasn't, I  
6 think, answered before. According to the staff report,  
7 there are 15 programs that are accredited. Are there  
8 other programs out there which are accredited by other  
9 agencies, or are these 15 the sum of chiropractic  
10 programs accredited in the United States?

11 DR. CAMPANALE: Somebody can correct me if I'm  
12 wrong, but I believe that all of the current  
13 chiropractic institutions in the United States are  
14 accredited by the CCE, if that's what your question is.

15 MR. ROTHKOPF: And that includes the  
16 conservative and the liberal? They're all --

17 DR. CAMPANALE: It includes all schools.  
18 indeed.

19 MR. ROTHKOPF: They're all in the same --

20 DR. CAMPANALE: Yes.

21 MR. ROTHKOPF: All there.

22 MR. WU: Jamie?

1 CHAIR STUDLEY: Yes, sorry. Frank?

2 MR. WU: Just one more point, I think, has  
3 come out from all this --

4 DR. CAMPANALE: Which I hate to interrupt you,  
5 but I really was feeling for the poor student that got  
6 up here and you asked her a question. But I think you  
7 were very accurate up to that point. So yes, go ahead.

8 MR. WU: All right. Thank you. So I'm  
9 hearing from you and others that the concern you have  
10 about CCE is that because it's promoting this more  
11 liberal or mixed view, that it's changing what people  
12 see chiropractic as being. Right? That's what  
13 motivates you. You're concerned that they're shifting  
14 this from a focus on --

15 DR. CAMPANALE: Because they're taking  
16 chiropractic into medicine.

17 MR. WU: Exactly.

18 DR. CAMPANALE: Yes.

19 MR. WU: Okay. I just wanted to make sure,  
20 because I was trying to ask what motivates people who  
21 are now practitioners in the profession, who have  
22 graduated from school, whose schools are up and

1 running, they're doing fine. But you have a fear that  
2 if CCE ultimately prevails, it will shift the entire  
3 field, and that's the fear.

4 DR. CAMPANALE: Right. And I can't speak for  
5 everyone. I think the concerns are probably varied.  
6 There are a multitude of reasons why it concerns me  
7 personally that chiropractic be taken into medicine,  
8 not the least of which is if it's not a separate and  
9 distinct profession, why would it even be necessary?

10 CHAIR STUDLEY: Earl?

11 DR. LEWIS: Just an observation, at least,  
12 since Life University was referenced several times. I  
13 actually went to their website to see if they have  
14 accreditation. On their website, they note they are  
15 accredited by SACS, the Southern Association of  
16 Colleges and Schools. And so it does raise an  
17 interesting set of questions for this Committee.

18 DR. CAMPANALE: I do believe, and I may be  
19 speaking out of turn, that all of the chiropractic  
20 institutions, with the exception of one, do have  
21 additional accreditation by other agencies.

22 CHAIR STUDLEY: Anne?

1 MS. NEAL: So following up on that, so if  
2 there is an alternative, you're saying, to CCE --

3 DR. CAMPANALE: I'm not with an educational  
4 institution currently --

5 MS. NEAL: So you're saying if the traditional  
6 indication --

7 DR. CAMPANALE: -- but my understanding is  
8 that all but one chiropractic institution currently has  
9 other accreditation.

10 MS. NEAL: So freestanding,  
11 non-university-based are going the way of CCE?

12 DR. CAMPANALE: I couldn't accurately answer  
13 that question for you.

14 CHAIR STUDLEY: Thank you. Any further  
15 questions?

16 (No response.)

17 CHAIR STUDLEY: Thank you very much.

18 DR. CAMPANALE: Thank you all again.

19 CHAIR STUDLEY: I apologize for inserting an N  
20 into your name. I misread it.

21 David O'Bryon, please.

22 MR. O'BRYON: I'm David O'Bryon. I'm the

1 executive director of the Association of Chiropractic  
2 Colleges and represent all the chiropractic colleges in  
3 the United States and some international programs as  
4 well. And I'll try to weave in some of the questions  
5 that you've raised.

6           The programmatic accreditation for  
7 chiropractic is done by CCE for all the programs. The  
8 institutional accreditation is done by regional  
9 accreditors -- SACS, North Central, are  
10 examples -- except for one school, which CCE does  
11 institutional as well as programmatic accreditation.

12           If CCE -- the colloquy that Mr. Staples and  
13 counsel had earlier about "substantially meets" and  
14 what happens at the end of a year, that school, if the  
15 accreditation process stopped, they would immediately  
16 not have student loans available and would create an  
17 incredible hardship if that were to be the case.

18           As a sidebar, I would encourage, in your  
19 discussions later today when you talk about how the  
20 groups meet and compliance and that kind of thing, the  
21 "substantially meets," which is normally the criteria  
22 or catchall to help in regard to smaller issues that

1 come up, I think is something that all the accrediting  
2 bodies would work to. And it would help your process  
3 in terms of addressing issues that we have.

4 But I'm here today to support the -- my board  
5 has sent me to support the CCE's renewal as an  
6 accrediting body. Our profession has 50 different  
7 laws. It's a different setup -- and let me digress for  
8 a moment to give you a bit of background for some of  
9 the confusion, I think, that's come up.

10 As opposed to medicine, which has a plenary  
11 license, we have 50 different state laws, and those  
12 laws change from time to time. Some states have a  
13 broader scope than other states. That's part of the  
14 conflict that you're reflecting here today in terms of  
15 the passion that the field feels for the profession and  
16 for healing, and something we all listen to.

17 I think our colleges -- I represent, as I  
18 said, all of them -- so the conservative and the  
19 liberal schools all are within my organization. And if  
20 we have 18 people voting, we have no less than 26  
21 opinions on any one issue. So you guys can appreciate  
22 the work within our organization.

1           But what I wanted to do is to say to you that  
2 CCE has a lot of information they sent back and forth  
3 with our institutions, with our schools, and they  
4 provided a lot of input back and forth. It is  
5 controversial because change is controversial and  
6 stressful to everybody.

7           The member institutions are not impacted by  
8 their mission statements. We have schools with  
9 conservative mission statements and those with broader  
10 missions. And CCE recognizes, as you all do, that  
11 within the purview of an accrediting body, you have to  
12 see that those rules that they do have and that are  
13 stated are followed through. So it's a process they go  
14 through.

15           I mentioned the Title IV issue that came up  
16 and the 50 states. So I'll just end where I began. My  
17 time is expired. But the schools do want CCE  
18 re-accredited. I think the key word here for the  
19 profession and for the CCE, and it was said in their  
20 testimony earlier to you, communication is the key back  
21 and forth, and when rules are adopted, what the  
22 implications are and the reasons things were done. And

1 that's always helpful in terms of clarifying things.

2 Thank you.

3 CHAIR STUDLEY: And who has questions at this  
4 point for -- okay. Brit, Larry, Frank --

5 MR. O'BRYON: I'm going to bring back my  
6 student, see how well --

7 (Laughter.)

8 CHAIR STUDLEY: Brit, Larry, Frank, and Cam in  
9 that order. Anne. Let's go with that and see where we  
10 are.

11 DR. KIRWAN: So you may have said, but I  
12 missed it. How many chiropractic colleges are in your  
13 association?

14 MR. O'BRYON: All of them in the United  
15 States.

16 DR. KIRWAN: All of them.

17 MR. O'BRYON: Correct.

18 DR. KIRWAN: So all of the accredited  
19 chiropractic --

20 MR. O'BRYON: Yes, sir.

21 DR. KIRWAN: And roughly, what number is that?

22 MR. O'BRYON: That's 15 schools in 18

1 different locations.

2 DR. KIRWAN: Okay. Fifteen chiropractic  
3 schools. And are they -- except for this one  
4 single-purpose school I saw, are they all accredited by  
5 regional accrediting bodies or --

6 MR. O'BRYON: Yes, sir.

7 DR. KIRWAN: By regional accrediting.

8 MR. O'BRYON: For institutional accreditation.

9 But all of them programmatically are accredited by  
10 CCE.

11 DR. KIRWAN: So except for this one school,  
12 what purpose does the CCE -- what does its  
13 accreditation mean?

14 MR. O'BRYON: If CCE disappeared tomorrow?

15 DR. KIRWAN: Right. Exactly.

16 MR. O'BRYON: The implication would be that  
17 over half the states wouldn't have the graduates being  
18 able to apply for licensure because their state laws or  
19 regulations tie into accreditation by CCE or --

20 DR. KIRWAN: So the regional accreditation  
21 doesn't enable you to apply for licensure?

22 MR. O'BRYON: Correct.

1 DR. KIRWAN: I see. So if it went away, then  
2 these people couldn't -- even though they'd graduated  
3 from an accredited school --

4 MR. O'BRYON: For licensure purposes --

5 DR. KIRWAN: -- by the regional accreditor,  
6 they couldn't apply for licensure?

7 MR. O'BRYON: Right. And that's similar to  
8 the optometric and podiatric and other professional  
9 specialty accrediting bodies.

10 DR. KIRWAN: Thank you.

11 CHAIR STUDLEY: Larry?

12 DR. VANDERHOEF: Brit and I have been chatting  
13 through this, so no surprise, his last question was one  
14 of my two questions. Let me ask a more  
15 practical -- and again, it seems to me that that leads  
16 to the conclusion that this is really not a Title IV  
17 issue --

18 MR. O'BRYON: No.

19 DR. VANDERHOEF: -- at all.

20 MR. O'BRYON: No.

21 DR. VANDERHOEF: Okay. This leads to my more  
22 practical first question. What's your guess as to why

1 most of the people here are negative? And by the way,  
2 you said you don't -- you're not against -- you don't  
3 want them to not be accredited. I don't think that's  
4 what the comments have been. The comments have been  
5 that they should be accredited with a strong --

6 MR. O'BRYON: Messages?

7 DR. VANDERHOEF: Yes.

8 MR. O'BRYON: I think some of the messages  
9 that have been here are things that the Committee has  
10 considered over the last five years and ten years ago  
11 when they've come before the Committee, and represents  
12 some other things.

13 For example, Life University -- the president  
14 there is on CCE's board. And they've been a member of  
15 mine, and they were a member of mine, when the  
16 association was -- when the college had its  
17 accreditation issues.

18 And there is certainly in the profession a  
19 conservative wing, which is very positive -- and all of  
20 our schools teach vertebral subluxation; that was a  
21 question, all the schools teaching chiropractic  
22 adjustments. It's part of the clinical practice skills

1 and the competencies which they walk out the door with.

2 That's part of the -- they have.

3 So from a school's point of view, all the  
4 schools are doing that. That's not an issue within the  
5 academic community. And that fear, I think -- I've not  
6 heard any school that would even consider going  
7 elsewhere than doing that kind of teaching.

8 But I think the concern is, the profession  
9 moves forward and the healthcare delivery system  
10 changes so dramatically. You've got new economic  
11 competitors from other professions that have moved into  
12 our fields. They've expanded their scope of practice  
13 into our area.

14 And there's issues here with how do you best  
15 train the next generation of chiropractors that go out  
16 so that they have as many arrows in their quiver to be  
17 able to practice and help their patients in tomorrow's  
18 healthcare system. And I think that's part of the  
19 angst that's going through the profession at the  
20 moment.

21 DR. VANDERHOEF: Well, just a quick followup.

22 MR. O'BRYON: Sure.

1 DR. VANDERHOEF: One learns over time that  
2 it's easy for the silent majority to really be silent,  
3 and that what you hear primarily -- a minority voice  
4 can be a very loud voice. Do you think there's a  
5 possibility that that's what's happening here today?  
6 I'm trying to get a sense what --

7 MR. O'BRYON: Well, most of the people that  
8 are speaking here I've known for years, and some  
9 decades, and they come here with honest concerns for  
10 the profession and its future and where its identity  
11 is. And I think that's an honest thing.

12 I think, from the academic standpoint, we're  
13 teaching across the board the standards that need to be  
14 done for chiropractors across the board. Years ago, it  
15 was a much more outstanding thing.

16 I think one of the things that's driving this,  
17 in my opinion, is some of the states have now moved to  
18 do some ancillary procedures. That causes a lot of  
19 concern among practitioners of the conservative -- that  
20 that might be becoming a new trend. I think that you  
21 have other states that have put their practice scope  
22 together, and they're all united in one vein.

1           We have a tendency in the chiropractic  
2 profession -- and my background is law rather than  
3 chiropractic; I've represented them for years,  
4 but -- in the legal field, there are a number of  
5 practitioners here, lawyers in the group. We don't  
6 have a problem -- if you're a family practitioner or an  
7 immigration lawyer or a litigator or not, you're all  
8 part of the law profession.

9           In chiropractic, there's a lot more angst from  
10 one to the other. And that's just an observation that  
11 I would make.

12           CHAIR STUDLEY: Frank?

13           MR. WU: I just want to make sure that I heard  
14 you right. So you represent all of the schools?

15           MR. O'BRYON: Yes.

16           MR. WU: So it's a mix of liberal and  
17 conservative schools. And on behalf of all of the  
18 schools, you're telling us that you do not object to  
19 CCE continuing to have this role. Did I hear that  
20 right?

21           MR. O'BRYON: That is correct.

22           MR. WU: Okay. I have two followup questions.

1     The first is, I assume -- and I just want to make sure  
2     I have this right -- that your group also doesn't take  
3     any view on whether it's better to be liberal or  
4     conservative, mixer or straight. You're agnostic on  
5     that.

6             (Laughter.)

7             MR. WU: Right?

8             MR. O'BRYON: Absolutely. I'm a man of deep  
9     faith, but an agnostic in this case.

10            (Laughter.)

11            MR. WU: Yes. All right. Okay. And because  
12     claims have been made that there's a vast cartel and  
13     people have -- that there's self-dealing or something  
14     going on, I also wanted to ask, very bluntly: Does  
15     your group have any connection, financial or of any  
16     type, with CCE?

17            MR. O'BRYON: We don't. We're a 501(c)  
18     organization, totally separate. We do have -- there  
19     was actually a ruling that came out of the Department  
20     which I proffer to you all if you are considering this,  
21     where it was an uneven application of the law, which I  
22     think is in violation of the policies of the

1 Department, in our view, where we had -- anybody who  
2 served on my board -- for example, all the presidents  
3 of the colleges serve as my board at the colleges  
4 and/or their designee. And the Department made a  
5 ruling that nobody on my board could sit on the CCE  
6 board.

7 Well, in small communities, that's a difficult  
8 scenario. For example, Dr. Riekeman, the president of  
9 Life, had to leave my board to serve on CCE's board  
10 during his tenure, and had a designee to serve.

11 In other cases, the Department has  
12 allowed -- said, it's not the whole board. It's just  
13 people on your executive committee. So when I went  
14 back and queried that, I said, well, why do they have  
15 executive people only and others? That's another  
16 consideration, is that you consider how to move forward  
17 with accreditors if you'd put that on an agenda.

18 Because we want all the input, too, from our  
19 institutions, just like CCE needs to have the  
20 institutional input as well.

21 MR. WU: Well, one more question, if I may.  
22 Do the schools actually identify themselves as part of

1 one of these two groups? Could I tell by looking at  
2 their website, this is a liberal versus conservative  
3 school?

4 MR. O'BRYON: I don't think so. I mean, maybe  
5 I'm so jaded over the years. I don't look at -- I look  
6 at all my schools because they're all graduating with  
7 similar standards, and it's just the type of practice  
8 you would like to practice.

9 It's not to say -- I mean, everybody has their  
10 own ideas. And our colleges individually had lots of  
11 input and gave lots of input into CCE's process -- for  
12 example, in changing the standards. Did they get all  
13 accepted? No. Is everybody 100 percent happy? No.

14 Well, the accreditation process is one  
15 of -- it's a journey for seeking excellence. You're  
16 always going to have issues that you identify and want  
17 to make better. And I think that's where we -- we're  
18 on that journey.

19 CHAIR STUDLEY: Arthur? Do you have a  
20 question?

21 MR. ROTHKOPF: No, thank you.

22 CHAIR STUDLEY: Anyone else? Anne?

1           MS. NEAL: I'm trying to understand the  
2 accepted scholarly standards, if you will, in your  
3 field. And if we look at the academy, I mean, there  
4 are often debates in the academy in terms of, let's  
5 say, whether post-modernism dominates in a field versus  
6 classical liberal.

7           I'm trying to understand, in the context of  
8 chiropractic, are you saying that by not mandating  
9 vertebral subluxation, that that's tantamount to flat  
10 earth? In other words, it doesn't need to be taught  
11 any more?

12           MR. O'BRYON: I don't think that's what CCE  
13 means, and that -- actually, it's in their policies,  
14 not their standards. And that's a source of  
15 disagreement of the professional groups that I think  
16 are speaking out here. They would prefer to see it in  
17 the standards as opposed to the policies because you  
18 can change policies more easily than standards.

19           But that has been in the profession -- for  
20 example, the primary care designation has been in the  
21 standards for two decades.

22           MS. NEAL: But what's changed is it's no

1 longer going to be required to be taught. So the  
2 community is deeply concerned that that will affect  
3 them going forward, unlike standards in the past. Is  
4 that right?

5 MR. O'BRYON: Well, I think it's in the  
6 policies, so you'd still have a requirement to do that.

7 MS. NEAL: I see people shaking their heads  
8 behind you.

9 MR. O'BRYON: Yes or no?

10 SEVERAL VOICES: No.

11 VOICE: One sentence in one paragraph on page  
12 57.

13 MR. O'BRYON: The metacomp is easy to come out  
14 with in terms of that. That's how they would come out  
15 in the teaching. I think that answers your question.

16 CHAIR STUDLEY: Thank you very much.

17 Appreciate your participation, Mr. O'Bryon.

18 William O'Connell, please.

19 MR. O'CONNELL: As the second in three  
20 Irish-surnamed guys, I say good morning to you all.  
21 I'm William O'Connell. I represent the American  
22 Chiropractic Association. I am the chief staff officer

1 of that organization. We are the largest professional  
2 society representing doctors of chiropractic and  
3 students of chiropractic, both in the United States and  
4 internationally.

5           We're well-informed about CCE's processes.  
6 We're very familiar with its geographic scope  
7 nationally. We're very familiar on a national scale  
8 with its work. ACA, as some of the commentators you've  
9 heard before here this morning, regulate and makes  
10 comments about standard changes and so forth. We  
11 participate in these processes.

12           Not only that, we also have members of our  
13 leadership who at one time or another have served on  
14 CCE committees. Because they're active in their  
15 colleges, at different points they've been on the  
16 recipient end of CCE's services. And to all of my  
17 leaders' unanimous opinion, they have high regard for  
18 CCE's processes.

19           We also support very strongly the effect of  
20 comprehensive quality state licensure on public welfare  
21 and patient safety. It's a big issue, of course, with  
22 provider communities like ours.

1           And we are pleased that all states and  
2 territories accept the authority of CCE. It's a  
3 fundamental licensing requirement, as you'll hear more  
4 after my comments from the next gentleman, that a  
5 preponderance of all states require the qualified  
6 applicants for licensure to have accreditation for  
7 their degree from a chiropractic school that's been  
8 accredited by CCE.

9           In the interest of continuing this public  
10 safeguard, ACA certainly supports the Department to  
11 continue uninterrupted CCE's accreditation recognition.

12       CCE has established its standards and policies that  
13 are rigorous. To borrow a phrase from the standards,  
14 your standards, your regs, it's a reliable authority  
15 regarding the quality of education provided by the  
16 colleges it accredits.

17       ACA knows of this, again, because we have been  
18 involved in filing comments about standards and  
19 policies. We have watched some of our ideas gain  
20 credibility, and some didn't.

21       However, at the end of the day, we respect the  
22 judgment calls made by CCE committees, its councils,

1 and so forth. We have a high respect for the people  
2 who serve on them and the standards that they're  
3 applying. We know they're fair.

4           We believe their procedures conform with USDE  
5 regulations as we understand them. We think they are  
6 comprehensive. Their reviews have occurred at regular  
7 intervals. They're involved with relevant  
8 constituencies in a meaningful opportunity to receive  
9 input from them on a regular basis. So they certainly  
10 comply with due process and the various requirements  
11 for reviews of standards in the regs under 602.21 and  
12 .25, certainly.

13           ACA believes that CCE is in compliance with  
14 the substance of the USDE standards, as set forth in  
15 Section 602. We respectfully request that NACIQI  
16 consider -- or continue supporting the accreditation of  
17 CCE.

18           And I thank you for your attention. I'd be  
19 happy to give you any comments or answers to questions  
20 if I might be able to. Thank you, Madam Chairman.

21           CHAIR STUDLEY: Thank you. I see Art  
22 Rothkopf. Anyone else have a question? Let me start

1 with Brit Kirwan's question -- how many members do you  
2 have?

3 MR. O'CONNELL: Sure. We have a bit over  
4 15,000 members.

5 CHAIR STUDLEY: Thank you.

6 MR. O'CONNELL: And as I mentioned, that  
7 includes providers and students.

8 CHAIR STUDLEY: Arthur?

9 MR. ROTHKOPF: Yes. I'd like to go back to a  
10 point that was not part of your statement but others  
11 referred to, and I just want to understand. And that  
12 refers to Medicare reimbursement, and maybe other  
13 insurance reimbursement in the private side.

14 Is it accurate that if a licensed chiropractor  
15 does services that would be considered more medical or  
16 surgical as opposed to traditional, that that is not  
17 covered by Medicare or other insurance plans?

18 MR. O'CONNELL: Basically, that's a correct  
19 statement. Several years ago --

20 MR. ROTHKOPF: That's correct?

21 MR. O'CONNELL: Yes -- the ACA was involved in  
22 gaining the standard in Medicare to allow for the

1 compensation, the reimbursement, for providing  
2 treatment of vertebral subluxation.

3           There are a number of other services provided  
4 by DCs that are compensated for by other third party  
5 payors outside of Medicare. Medicare represents  
6 roughly 20 percent of the clientele of DCs across the  
7 United States. So you can understand there's another  
8 80 percent --

9           MR. ROTHKOPF: Could you speak up a little  
10 louder?

11           MR. O'CONNELL: Sure. Be happy to. Sorry.  
12 There are 80 percent of those out there who are insured  
13 by other sources that DCs treat. And as you heard  
14 earlier from Mr. O'Bryon prior to me, the field of  
15 healthcare is changing, and we're trying to prepare  
16 these DCs to provide other services in the future.

17           I think we're all familiar with the effects of  
18 healthcare reform. Very shortly, in a few years, we're  
19 going to have 32 million uninsured added to the pool  
20 who are going to need primary care. This country has  
21 an enormous, severe shortage of primary care providers.

22           Who are you going to reach for? Well, we

1 believe the DC of tomorrow is one of those who  
2 is -- one of the provider groups that's going to be  
3 helpful in that regard. They need to be able to do  
4 more than just take care of the vertebral subluxation.

5 MR. ROTHKOPF: And you're not concerned that  
6 because there's no reimbursement by at least 20 percent  
7 of the insurers, that that's not going to have an  
8 impact on the graduates and those in the profession who  
9 perform those services? And does that, as some have  
10 said, affect their ability to repay student loans?

11 MR. O'CONNELL: Sure. No, that is not an  
12 issue relative to student loans. This is an issue that  
13 is subject to change. We're in active work with the  
14 Secretary of HHS relative to getting support for the  
15 amendment of the Medicare codes that impact in this  
16 area so that there will be other services that DCs can  
17 provide that will be compensated, will be reimbursed.

18 Again, it's antagonistic to the federal  
19 government's goals of treating a larger population  
20 without sufficient providers to do it. And we want to  
21 be part of that solution, so we're trying to increase  
22 the territory, if you will, that Medicare

1 reimbursements -- the services for which it will  
2 reimburse a DC. It is an unfortunate artifact that it  
3 only does vertebral subluxation.

4 MR. ROTHKOPF: I understand that. Thank you.

5 MR. O'CONNELL: Sure. You're welcome.

6 CHAIR STUDLEY: Anne?

7 MS. NEAL: Is there some reason that the CCE  
8 tent can't be big enough to accommodate the vertebral  
9 subluxation folks so that consumers have a choice?

10 MR. O'CONNELL: I think, Ms. Neal, what you  
11 heard earlier today is that, in fact, it is doing that.  
12 You heard earlier from the agency in its presentation  
13 that all the colleges are represented on its board,  
14 that all of its decisions to accredit have been  
15 unanimous among its council, and its site visits  
16 include folks from all different kinds of schools and  
17 different positions on this liberal/conservative  
18 paradigm you referred to.

19 So CCE does not exclude those who are what  
20 you're calling here this morning conservative. It has  
21 significant input. You're hearing some criticism of it  
22 from those who feel, for whatever reason,

1 disenfranchised, and they represent a relatively small  
2 minority of the population.

3           The mainstream numbers, whether they be  
4 conservative or liberal, are engaged in the process of  
5 accreditation. As you heard, all the schools are  
6 accredited by CCE. They all participate in the  
7 judgment process that that accreditation system  
8 represents.

9           Does that help answer your question, or am I  
10 missing something?

11           MS. NEAL: In the case Life, for instance --

12           MR. O'CONNELL: Sure.

13           MS. NEAL: -- CCE, apparently, and Life didn't  
14 get along, but SACS didn't have a problem. Is there an  
15 explanation for that?

16           MR. O'CONNELL: "Didn't get along" is a  
17 statement of an historical issue. They're currently  
18 represented. They're currently involved in CCE. If  
19 you look at the folks who sit on the council for CCE,  
20 they represent on this spectrum we're referring to all  
21 ends of it.

22           There simply is no lopsided nature to that

1 seesaw that it's all over here on the so-called liberal  
2 side -- at least, I've not seen it. I've looked at the  
3 folks who sit on that. I couldn't identify that for  
4 you. There's no listing of the ship to one side that's  
5 liberal in CCE.

6 CHAIR STUDLEY: Cam?

7 MR. STAPLES: Thank you. I'm looking at one  
8 of the standards for recognition, and it talks about  
9 the fact that the agency must demonstrate that its  
10 standards, policies, and procedures are widely accepted  
11 by educators, educational institutions, licensing  
12 bodies, practitioners, employers in the professional  
13 field, et cetera.

14 And I guess the question I would ask of you is  
15 for our purposes, for the federal government's  
16 purposes, I guess, how would we interpret wide  
17 acceptance when you have what appears to be -- I don't  
18 know if it's an even division.

19 When you talk about the schools, it seems like  
20 they're relatively evenly divided between the two  
21 philosophical camps. State licensing, I don't know how  
22 that -- that's probably -- it varies from state to

1 state about what the scope of practice is for  
2 chiropractors and what's permissible.

3 So how do we evaluate whether the new  
4 standards are widely accepted in the face of what we  
5 have here, which is an enormous outpouring only on one  
6 side?

7 MR. O'CONNELL: Sure. Yes. Well, let me  
8 directly give you, then, the evidence. To restate a  
9 point I made earlier, you've got 43 of the licensing  
10 bodies for the states and territories that do require  
11 CCE accreditation. You have a preponderance of all the  
12 state licensing bodies that recognize the CCE  
13 authority.

14 The gentleman following me is from the FCLB,  
15 and I'm sure will want to comment further on that and  
16 help you document that further. But this is in strong  
17 evidence throughout the United States.

18 These licensing boards depend upon CCE  
19 accreditation. The fact of the matter is, if CCE went  
20 away, just for the sake of this discussion, and you  
21 didn't have that, then you've got a situation where in  
22 30-some-odd states, DCs simply would not be able to be

1 licensed at all. That's what the effect would be.

2 MR. STAPLES: Well, let me ask a question,  
3 though. I understand that's the present situation.  
4 But that's what I'm asking, is in terms of -- maybe  
5 more in terms of what the scope of the profession's  
6 licensure approval is currently in states. How do the  
7 new standards square with what chiropractors are  
8 permitted to do under their licenses in many states?

9 MR. O'CONNELL: Sure.

10 MR. STAPLES: Is there, I guess I'm asking, is  
11 there national acceptance among licensing bodies of a  
12 more medical focus to the profession, or is that  
13 aspirational and in the hope that, just like  
14 reimbursement, that if you create a broader scope,  
15 people will pay for it and people will allow you to do  
16 it within their licensing process?

17 MR. O'CONNELL: Right. Right. Let me see if  
18 I can answer that. It's not so much a medical  
19 orientation as it is a primary care orientation.  
20 Chiropractors are trained in all of our schools to  
21 fulfill what all 50 states require, is that they serve  
22 as portals of entry to care.

1           In other words, they're like, say,  
2 occupational therapists or physical therapists. These  
3 are doctors. They are a prime portal of care. People  
4 can come to them directly.

5           So what you need to do, what we're trying to  
6 do in the system and have been doing for years, is to  
7 prepare these folks to fulfill the expectation that  
8 they can service that expectation of the 50 states and  
9 be indeed a portal of care entry for primary care.

10           This is not a new thing. It is a severe  
11 problem in the United States that we are emphasizing  
12 here because we are trying to address it and trying to  
13 be helpful towards national health policy.

14           So it's not a matter of -- if a DC chooses to  
15 focus their practice on vertebral subluxation issues  
16 only, they can do that. But you'll find that the large  
17 body of the provider community is moving in a somewhat  
18 broader direction, not so much because of reimbursement  
19 and remuneration issues in general, but they're trying  
20 to fulfill the expectation of why they went into the  
21 chiropractic profession in the beginning, to become a  
22 doctor of chiropractic.

1           That isn't just limited to the spine and the  
2 neck. That has broader areas of the body that we're  
3 called upon to assist with -- not exclusively, but as a  
4 participant in the healthcare team, as a participant in  
5 the primary care process.

6           Does that help, or am I missing your question?

7           MR. STAPLES: A little bit. But I think  
8 that's fine for now.

9           MR. O'CONNELL: Okay. Thank you.

10          DR. FRENCH: Madam Chair?

11          CHAIR STUDLEY: Anyone else? Yes?

12          DR. FRENCH: You made note of the council and  
13 the councilors -- they don't appear to be either  
14 liberal or conservative, but a fair representation.  
15 What about the appeals committee process? The staff  
16 made a note of that. Are you familiar with the appeals  
17 makeup?

18          MR. O'CONNELL: I have not done personally an  
19 analysis of that, so I would not be a good person to  
20 make comment regarding that. I can tell you that I  
21 have not heard from my leadership on my boards or my  
22 committees, folks who have historically at some point

1 or another worked with CCE, either again as an  
2 institution that's been accredited by it or  
3 participating on these committees, site visit teams,  
4 and so forth -- I have not heard where this is a  
5 problem. It simply doesn't come up.

6 DR. FRENCH: Thank you.

7 CHAIR STUDLEY: Anyone else?

8 (No response.)

9 CHAIR STUDLEY: Thank you very much, sir.

10 MR. O'CONNELL: My pleasure, and thank you for  
11 your attention and patience.

12 CHAIR STUDLEY: Appreciate it.

13 And now Mr. O'Connell.

14 DR. O'CONNOR: Good afternoon. My name is Dr.  
15 Lawrence O'Connor, president of the Federation of  
16 Chiropractic Licensing Boards, also known as the FCLB.  
17 I'm here on behalf of the federation's elected board  
18 of directors.

19 By way of background, I've been in private  
20 practice in New Jersey for the last 28 years. This has  
21 included 11 years of service to my state Board of  
22 Chiropractic Examiners, where I am now vice president

1 and immediate past president.

2           The FCLB was founded in 1926, and serves as  
3 the chiropractic profession's only nonprofit  
4 organization comprised of governmental agencies for the  
5 licensure and regulation of doctors of chiropractic.  
6 Our boards include all 51 chiropractic -- excuse me, my  
7 computer turned off; sorry about that -- our boards  
8 include all 51 chiropractic licensing boards in the  
9 United States and several U.S. territories as well as  
10 regulatory agencies in Canada, and two national  
11 licensing authorities in Australia and New Zealand.

12           The FCLB supports the chiropractic regulatory  
13 agencies in fulfilling their mission of public  
14 protection. An essential component of protecting the  
15 public includes assuring an acceptable level of quality  
16 regarding academic credentials of licensure candidates.

17           Currently, all chiropractic regulatory  
18 agencies in the United States depend on the Council on  
19 Chiropractic Education to assist them by way of direct  
20 assessment of educational programs leading to the  
21 doctor of chiropractic degree.

22           Essentially, by law, the boards outsource

1 their legal responsibility to the measure of  
2 effectiveness of the board the programs leading to the  
3 DC degree. They outsource to the CCE.

4 In light of our boards' reliance on CCE, the  
5 federation has actively observed the organization's  
6 functions and actions since its incorporation since  
7 1974. We do this to assure regulators of the CCE  
8 continue effectiveness and due diligence.

9 Specifically, I'd like to address CCE's  
10 compliance of four USDE regulations that affect  
11 licensure and regulation; the first two, 602.11,  
12 Geographic Scope and Accrediting Activities, and  
13 602.13, Acceptance of the Agencies by Others.

14 The council on chiropractic's accreditation is  
15 accepted to ensure that applicants for U.S. licensure  
16 have graduated from an accredited program in all 54  
17 jurisdictions in the United States, including 50  
18 states, the District of Columbia, and three  
19 territories.

20 Of these boards, only Puerto Rico has its own  
21 approval process, presently allowing the professional  
22 association to determine which schools are recognized.

1 Eight boards indirectly reference CCE, most often as a  
2 chiropractic accrediting agency recognized by the USDE.

3 However, 45 of our governmental regulatory agencies  
4 specifically refer to the CCE in their laws.

5 Third, 602.21, Review of Standards,  
6 Constituency Involvement, Licensing Boards: CCE  
7 consistently engaged in active communication with the  
8 regulatory agencies throughout the standards revision  
9 process. I will briefly cite five examples.

10 One, the initial standards revision survey in  
11 May 2006 included an invitation to regulators to  
12 participate.

13 Two, in July 2006, just one month after the  
14 CCE's commission on accreditation was awarded the  
15 maximum five-year recognition by this Committee, the  
16 CCE empaneled a 14-member task force to review  
17 accreditation standards. Members were not selected to  
18 represent specific constituencies, but rather to ensure  
19 a board range of talent, experience, opinions, and a  
20 history of service. Three people with significant  
21 regulatory and practice experience participated in the  
22 five-year process.

1           Three, in January 2007 the FCLB assisted the  
2 standards subcommittee for admissions in surveying  
3 regulatory agencies about their legal requirements and  
4 opinions regarding student prerequisite qualifications  
5 for admission.

6           Four, CCE participated formally in 14 FCLB  
7 meetings from 2006 to 2010, prior to the final adoption  
8 of the revised standards, to provide opportunities for  
9 licensing boards to have direct input into the process.

10       In addition --

11           CHAIR STUDLEY: I need to ask you to wrap up.  
12       There will be time for questions.

13           DR. O'CONNOR: Okay. Almost pretty much done.

14           And basically, we have in both formal comment  
15 periods for two drafts, November 2009 and September  
16 2010, FCLB submitted detailed components, which some  
17 were accepted as participated.

18           And my closing comments, which there were six  
19 different short points; but basically, not to have CCE  
20 in the licensing world would bring licensing to a  
21 screaming halt.

22           CHAIR STUDLEY: Thank you very much. The

1 Committee members can follow up if they have any  
2 questions.

3 Are there questions for this witness? Cam?

4 DR. STAPLES: I'll make it quick. I realize  
5 we're under a lack of time.

6 CHAIR STUDLEY: That's okay.

7 MR. STAPLES: But I just want to ask  
8 you -- and you may not know every standard in every  
9 state.

10 DR. O'CONNOR: I hope I can answer your  
11 questions.

12 MR. STAPLES: But maybe you do. Are you  
13 concerned at all that the standards, as they would be  
14 revised, and the breadth of the scope of practice that  
15 that would anticipate, is that going to be recognized  
16 presently by the licensure scope of practice in most of  
17 the states the chiropractors operate in?

18 DR. O'CONNOR: Well, most of the states, by  
19 statute, have CCE written in. So to change a statute  
20 would take anywhere from one to four years. So that  
21 would be a pretty daunting task.

22 MR. STAPLES: But don't they also have a scope

1 of practice defined beyond just recognition of CCE? I  
2 mean, it's not just CCE that they recognize.

3 DR. O'CONNOR: Not necessarily. A lot  
4 of -- the trend is right at this particular time not to  
5 define chiropractic in the statute but more in the  
6 regulation.

7 MR. STAPLES: Well, in the regulations, then,  
8 I guess the same question applies.

9 DR. O'CONNOR: Yes.

10 MR. STAPLES: My question is, would the new  
11 standards that some think is beyond the scope of  
12 traditional practice, would that match up with  
13 licensing requirements for --

14 DR. O'CONNOR: That could be a possibility  
15 that there could be changes, yes, if that's what you're  
16 asking.

17 MR. STAPLES: Meaning they would not match up?  
18 It would not necessarily match up with a lot of  
19 states' licensure requirements?

20 DR. O'CONNOR: No. I think probably, in most  
21 states, it would match up.

22 CHAIR STUDLEY: Any other questions?

1 (No response.)

2 CHAIR STUDLEY: Thank you very much.

3 DR. O'CONNOR: Thank you for your time.

4 CHAIR STUDLEY: Let me just clarify. We have  
5 several people who signed up in advance, and three  
6 additional people who signed up onsite. We're going to  
7 stick with the schedule and go till 12:45, wherever we  
8 are on that list. I had thought we might be able to  
9 have everybody testify before lunch and not hold you  
10 over, but I think we will end wherever we are at that  
11 point.

12 So the next speaker is Corey Rodnick.

13 And I would also, and I will say this again  
14 shortly, but I would ask all of the members of NACIQI  
15 to refrain from discussing this matter during lunch to  
16 ensure the integrity and transparency of the review  
17 process.

18 And I would invite your cooperation in not  
19 tempting them to do so by not approaching any of the  
20 members of the commission to discuss anything about  
21 this proceeding.

22 Mr. Rodnick. Thank you.

1 DR. RODNICK: Hi there. I'm Dr. Rodnick. I  
2 have been practicing in Michigan since 1983. I  
3 currently have four practices in Michigan. I am on the  
4 Michigan State Board of Chiropractic Examiners. I am  
5 the central regional director for the International  
6 Chiropractic Association, and on the Board of Regents  
7 for Life Chiropractic College West. I am here  
8 representing myself, however, and although I have  
9 experience that I would like to share.

10 This past October, I represented the State of  
11 Michigan to the FCLB meeting, where we heard a report  
12 from the CCE. They raised the guide point average for  
13 admission requirements from 2.5 to 2.75.

14 When it was asked, what are the admission  
15 requirements for medical schools, the answers we were  
16 told were that they do not have one, and as a matter of  
17 fact, that chiropractic is the only healthcare  
18 profession that has a minimum requirement out of all  
19 the different healthcare professions.

20 CCE has an unprecedented requirement for grade  
21 point averages on entering students. No other  
22 healthcare discipline, first degree level, has such

1 requirements. It should be an institutional decision,  
2 just like all the other healthcare professions. And  
3 I'd like to see that removed as a requirement. That's  
4 one.

5           Two, in the mission statement, on the sixth  
6 and seventh bullet it states, number 6, "Informing the  
7 educational community and the public of the nature,  
8 quality, and integrity of the chiropractic education";  
9 and number 7, "Serving as a unifying body for the  
10 chiropractic profession."

11           By removing "drugless" and "nonsurgical" from  
12 the standards, the CCE is apparently strategically  
13 steering the profession into the medical model, which  
14 will confuse the public on who we are, and is creating  
15 dissension within the chiropractic profession by doing  
16 so. Chiropractic is a drugless, nonsurgical  
17 profession, and it should be clearly stated as it has  
18 been done in the past, or change the mission statement.

19           Number 3, and lastly, most of my practice  
20 deals with the diagnosis of vertebral subluxations.  
21 Vertebral subluxation complex is not mentioned and  
22 should be part of the educational program of the

1 chiropractic degree, Section H specifically. In the  
2 meta competencies, this should be added.

3 That was it, and if there's any questions, I'd  
4 be happy to answer.

5 CHAIR STUDLEY: Thank you very much.

6 Are there any questions?

7 (No response.)

8 CHAIR STUDLEY: Thank you, Mr. Rodnick.

9 Henry Rubinstein.

10 DR. RUBINSTEIN: May it please the Committee,  
11 Henry Rubinstein, DC, Esquire, general counsel for  
12 Doctors for Excellence in Chiropractic Education, the  
13 DECE, a nonprofit watchdog organization for governance  
14 and education.

15 CCE commits egregious actions in their  
16 governance and lacks veracity to adhere to the criteria  
17 for recognition. We agree with this body's recent  
18 assessment, yet differ as to disregarding opposing  
19 stakeholders of the proposed standards being minimally  
20 noteworthy. We seek serious consideration of the  
21 following:

22 That the DOE withhold recognition until

1 governance issues within CCE are resolved;

2           Examine the 2012 standard for compliance with  
3 the Department requirements and regulations;

4           Withhold recognition until the 2012 standards  
5 are repromulgated to ensure compliance;

6           Seriously consider option C in this body's  
7 draft modification of the linkage between accreditation  
8 and institutional eligibility; and

9           To require more public members on CCE boards  
10 and committees.

11           This body addressed in the staff report dozens  
12 of areas of noncompliance: over two dozen times stated  
13 CCE failed to provide sufficient documentations or  
14 documents at all; at least a dozen times failed to have  
15 a policy for a rule; at least half a dozen times filed  
16 suspect reports; many times failing to provide proper  
17 training policies; about a dozen times failed to  
18 provide vital evidence; and on numerous times stated  
19 they will file policies without a timeline.

20           CCE uses excuses such as, it will, or we're in  
21 the process of doing it, or we'll get around to it.

22 This body in 1997 listed only four major deficiencies.

1     Apparently, CCE does not fear this Department or  
2     Committee.

3             This body has had problems with CCE's handling  
4     of public members and proof thereof; lack of  
5     decision-maker information; absolute conflicts of  
6     interest; substantive changes; student support and  
7     career placement, a Title IV problem; faculty  
8     recruiting tactics; and they can't even assess a simple  
9     head count.

10            In conclusion, on page 33 of the staff report,  
11     C(3), Complaints Against Itself, no documentation is  
12     noted as to handling such a complaint by the staff. So  
13     where is the majority of opponents to the standard  
14     changes to go into effect in 2012 to go for aid other  
15     than this agency?

16            In light of that, we ask that CCE be allowed  
17     to continue, but only under provisional recognition,  
18     and within a plainly timely manner.

19            I have 46 seconds, so I'm going to utilize  
20     them, please, if I may.

21            CHAIR STUDLEY: No. I think your time has  
22     concluded. You're over. What you are is over that

1 amount.

2 DR. RUBINSTEIN: Oh, thank you very much.

3 CHAIR STUDLEY: Thank you very much. The red  
4 light was the endpoint. Appreciate it, Mr. Rubinstein.

5 DR. RUBINSTEIN: No questions?

6 CHAIR STUDLEY: Are there any questions from  
7 the Committee?

8 (No response.)

9 DR. RUBINSTEIN: Thank you very much. Have a  
10 great day.

11 CHAIR STUDLEY: Thank you, sir.

12 Gary Shultz.

13 DR. SHULTZ: Moments before lunch, always the  
14 best time.

15 CHAIR STUDLEY: Someone has to do it.

16 DR. SHULTZ: Yes. Somebody has to be in that  
17 pipe.

18 My name is Gary Shultz. I am the vice  
19 president for academic affairs at University of Western  
20 States. I also had the privilege of serving in various  
21 roles with the Council on Chiropractic Education over  
22 the years.

1           I wanted to first address a comment that I  
2 don't feel comfortable allowing to rest with this  
3 Committee without having some response. There's been  
4 statements regarding universal faculty fear about  
5 disagreeing with CCE and its standards, and also lack  
6 of inclusion of students.

7           And I would just like to affirm for the  
8 Committee that at the University of Western States, I  
9 took it upon myself to share the access to the  
10 standards revision process with those constituents, my  
11 faculty and our students, and encouraged them to speak  
12 directly with the CCE through the process that was  
13 identified. So anyone who had an issue or an interest  
14 in commenting had the opportunity to do so. I only  
15 hope that other institutions exercised that right.

16           I would like to comment on 602.15(a),  
17 subsection (6), which is the conflict of interest  
18 section. And by virtue of my experiences with the CCE,  
19 I would like to comment to the Committee that in all of  
20 my dealings, I have borne witness to significant  
21 attention paid to conflict of interest.

22           There has been substantial discussion. There

1 have been forms filled out. Members are always  
2 encouraged to consider thoroughly and seriously all the  
3 issues that they could potentially bring to the table  
4 that would bias their decision-making.

5           And I just want this Committee to understand  
6 that the culture of conflict of interest and the  
7 seriousness with which it is taken is very present and  
8 accounted for in the CCE, at least in all of my  
9 dealings.

10           Lastly, I'd like to speak to 602.21, paragraph  
11 (c), which is involvement of individuals within the  
12 standards revision process. I've already commented  
13 that at our institution, we have utilized our internal  
14 resources to ensure access to all interested  
15 individuals.

16           But I just want to state that from my vantage  
17 point, having seen WASC go through standards changes  
18 and having seen Northwest Commission engaging in  
19 standards changes, I would like to say that my  
20 experience with the CCE standards revision process is  
21 that it was the most transparent process, the most  
22 inclusive process, and the most outreaching process

1 that I have had the privilege and opportunity to  
2 participate in. And that's all I have.

3 CHAIR STUDLEY: Thank you very much, Mr.  
4 Schultz.

5 Are there questions for this speaker?

6 (No response.)

7 DR. SCHULTZ: Thank you.

8 CHAIR STUDLEY: Thank you very much.

9 I think we will break there, and I appreciate  
10 folks waiting. The next speaker up will be Steve  
11 Tullius, or Tullius, and we will complete the group.

12 We will reconvene at 1:45. There are a number  
13 of places nearby within walking distance where people  
14 can get lunch. Again, I'd ask the Committee e members  
15 not to speak about this particular matter during our  
16 break. And we will pick up here when we return.

17 Committee members, any procedural questions?

18 (No response.)

19 CHAIR STUDLEY: Our lunch is going to be  
20 available for us in a room that Melissa will lead us  
21 to.

22 (At 12:41 p.m., a luncheon recess was taken.)

23



1 differences, as some will have you think, but the  
2 violations of the Secretary's criteria for recognition,  
3 the one thing that the honorable members of this  
4 Committee must respond to.

5           If philosophy is to be considered, then it is  
6 the branch known as ethics which should be used to  
7 judge the agency in question. I implore you to look  
8 deeper beneath surface.

9           The violations include: conflicts of  
10 interest; an incestuous selection process designed to  
11 limit involvement from a diverse section of  
12 stakeholders; lack of acceptance by and representation  
13 of the profession; and creating a culture of fear  
14 amongst educators and member institutions.

15           I have personally communicated with five  
16 former and current college presidents and a plethora of  
17 faculty that have confirmed these statements. They  
18 have also indicated they would not dare testify against  
19 the CCE out of fear of personal and institutional  
20 backlash.

21           As Gerry Clum, past president of Life West and  
22 former CCE councilor, recently noted, "The last

1 chiropractic program to express concern in this setting  
2 was Life University. The next few years of CCE  
3 entanglements at Life University were, in part, payback  
4 for having the temerity to speak up about the agency  
5 that accredits you."

6 Honorable members, I ask you as individuals  
7 appointed due to your experience, integrity,  
8 impartiality, and good judgment, and your demonstrated  
9 knowledge in the fields of accreditation and  
10 administration of higher education, do these statements  
11 reflect a body that the U.S. Department of Education  
12 could possibly endorse?

13 The Department staff has done a fine job  
14 documenting the more than 40 areas of noncompliance.  
15 However, continuance of CCE recognition without serious  
16 inquiry into our allegations would make a mockery of  
17 our nation's educational system and our core ideals of  
18 justice and equal rights.

19 As a U.S. citizen and doctor of chiropractic,  
20 I'm requesting the following of the Committee:

21 Convene a third party investigation into the  
22 various past and current violations of the CCE;

1           Delay the decision to extend recognition for  
2 one year, and require the CCE to demonstrate compliance  
3 with the many violations heard here today; and

4           Reform the election process to become more  
5 inclusive and more representative of the profession.

6           If you wonder why Dr. O'Connell from the ACA  
7 supports the CCE, you can look no further than the nine  
8 ACA members out of the 18 on the council, and the 22  
9 out of 38 from the site team, which the ICA and IFCO  
10 combined have one. There is clearly a  
11 misrepresentation of the profession and lack of  
12 collegiate acceptance and willingness to reach out to  
13 their colleagues.

14           May I leave you with one final thought, that  
15 between the pristine, blameless picture the supporters  
16 of the CCE have painted and the less-than-perfect  
17 drawing of others, that the truth lies somewhere in  
18 between. I trust that you will do whatever it takes to  
19 seek that out.

20           I'm more than happy to answer questions.  
21 Thank you.

22           CHAIR STUDLEY: Are there any questions for

1 this speaker?

2 (No response.)

3 CHAIR STUDLEY: Anyone?

4 DR. TULLIUS: Thank you.

5 CHAIR STUDLEY: Thank you very much.

6 John Ventura, please.

7 DR. VENTURA: I'd like to thank the Committee  
8 for affording me this opportunity to speak. As I am  
9 not here representing an agency, I want to tell you a  
10 brief bit about my background.

11 I've been in full-time chiropractic practice  
12 for 28 years, and in addition, for the past 12 years,  
13 I've served as a clinical instructor in the Department  
14 of Family Medicine at the University of Rochester  
15 School of Medicine and a part-time clinical assistant  
16 professor at New York Chiropractic College.

17 In addition, I've held recognition status with  
18 the National Committee for Quality Assurance on Back  
19 Pain Recognition Program since its inception, and my  
20 office served as a test site for the pilot program.

21 So I come to you as an individual practitioner  
22 with an extensive experience in education as well as a

1 background in quality improvement, and I'd like to  
2 voice my strong support in favor of the continued  
3 recognition of the CCE as the accrediting agency for  
4 chiropractic institutions.

5 I believe we need to redirect the focus of our  
6 attention back to the public that this agency is  
7 designed to serve. The mission of the CCE is to ensure  
8 the quality education of chiropractic in the United  
9 States, and the purpose of that is so that we best  
10 serve the safety and interests of the public.

11 In his text, "Surviving in Healthcare," Dr.  
12 Dieter Enzmann outlines the path taken by healthcare  
13 professions in defining legitimacy and competency for  
14 health professions, and competency is best demonstrated  
15 by standardized training that is based in science.

16 Legitimacy is best demonstrated by shared  
17 professional educational standards that are  
18 patient-centered and evidence-based. In reviewing the  
19 standards put out by the CCE, I feel they are  
20 fulfilling this mission of providing a quality  
21 education that is both patient-centered and  
22 evidence-based, and I strongly encourage you to

1 continue your recognition of the CCE.

2 Thank you.

3 CHAIR STUDLEY: Thank you very much.

4 DR. TULLIUS: Thank you.

5 CHAIR STUDLEY: Gary Walsemann.

6 MR. TURNER: I am going to present the ICA  
7 presentation. I am the general counsel of the ICA.  
8 Gary Walsemann, Dr. Walsemann, is here as well. My  
9 name is James Turner. I'm an attorney, general counsel  
10 of the ICA, International Chiropractic Association.

11 The association wishes to say that the staff  
12 has done a very good job in reviewing the CCE  
13 application, but the number of criteria which they've  
14 found to be not compliant with shows an agency that  
15 needs to be looked at with care.

16 We agree with the concerns expressed by the  
17 staff report, especially those addressing conflict of  
18 interest. However, we would like to see a provisional  
19 approval for the period of time that's been allowed to  
20 the agency to correct its mistakes.

21 The ICA did present a 27-page set of written  
22 comments with 500 pages of supporting documents that we

1 believe raise serious questions about the governance at  
2 ICA -- I'm sorry, at the CCE. The first and chief area  
3 of concern focuses on the issue of governance.

4           During the past five years, the CCE has  
5 undertaken changes in its corporate governance  
6 structure that have resulted in the creation of a  
7 self-perpetuating organization that is incapable of  
8 avoiding the appearance of conflict of interest, let  
9 alone conflict of interest.

10           These charges have greatly exacerbated the  
11 problems discussed by this Committee five years ago,  
12 CCE's new organizational structure, which favors one or  
13 two chiropractic institutions to the extent that an  
14 inordinate amount of influence on policy, standards,  
15 and accreditation activities has acted through that  
16 influence to advance their own political agenda. And  
17 it presents flagrant examples of conflict of interest.

18       You have heard some of those here today, I want to  
19 underline.

20           The ICA itself asserts that the present  
21 governance structure of the CCE is a violation of the  
22 Secretary's criterion 602.14(b)(3), as the evidence

1 shows that changes in the governance structure of the  
2 last five years were designed to effectively advance  
3 the consolidated control of this small group.

4 In particular, they've changed the rules five  
5 times over the last few years, and each time started  
6 the time limit clock running again. Indeed,  
7 essentially the same group of people who were involved  
8 with running CCE at the time of the Life involvement  
9 are still in charge of the CCE.

10 In addition, you've heard word about comments  
11 being received by the CCE. They did set up a task  
12 force. The task force made a series of recommendations  
13 based on the mass of comments from all across the  
14 profession. They recommended to the council ways of  
15 addressing these issues, and those were all rejected by  
16 the council, or essentially rejected. All the major  
17 ones were rejected.

18 Essentially, that report of the task force  
19 itself was rejected. The entire process is one  
20 designed to reinforce the small group of people who  
21 have been in charge of this agency since ten years ago.

22 Thank you very much for your listening, and I

1 would hope that you would do a provisional approval and  
2 allow the agency to correct itself over the next year;  
3 a non-provisional approval will allow it to just slide  
4 along and not effectively address the problems that  
5 need to be addressed. And I'm open for questions.

6 CHAIR STUDLEY: Arthur?

7 MR. ROTHKOPF: I'd be interested in the number  
8 of members of your association, and the extent to which  
9 they are U.S. or foreign-based.

10 MR. TURNER: There are 8500 members, and  
11 they're in every state in the U.S. and in every  
12 province of Canada. And there are international  
13 members in over 50 other countries.

14 MR. ROTHKOPF: Thank you.

15 CHAIR STUDLEY: Other questions? I have one  
16 question, given your role. What definition are you  
17 using of conflict of interest?

18 MR. TURNER: Conflict -- I have not used a  
19 definition, per se. I'm adopting essentially the  
20 standard issue that it appears -- it would be the  
21 financial or personal or institutional relationship  
22 that compromises the ability of an individual to have

1 an objective view of what it is that they are  
2 reviewing, as opposed to a subjective view.

3           So that individuals who are involved with a  
4 set of views or affiliated association that would  
5 compromise their ability to see objectively what's  
6 happening would create a conflict of interest.

7           The appearance of that possibility is also a  
8 problem in and of itself. The conflict is one problem  
9 and the appearance is another.

10           CHAIR STUDLEY: Are you asserting that there  
11 are traditional financial conflict of interest abuses  
12 going on?

13           MR. TURNER: I would assert that there are  
14 institutional conflicts. Whether those are financial  
15 or not, I think, is more subjective. But there are  
16 decisions that have been made that favor the viability  
17 of certain institutions over the viability of other  
18 institutions.

19           And we are asserting that that does in fact  
20 take place, that there are individuals and institutions  
21 who have treatment by the CCE which is more favorable  
22 to them than it is to people who do not have roles in

1 the CCE and are subjected to regulation by the CCE.

2 People in positions in the agency are  
3 affiliated with schools that are regulated by the  
4 agency that get treatment that is less rigorous than  
5 the treatment they get if they are schools who do not  
6 have people in that particular setting.

7 CHAIR STUDLEY: Thank you.

8 Any other questions?

9 (No response.)

10 CHAIR STUDLEY: Thank you very much.

11 Stephen Welsh.

12 DR. WELSH: Before you start the clock, could  
13 I for the record note that I do not represent Care More  
14 Chiropractic Colleges? I represent Care More  
15 Chiropractic Center. There was a typo in whatever was  
16 put on.

17 CHAIR STUDLEY: We don't revise the agenda,  
18 but it will be noted in the transcript. Thank you very  
19 much.

20 DR. WELSH: Thank you. All right. Although I  
21 am the secretary/treasurer of the ICA and the past  
22 president of the GCC, I appear before you today on my

1 own behalf. I would like to focus on an area which I  
2 consider to be the root of the problem we've been  
3 discussing today.

4 Five years ago, a member of this Committee  
5 observed that, "There's a perception in my mind that  
6 one institution has pretty much a good deal of control  
7 over both the policy-making process, which is the  
8 board, and the accreditation function, which could  
9 cause some of the problems we're hearing today."

10 Well, today, five years later, the situation  
11 is worse. In 2009, the CCE reorganized for the fourth  
12 time in ten years, combined the responsibilities for  
13 policy-making and accreditation, elected a vice  
14 president from the same institution to become the  
15 chair, and further consolidated the influence of that  
16 one institution at CCE.

17 Ten years ago, the CCE revoked the  
18 accreditation of Life University. It was subsequently  
19 restored by a federal district court. At that time,  
20 Dr. Wickes was on the board. Dr. Little was the vice  
21 president. Today, ten years later, these same  
22 individuals are here today trying to convince you that

1 they have done no wrong. You see, term limits are  
2 meaningless when all you have to do is reorganize and  
3 restart the clock.

4 In January, I attended the public meeting of  
5 CCE, during which they addressed the proposed new  
6 standards. I was appalled at what I observed, what I  
7 heard, and how the events were reported in the official  
8 minutes.

9 I heard them discuss the possibility of yet  
10 another reorganization. I heard them joke about  
11 shuffling chairs in a leadership position. I heard  
12 them mock the feedback received from the profession at  
13 large during the standards review process.

14 On June 20, 2011, I sent a letter requesting a  
15 copy of the minutes of that public meeting. To date,  
16 it remains unanswered. The official minutes submitted  
17 in this application for renewal were a total whitewash.

18 Motions that were made, seconded, and voted on were  
19 omitted from the record.

20 This council has lost touch with the  
21 profession. This council has lost its sense of  
22 integrity and transparency at the executive committee

1 level. This council would have you believe that the  
2 root of the problem is intra-professional differences  
3 of philosophy.

4           It is not. The evidence is in the record.  
5 The problem is an executive committee fraught with  
6 conflicts of interest, unethical behavior, and a total  
7 disregard for the stakeholders they are supposed to  
8 serve. The staff had it right the first time. This  
9 council is not responsive to its stakeholders. That is  
10 why there are so many of us here today.

11           I will close with a quote from the hearing  
12 five years ago. A member of this Committee at that  
13 time said, "Because I believe if we simply hear it,  
14 discuss it, anguish over it, and then give them five  
15 years of recognition, that we haven't been the impetus  
16 for any corrective action," for the profession, and I  
17 worry about the profession.

18           What I ask is simple. Please deliver a  
19 message to this council that they can't ignore. Please  
20 provide the impetus for corrective action. There's a  
21 reason we're all here today. Please do not accept  
22 their excuses. We all are worried about the future of

1 our profession. Thank you for your consideration.

2 CHAIR STUDLEY: Thank you very much.

3 Are there any questions from Committee  
4 members? Anne?

5 MS. NEAL: The staff recommendation is for 12  
6 months for them to review these things. Are you  
7 recommending something different from that?

8 DR. WELSH: The problem that I have is that  
9 they have already publicly been addressing the  
10 profession, stating that 80 percent of the agencies  
11 being reviewed are getting 12 months. So if they get  
12 the same thing that everybody else gets, they're going  
13 to walk away and claim, we don't really have a problem.

14 Now, I don't know whether you can defer a  
15 decision and do something different than what you've  
16 done for everybody else. But if they walk out of here  
17 with the same answer that the majority of other  
18 agencies got here today, then they're going to claim a  
19 win. And they don't deserve to walk out of here  
20 without something different.

21 CHAIR STUDLEY: Frank?

22 MR. WU: I have a general conceptual question.

1     What if CCE just said, we have a philosophy, and our  
2     philosophy is we are going to be more liberal. And the  
3     conservative school of thought, we think that that's  
4     bad. We just don't think that that's good chiropractic  
5     treatment, and so we're going to openly adopt a policy,  
6     and we will evaluate schools, and we will reward those  
7     that have this philosophy and penalize those who don't.

8     What would happen then?

9             DR. WELSH: I have no idea. The problem is,  
10    okay, that they are supposed to be representative of  
11    the entire profession. And it's one thing to have  
12    policies that say you are; the issue isn't the  
13    policies, the issue is the behavior. And the record of  
14    their behavior speaks for itself.

15            MR. WU: Okay. I'm just asking, and we'll  
16    have more of a chance for conversation, because it  
17    occurs to me that there are other fields where there  
18    are multiple agencies at work, and in some disciplines,  
19    those agencies actively have different views.

20            MDs and DOs, for example, have just very  
21    different views of the world, and they've decided that  
22    each will exist and each will have its own set of

1 schools. And I presume that DO schools wouldn't do  
2 well by MD standards, and vice versa. So I'm just  
3 asking --

4 DR. WELSH: And in theory, what you're  
5 implying is correct. But from a practical point of  
6 view, as you already heard, there's so many states that  
7 have it encoded in their law, okay, that it would be  
8 nearly impossible to successfully begin a second  
9 accrediting agency. So in theory, you're correct.  
10 Practically, it's almost impossible.

11 CHAIR STUDLEY: Brit?

12 DR. KIRWAN: Yes. Do you have any thought as  
13 to why -- I mean, you have very strong feelings,  
14 expressed them as such today -- why the association  
15 that represents all the chiropractic colleges in  
16 America would advocate that CCE continue in its current  
17 form? So the colleges that are producing the  
18 chiropractors apparently are not unhappy with this  
19 organization. So what's the disconnect here? Why is  
20 it that so many are expressing unhappiness when the  
21 colleges themselves don't seem to be?

22 DR. WELSH: I'm not quite sure how to answer

1 that except this way. What I heard expressed was that  
2 the existence of CCE is critical to this profession.  
3 And I don't think that there's anybody here today that  
4 disagrees with that.

5 So the Association of Chiropractic Colleges of  
6 course is going to come and say, we need continued  
7 recognition. And we all recognize that. Okay? They  
8 represent the cross-section of all the schools.

9 The fact of the matter is, all of the schools  
10 are members of the CCE.

11 DR. KIRWAN: Right.

12 DR. WELSH: The problem is --

13 DR. KIRWAN: Excuse me. Just as a followup,  
14 but they don't raise questions like conflict of  
15 interest. And you would think they would be  
16 sensitive --

17 DR. WELSH: As was testified earlier today,  
18 the last college to bring issues before this body in  
19 the late '90s ended up losing its accreditation in  
20 2002, and then was reversed by a federal district  
21 court. Okay? I think that speaks for itself why.

22 DR. KIRWAN: Okay. Thank you.

1           CHAIR STUDLEY: Are there any other questions?

2       I have one for you, sir, just briefly.

3           Have any chiropractic colleges been denied  
4 accreditation since 2002, to your knowledge?

5           DR. WELSH: No. But one of them has had to  
6 close. I'm not quite sure exactly why. When I was at  
7 the meeting in January, that particular institution  
8 requested a policy waiver, which was summarily  
9 dismissed. Whether or not that had any association  
10 with the decision to close that branch campus, which  
11 was one of the conservative schools, I do not know.

12          CHAIR STUDLEY: Thank you.

13          DR. FRENCH: Madam Chair, could I follow up  
14 with your question?

15          CHAIR STUDLEY: Sure. Certainly.

16          DR. FRENCH: Are you familiar with the  
17 colleges that have had sanctions from CCE in the same  
18 period?

19          DR. WELSH: Not really, because everybody is  
20 done in secret. It's all confidential. Okay? The one  
21 time we got a glimpse into what they were doing was  
22 actually reading the transcripts of the court cases

1 back in 2002. That's where the veil of secrecy got  
2 broken.

3           If you really look at it, once they combined  
4 the accreditation function with the policy-making and  
5 even the standard-setting, it's all done in a secret.  
6 It's not an open and transparent process. Okay?  
7 Everybody is sworn to secrecy. They don't even record  
8 the minutes accurately of their public meetings.

9           So I don't know, because it's all a secret.

10           CHAIR STUDLEY: Anyone else?

11           (No response.)

12           CHAIR STUDLEY: Thank you very much.

13           DR. WELSH: Thank you.

14           CHAIR STUDLEY: Let me just recap the process  
15 from here. There are three additional speakers who  
16 were not listed in the agenda -- Ronald Hendrickson,  
17 Donald Hirsh, and John Bomhoff. And then we will have  
18 agency responses to the third party presentations, the  
19 Department's response, and Committee discussion and  
20 voting.

21           So right now, Mr. Hendrickson, would you  
22 please come forward? Thank you.

1           MR. HENDRICKSON: My name is Ronald  
2 Hendrickson, and I'm here as an individual. But I  
3 bring perhaps a unique personal experience and  
4 perspective with the chiropractic profession. I've  
5 been a patient since the night I was born 60 years ago.

6           I spent 30 years of my professional life in  
7 the employ of a chiropractic organization, including 20  
8 years as its executive vice president. And I'm married  
9 to a chiropractor and have participated in and/or  
10 observed the evolution of accreditation issues and  
11 education issues over a very long period of time.

12           And I'm here because the opportunity to make  
13 comments was presented. And I think it would be really  
14 important, having listened and sat through all the  
15 discussion, to remind this Committee that the  
16 outpouring of public comments is profound. It's  
17 massive. And for 4,000 individuals to navigate the  
18 comment process to the concomitant needs to be taken  
19 very seriously.

20           There's a point at which quantity takes on a  
21 quality all its own. And I think it would be a big  
22 mistake to dismiss, as appears to have been done in the

1 staff report, as those expressions of philosophical  
2 differences because here's really the heart of the  
3 issue.

4           The issue of competition between institutions  
5 and the hundreds of millions of dollars that change  
6 hands every year take this to an entirely different  
7 level and demand, I think, a different level of  
8 consideration by this Committee.

9           And, for example, I flat-out disagree with Dr.  
10 Ventura about how the standards, as promulgated, to go  
11 into effect in 2012 represent an appropriate pathway  
12 because they are so incredibly inconsistent with  
13 what -- or unspecific in comparison to how chiropractic  
14 is defined in the state laws.

15           This Committee was provided, in the exhibits  
16 that were submitted by the International Chiropractors  
17 Organization, a very specific digest of how  
18 chiropractic is defined in the various state laws.

19           And I think that's worth a look because what  
20 has happened here with the promulgation of standards is  
21 a situation where, in the years to come, consumers are  
22 going to be denied any level of confidence if, in fact,

1 institutional autonomy and the ability to teach widely  
2 divergent approaches to chiropractic healthcare is  
3 maintained, any confidence at all to look at if, in  
4 fact, you seek care from a graduate of this institution  
5 versus that institution, you're going to get anything  
6 remotely comparable. And that's a serious issue.

7           Again, what is needed here is to take a step  
8 back, look at the big picture, and understand that  
9 action by this Committee could prevent a great deal of  
10 distress to thousands of individuals, not to mention  
11 the millions of consumers who rely on chiropractic  
12 healthcare.

13           And I thank you very, very much.

14           CHAIR STUDLEY: Thank you.

15           Are there any questions?

16           DR. FRENCH: Madam Chair?

17           CHAIR STUDLEY: Yes?

18           DR. FRENCH: Following up, now, on Frank's  
19 question earlier, I think you've dissected the issues  
20 very well. I guess what I'm hearing from my last  
21 question, if we haven't lost accreditation, we haven't  
22 had sanctions, the harm is what you anticipate with the

1 change in the standards in 2012. Is that correct?

2 MR. HENDRICKSON: Well, that's a partial  
3 picture of what has, I think, motivated this outpouring  
4 of concern. The standards changes, which as I'm sure  
5 you've heard and has registered with you the issues of  
6 the removals of "without drugs and surgery/subluxation"  
7 language, and the teaching matrix that accompany the  
8 requirements of the institutions in the previous  
9 standards, are gone.

10 And so, indeed, prospectively there is a wide  
11 body of concern. But there is a bigger picture. We  
12 are looking at an institution, an accrediting agency,  
13 as distasteful as it may be to contemplate, is  
14 absolutely capable of very cold-blooded  
15 anti-competitive behavior.

16 All any individual needs to do is to read the  
17 judge's opinion in the Life case, which, by the way,  
18 was provided to this Committee as an exhibit by the  
19 International Chiropractors Association to their  
20 submission, to understand how profound and far-reaching  
21 that potential in the future is.

22 And the concern is so great because it

1 manifested itself in the past. And again, these are  
2 complex issues that I think require maybe exceptional  
3 consideration and maybe exceptional solutions.

4 CHAIR STUDLEY: Anyone else?

5 (No response.)

6 CHAIR STUDLEY: Thank you very much.

7 MR. HENDRICKSON: Thank you.

8 CHAIR STUDLEY: Donald Hirsh.

9 DR. HIRSH: Thank you, Madam Chair and the  
10 Committee. I had prepared comments last night; I  
11 spontaneously decided to come here and testify because  
12 this was so important to me. I canceled all my  
13 patients; I practice in Maryland, so it wasn't that  
14 hard for me to come down here because I feel very  
15 strongly about this.

16 All my written comments I could have torn up.

17 Dr. Welsh did, I think, such a brilliant job of  
18 covering the salient issues, and some of the other  
19 speakers, I thought, were very profound.

20 But I'd like to just say that I have a son who  
21 has special needs. He has cerebral palsy. Excuse me.

22 And he wants to be, and I want him to be, the first

1 chiropractor with cerebral palsy. I have a great fear  
2 of what this profession is going to look like in ten  
3 years when he's ready to enter that realm.

4           The current standards have been manipulated by  
5 CCE as part of this manipulative process of their  
6 governance to just rid all of the standards of anything  
7 chiropractic. Dr. McLean talked about going to a  
8 dentist. How would you like to go to a dentist and  
9 them not even know how to fill a cavity or how to clean  
10 your teeth? That's unconscionable.

11           But the way that the standards have been  
12 promulgated, and that will appear in January, just a  
13 few weeks from now, we'll have a chiropractic  
14 curriculum that it is possible that  
15 institutions -- that forced this issue, by the  
16 way -- so they manipulated the process to create  
17 standards that have nothing to do with chiropractic and  
18 will move the profession to medicine.

19           How would you feel going to an office,  
20 thinking you're going to a chiropractor, when who knows  
21 what you're going to get? And that's the fear that I  
22 have for my son.

1           Also, as educators and people who have been  
2 involved in education, I just want to leave with one  
3 parting remark. In all the scholarly articles I've  
4 read, and I've read dozens and dozens on accreditation,  
5 you hear the word or the concept of the importance of  
6 the stakeholder, over and over and over and over again.

7       And in the case of CCE, I have never seen or heard of  
8 such a blatant disregard.

9           They dot the I. They cross the T. They  
10 bamboozle. They convince people that they are  
11 following the rules. But they really are a small  
12 clique that have manipulated this profession to the  
13 point that this body has a chance to rein them in and  
14 require esome fairness, and they have the opportunity  
15 to ensure that the citizens of this country will get  
16 chiropractic care by a trained chiropractor, not  
17 somebody who goes to a quasi-chiropractic school and  
18 doesn't learn what the core curriculum of chiropractic  
19 is.

20           So I really thank you very much. You have a  
21 very sobering job before you, and I hope you take this  
22 job very, very, very seriously, which I know you do.

1 Thank you.

2 CHAIR STUDLEY: Thank you very much, Mr.

3 Hirsh.

4 Are there any questions for this presenter?

5 DR. FRENCH: I had another question, Madam

6 Chair.

7 CHAIR STUDLEY: Yes.

8 DR. FRENCH: Going back to my previous  
9 question, I do understand the standards that are going  
10 to change. But the word "manipulation" that has been  
11 used often today, I'm really looking for the concrete  
12 examples of the manipulation. Can you help me with  
13 that?

14 DR. HIRSH: Well, I will do my best. The  
15 liberal schools are the ones to bring chiropractic to a  
16 more medical model, an allopathic model of healthcare;  
17 versus the conservative schools, which, by the way,  
18 we've modernized. Some of the brightest minds and  
19 people with multiple degrees are chiropractors who  
20 believe in a non-allopathic model, as acupuncturists do  
21 and other professions.

22 Okay. The standards created a window of

1 opportunity to disregard all things chiropractic so the  
2 schools that were in the minority, and controlling CCE,  
3 could now do whatever they please without the  
4 restraints of the language and the concepts and the  
5 core requirements that the old standards offered.

6 DR. FRENCH: And when will the standards take  
7 effect?

8 DR. HIRSH: The standards will take effect in,  
9 I believe, two weeks.

10 DR. FRENCH: That's what I'm just really  
11 trying to get to. I'm looking for the gap between Life  
12 University, which I know has been cited, and now, where  
13 manipulation and where the damages have really been  
14 that I can just point to and see.

15 DR. HIRSH: Yes. There was a tremendous  
16 amount of fear and difficulties once Life lost its  
17 accreditation. I mean, that was a very sobering  
18 moment, the first time in the history of accreditation  
19 law that a federal judge reversed an accreditation  
20 decision. That is not a feather in the cap of CCE.

21 But -- can you repeat the question? I'm so  
22 sorry.

1 DR. FRENCH: I'm really just trying to get the  
2 concrete damages.

3 DR. HIRSH: Right.

4 DR. FRENCH: I understand the standards, which  
5 are the anticipated damages.

6 DR. HIRSH: Okay. Yes. Right.

7 DR. FRENCH: But I'm really trying to see,  
8 when you say manipulation and all this occurred, where  
9 the damage is to colleges at this point.

10 DR. HIRSH: Thank you. Thank you. Right. So  
11 there was one set of standards that taught all the  
12 chiropractic principles. The conservative schools had  
13 a little bit, but they were very draconian in the site  
14 visitation teams. I'll give you an example.

15 Chiropractors, for the last hundred years,  
16 have been using X-ray. The site visitation teams,  
17 without any standard, by just using their own  
18 authority, virtually cleaned house in all the  
19 chiropractic colleges, and now a very small percentage  
20 of patients can be X-rayed.

21 So there was a set of standards that had  
22 chiropractic in them, but the site visitation team and

1 the process was used to manipulate -- once again that  
2 term -- a more narrow focus, a more medical focus.

3           So now there's a laissez faire attitude. So  
4 some of the schools thought, wow, this sounds kind of  
5 good. We can do whatever we want now. But first of  
6 all, there's two major problems with that. First, the  
7 schools that were liberal now can go all the way. They  
8 can become unrecognizable institutions, that if went to  
9 them -- you have a concept of chiropractic, I would  
10 hope -- you wouldn't have a clue what you were walking  
11 into.

12           A student who attends that university and  
13 thinks they're going to a chiropractic college would  
14 learn nothing to what they thought they were going to  
15 attend for.

16           DR. FRENCH: This is what you're anticipating?

17           DR. HIRSH: Yes. This is once the standards  
18 take effect in two weeks and one day. So there's now  
19 the ability for the liberal schools to go far in one  
20 direction. The conservative schools can kind of stay  
21 where they are.

22           But what's the message to the public? What's

1 going to happen when you don't know what you're  
2 getting? How is the consumer going to know? Am I  
3 going to a chiropractor who's trained in chiropractic,  
4 knows how to read an X-ray, knows how to analyze the  
5 spine, and knows how to adjust the spine?

6           There are no core -- there's nothing in  
7 today's standards that are promulgated that measure  
8 success as a chiropractor. They measure success as a  
9 diagnostician, and I'm not saying that's not important.

10 But they don't measure success with the core things  
11 that you and I know what a chiropractor does.

12           DR. FRENCH: Thank you.

13           CHAIR STUDLEY: Anyone else? Anne?

14           MS. NEAL: So are you essentially suggesting  
15 that the standards policy that has been implemented  
16 will undermine the quality of the chiropractic program  
17 that's -- since we have to look at the accreditor. Is  
18 this a reliable guarantor of educational quality?

19           So I'm interested in hearing how it impacts  
20 educational quality, and also how it will ultimately  
21 affect the taxpayer dollar.

22           DR. HIRSH: Yes. I think you should be very

1 concerned about that, and that's my primary concern.  
2 My son will go to a chiropractic school. He will get  
3 the knowledge. But what about all of the other  
4 students?

5           Now, remember that CCE stacks the deck to help  
6 their own. We have heard that time and time again. I  
7 can't tell you how many college presidents I've talked  
8 to, how many faculty members I've talked to over the  
9 years, that live in fear of CCE. It's just a fact.

10           So put that bias aside. Once these graduates  
11 start entering the marketplace calling themselves  
12 chiropractors or calling themselves chiropractic  
13 physicians or doctors of chiropractic medicine, they  
14 would graduate from a school that has no requirement to  
15 teach anything that you or I know as chiropractic.

16           But, more importantly, they have no way of  
17 measuring whether they know anything chiropractic  
18 because it's not even in their standards. That's how  
19 scary it is.

20           So how will the public be affected? You  
21 innocently go to a chiropractor who graduates from one  
22 of these institutions. What are you going to get? A

1 quasi-medical doctor who got an education, maybe a  
2 great education, but doesn't have the tools necessary  
3 to practice as a chiropractor.

4 Or, worse yet, you go to a doctor of  
5 chiropractic who went to a school that had no core  
6 curriculum in chiropractic, but they want to be a  
7 chiropractor. But they had minimal training in their  
8 school. How is the public going to be affected?

9 Now, let's look at student loans. That will  
10 become something that I think everybody will become  
11 very, very, very concerned about later on. I'm not  
12 worried about that now, but once the standards change  
13 and these students, with a minimal chiropractic  
14 education in true chiropractic will enter into the  
15 field, they will not be able to perform their  
16 functions. And it will cause them to financially  
17 suffer, and financially suffering doctors don't pay  
18 their student loans back.

19 So I think you have a real, significant  
20 responsibility to look long and hard at the standards  
21 that are promulgated. I challenge each one of you to  
22 open up three sets of standards. Read them, please.

1 The CCE standards that will take effect in  
2 January -- if you're proud of those, I don't understand  
3 how you could be.

4 Read the dental standards. I think the dental  
5 standards are brilliant. I think the osteopathic  
6 standards are brilliant. You know what you get. The  
7 people who graduate those institutions will have the  
8 core competencies, and the schools will have the  
9 ability to measure those core competencies.

10 And you can be confident that when you go to a  
11 doctor, a medical doctor or osteopath or a dentist,  
12 that you're getting what you paid for. You're getting  
13 what you expect to see when you enter into those doors.

14 So really read those standards. When is the  
15 last time you looked at the dental standards? They  
16 should be a requirement, to have standards that look  
17 like that. And I wish -- and I'm not proud of my  
18 accrediting body, CCE, that produced standards that  
19 have no means of really recognizing and measuring what  
20 a chiropractor does.

21 CHAIR STUDLEY: Anyone else?

22 (No response.)

1           CHAIR STUDLEY: Thank you very much, Mr.

2   Hirsh.

3           DR. HIRSH: Thank you very much.

4           CHAIR STUDLEY: John Bomhoff.

5           DR. BOMHOFF: Good afternoon. In reference to  
6 what he was just saying about reading the standards,  
7 you may also want to consult Black's Law Dictionary for  
8 its definition of what chiropractic is so you can have  
9 an understanding of where the standards are supposed to  
10 be set.

11           My name is Dr. John Bomhoff. I have been a  
12 chiropractor licensed for over 17 years. I came here  
13 today in support of the chiropractic profession as a  
14 whole. I was not aware I'd be able to have the  
15 opportunity in front of me today to speak to you until  
16 last night or early this morning, so I'm taking the  
17 chance to speak out on my behalf and on behalf of the  
18 thousands of others who could not be here today. I'm  
19 voicing our concerns and disgust with the CCE and their  
20 abuses of power, and the multitude of violations they  
21 have committed.

22           Early this year that was a letter-writing

1 campaign by some 4,000 chiropractors voicing our  
2 disagreement and objection to the removal of the term  
3 "vertebral subluxation" and removing the statement,  
4 "without the use of drugs or surgery," from the  
5 definition of the practice of chiropractic.

6           These wording changes totally alter the scope  
7 and direction of chiropractic, as held for over 116  
8 years. It's the largest natural and drugless healing  
9 art in the world. Infusing a medicalized academic  
10 curriculum into the natural, drugless healing art of  
11 chiropractic will alter the profession as we know it.

12           I'm here because the CCE has violated Section  
13 602.13. The CCE directly disregarded the 4,000 written  
14 objections submitted to them by practitioners  
15 nationwide. The CCE failed to recognize and respond to  
16 the wishes of institutions, faculty, and in particular,  
17 the practitioners set forth in our letter campaign.

18           The facts show that the CCE did not  
19 acknowledge or even take into consideration the  
20 objections, and advanced the wording changes in the  
21 curriculum about the profession. And the fact is that  
22 CCE ignored our concerns, directly violating that code

1 602.13.

2 CCE chose to ignore proper protocol in abusing  
3 its power they hold by following their own agenda and  
4 not the wishes of the greater part of the profession at  
5 large.

6 So while I'm here today, there are thousands  
7 of other chiropractors and people who could not be. So  
8 I'm being a voice to say what has happened is not  
9 right. The actions of the CCE will cause harm to the  
10 chiropractic profession as a whole.

11 It's not okay for the CCE to be abusing their  
12 position with the numerous code violations and  
13 continually ignoring the concerns and objections of the  
14 majority of chiropractic profession.

15 You've heard speakers here today saying that  
16 all is good and everything with the CCE is okay, that  
17 there's no problems with the CCE. Yet there are 41  
18 violations listed and cited against them, almost 4,000  
19 letters in opposition from practitioners in the field  
20 regarding the changes that they're putting forth into  
21 the vocabulary of what chiropractic is.

22 It's been alluded that there's no fear at the

1 chiropractic institutions speaking out against the CCE,  
2 yet you only have two institutions here today, and both  
3 of them are in support of the CCE. Where are the other  
4 colleges? They don't care? Absolutely they care. But  
5 what happens to the colleges that do voice their  
6 opinion against the CCE? Look at what happened to Life  
7 in 2000.

8 Thank you for your time.

9 CHAIR STUDLEY: Thank you very much.

10 Are there any questions?

11 (No response.)

12 CHAIR STUDLEY: Thank you. Appreciate it, Mr.  
13 Bomhoff.

14 With that, we have heard from all of the third  
15 party representatives and individuals who wanted to  
16 speak to us on this issue. And we will now ask if the  
17 agency would like to respond to those presentations.  
18 And then, following that, the Department will have an  
19 opportunity to respond.

20 DR. WICKES: The answer to your first question  
21 is yes.

22 CHAIR STUDLEY: Thank you.

1 DR. WICKES: I think I might start by  
2 addressing some of the four core questions that were  
3 outlined as we went along, and talk about one of the  
4 fundamental issues here.

5 The questions revolved around whether or not  
6 there were differences in schools of thought, the  
7 so-called liberal and the conservative groups; whether  
8 or not the CCE is aligned with one of those groups or  
9 not; whether or not we've aligned with one particular  
10 organization; and have we done this through a  
11 self-serving selection process, and the like.

12 And another big part of that has to do with  
13 the issue revolving the concepts of vertebral  
14 subluxation and so forth. So let me start with that  
15 part.

16 There has been absolutely no change in the  
17 2012 new standards in terms of the scope of practice  
18 that is either permitted or required at the  
19 chiropractic colleges. We have heard some speakers  
20 address the issue of promoting a medical agenda or  
21 something like that. But you'll find, if you do -- and  
22 I certainly agree with the last speaker on one point,

1 and that was, look again at the new standards.

2           The new standards do not require teaching of  
3 prescriptive pharmaceutical agents. They do not  
4 require the teaching of minor surgery, for example,  
5 things that you would associate with allopathic  
6 medicine. That is not a part of our standards.  
7 There's no mention of it in the current standards;  
8 there wasn't any mention of it in the past.

9           So, on flip side of that, have we  
10 de-emphasized chiropractic in the new standards? And  
11 I'm just going to quote a couple of sections out of the  
12 new standards because there were phrases tossed about  
13 regarding a lack of teaching of the core principles of  
14 chiropractic and so forth, things that distinguish the  
15 chiropractic profession from other health professions,  
16 and so forth.

17           So we find under the section on educational  
18 standards that there is a requirement that subjects  
19 have to include a section referred to as Foundations.  
20 These include the principles, the practice, the  
21 philosophy, and the history of chiropractic. So we set  
22 the stage right there, saying, your curriculum must

1 teach those things.

2           It also refers to -- if you recall from my  
3 previous comments, we have moved to an outcomes-based,  
4 evidence-based assessment process in terms of measuring  
5 whether or not our students are competent when we  
6 graduate them.

7           And so a considerable amount of work went into  
8 developing a so-called meta-competency section. In  
9 other words, it defines the competencies that the  
10 graduate of a doctor of chiropractic program must  
11 attain prior to graduation.

12           And the standards very clearly talk about the  
13 mandatory meta-competencies, their required components  
14 and outcomes, and the sources of evidence used to  
15 demonstrate student achievement of these  
16 meta-competencies.

17           Included in the meta-competency document are  
18 the following. And again, the meta-competency document  
19 starts off by saying the DCP, the doctor of  
20 chiropractic program, is required to demonstrate that  
21 its students have achieved the mandatory  
22 meta-competencies and their required components, as

1 noted below.

2           One of these required components is performing  
3 case-appropriate physical examinations that include  
4 evaluations of the spine and any  
5 subluxations/neuro-biomechanical dysfunction. That's  
6 one.

7           The second meta-competency, under management,  
8 a required component is, determining the need for  
9 chiropractic adjustment and/or manipulation  
10 procedures -- in other words, the ability to determine  
11 the presence of vertebral subluxation, or whatever the  
12 institution may decide it wants to call that entity.

13           Some institutions have said, we would prefer  
14 to call it, for example, a joint dysfunction rather  
15 than subluxation. We use the combined phrase of  
16 subluxation/neuro-biomechanical dysfunction.

17           Another outcome: Deliverance and  
18 documentation of appropriate chiropractic adjustments  
19 and manipulations. In other words, the student is  
20 required to be able to demonstrate competency in  
21 actually adjusting the spinal area for which they found  
22 the spinal subluxation.

1           So I don't know that I can make it any more  
2 clear that the vertebral subluxation entity and  
3 chiropractic core principles and practices are a part  
4 of the 2012 standards, just as they were part of the  
5 2007 standards and previous standards. Nothing has  
6 been taken out in that regard. And certainly no  
7 pro-medicine agenda has been slipped into this.

8           Now, one of the questions came up on relating  
9 to the phrase "without the use of drugs and surgery."  
10 And that obviously was an area of considerable  
11 discussion. However, I think it's important to note  
12 that that phrase only appeared only in a prefatory part  
13 of the previous standards. It was not actually in the  
14 requirements for accreditation itself. In other words,  
15 no accreditation decision was based solely upon that  
16 entity.

17           But we also had to deal with the pragmatic  
18 aspects of some states -- I'll use Oregon as an  
19 example -- which allows chiropractors to perform minor  
20 surgery. And there are other states that allow them to  
21 prescribe over-the-counter medications. And there are  
22 other states that have talked about expanding the

1 practice act. We've seen this in other professions,  
2 such as optometry, that went through very guideline  
3 migrations as well.

4           So from the get-go, the task force on the  
5 standards revision decided that it would not put  
6 limitations in the standards that would prevent an  
7 educational institution from teaching certain things,  
8 and that it would encourage programs to teach what they  
9 wanted to to satisfy their particular mission and  
10 purpose statements relating to the chiropractic  
11 profession.

12           Craig, do you have anything you want to throw  
13 on top of that?

14           DR. LITTLE: No. I think that that explained  
15 it very well.

16           DR. WICKES: I've heard a number of -- maybe,  
17 if there's any questions on that one, I'd be happy to  
18 take them, follow up on that particular subject area.

19           CHAIR STUDLEY: I think that's a fine idea.  
20 Let's see if there are any questions on that particular  
21 subject.

22           Frank?

1           MR. WU: Just one question. On the "without  
2 drugs" phrasing, we've heard from all of these other  
3 witnesses, who have suggested that fundamental to their  
4 understanding of what chiropractic is- is that it  
5 doesn't include drugs, surgery, et cetera.

6           DR. WICKES: Right.

7           MR. WU: And so even opening up the  
8 possibility -- and I know that there are states that  
9 would allow that -- but their claim is that once you  
10 open up that possibility, what you are offering is no  
11 longer chiropractic training. I wonder if you might  
12 respond to that.

13          DR. WICKES: Sure.

14          MR. WU: I don't know anything about this  
15 field myself, so I'm --

16          DR. WICKES: Right. And I understand that  
17 thought, that rationale. Unfortunately, if we went  
18 back to the early part of the 20th century, we would  
19 find out that diagnosis was also not to be considered a  
20 part of chiropractic. And so the profession has  
21 evolved over time.

22          But I think, most importantly, what we have

1 stayed away from, is telling an institution how little  
2 or how much they have to teach within their particular  
3 curricula.

4           They have to meet our minimum requirements,  
5 yes. But if an institution wants to have a pure,  
6 conservative agenda and they want to place a focus on  
7 generating practitioners that are highly competent in  
8 the detection and management of vertebral subluxation,  
9 there's absolutely no reason that institution cannot  
10 put forth that agenda, attract that kind of student,  
11 graduate that type of practitioner.

12           Now, the other side of that is, we have to  
13 have some cautions in there that relate to public  
14 safety and public health. In other words, it doesn't  
15 matter if a student goes to a college in  
16 Oklahoma -- there aren't any right now, so I can use  
17 that without being liberal or conservative.

18           If they go to the Oklahoma Chiropractic  
19 College, that doesn't mean they're going to stay in  
20 practice in Oklahoma. So Oklahoma may have a very  
21 restrictive practice act that says, you can only do  
22 manual manipulation of the spine for correction of

1 vertebral subluxation. But that same graduate could go  
2 to another state that has a much broader practice act  
3 that allows physical therapy modalities, allows active  
4 rehabilitation, nutritional supplementation, and so  
5 forth.

6           So without being able to control where those  
7 students go, we have certain things that we have worked  
8 with over the years with our licensing boards, with our  
9 task analyses, the job task analysis that the national  
10 board has performed and so forth, to help us figure out  
11 what it is that we should include as minimum levels of  
12 expectations in the curriculum of the chiropractic  
13 programs.

14           And we have one institution that has announced  
15 that it would like to seek prescriptive privileges for  
16 chiropractors. That's something that they want to  
17 advance as an institutional mission, and so forth. And  
18 we have said, we don't have any restrictions on that.  
19 If you want to teach prescriptive pharmacology, if you  
20 want to teach something like that in your curriculum,  
21 we're not going to prevent you from doing that. That  
22 seems to be the opposite of what higher education is

1 about.

2 That's a regulatory issue. That's a  
3 professional debate issue, and so forth. It's not an  
4 accreditation entity by itself.

5 MR. WU: May I followup, please, with one more  
6 quick question?

7 CHAIR STUDLEY: Frank, then Susan and Arthur.

8 MR. WU: This liberal/conservative dichotomy,  
9 did that preexist this controversy over your rule  
10 change? In other words, out there, the different  
11 schools, have they been categorized this way for some  
12 time?

13 DR. WICKES: It certainly existed when I went  
14 into college in 1973. So I'm guessing it existed long  
15 before that. So yes.

16 CHAIR STUDLEY: Susan?

17 DR. PHILLIPS: I'm understanding, I hope  
18 accurately, that this isn't the first time that you've  
19 heard these concerns. And I'm wondering what about the  
20 subluxation and the nature of the new standards. I'm  
21 wondering, in your process of arriving at new  
22 standards, how you incorporated the previous feedback,

1 the information that you had from the field.

2 DR. WICKES: Sure. Yes. Standard one  
3 or -- excuse me, draft one or draft two -- I can't  
4 remember which one right now -- the meta-competencies  
5 that were developed did not have specific language  
6 regarding the assessment or detection of subluxation in  
7 it. Okay? So that word didn't appear in there. What  
8 it said instead at that time, the meta-competencies  
9 said that you should deliver appropriate chiropractic  
10 adjustments.

11 So the think of the group at that time was, if  
12 it's appropriate, the practitioner obviously went  
13 through a process of evaluation, assessment,  
14 conclusion, and determining whether or not a  
15 manipulative procedure, the adjustment, should be  
16 rendered. But we got a lot of feedback.

17 We got very little feedback after draft one.  
18 We got a lot of feedback after draft two. After draft  
19 two came back in with a vocal outcry on that, we went  
20 back as a task force and said, what can we do to  
21 address this? And the meta-competencies that I read to  
22 you just a little while ago were added in there,

1 expanded upon. We made sure the term was in there to  
2 address that.

3           So we listened to it, and some of the vocal  
4 outcry, I think, is based upon misconceptions based on  
5 the previous drafts, not the final draft, not the final  
6 version of the standards.

7           MR. ROTHKOPF: My question, I think, was  
8 raised by the comments of the student and some of the  
9 others who appeared. And that is, how does a  
10 prospective student know whether he or she is going to  
11 a conservative, liberal -- the student interest here, I  
12 mean, we're training people. They're investing several  
13 years, lots and lots of money. How do they know what  
14 they're getting into, and is that clear at the outset  
15 and he doesn't find out after two years that I'm in the  
16 wrong kind of place?

17           DR. WICKES: Right. And that's a great  
18 question. It's difficult in some cases for students to  
19 make that determination because catalogues tend to kind  
20 of all begin to look alike over time. However, I think  
21 that there are plenty of schools that have promoted  
22 very heavily how they approach patient care.

1           So those schools that -- let's say the -- what  
2 do we call them? The conservative ones right now,  
3 those schools have a large amount of information on  
4 their websites, in their view books and their  
5 catalogues and so forth, that talk about their focus,  
6 their emphasis, upon the evaluation, detection, and  
7 management of vertebral subluxation.

8           The schools that might be on the more liberal  
9 side will talk in terms of holistic care or -- this is  
10 where it gets difficult. I remember working with a  
11 task force member from the Clinton Administration many  
12 years ago that was confused over the straight versus  
13 mixer concept, and I finally figured out that they were  
14 confusing that with heterosexuals and homosexuals.

15           (Laughter.)

16           DR. WICKES: So the terms are horrid no matter  
17 what we come up with. We don't have a good definition  
18 in the profession of what a straight or what a  
19 conservative practitioner is versus the other, and I  
20 think what you'll find is that they're all across a  
21 spectrum.

22           Students can look at that language. They can

1 talk to other students. They can look at the -- we  
2 have required disclosure information on every website.  
3 They have to have national board performance scores on  
4 the websites. You know, that type of disclosure  
5 information is out there. But most of it happens to be  
6 how the admissions department portrays itself.

7           What we do when we send a site team in is to  
8 look at whether or not they are delivering the program  
9 that they portray to be actually -- in other words, are  
10 they practicing what they preach?

11           MR. ROTHKOPF: But you don't regard it as your  
12 function to classify schools in either one or both of  
13 these categories?

14           DR. WICKES: Not at all. Not at all. And  
15 you'll find that the representation on the council  
16 right now has people that are from all walks of life.  
17 We've got several members that are there from very  
18 conservative schools, and we have no members on the  
19 current council that are from the one institution that  
20 is promoting the most pro-medical model.

21           So it's across the board. And the same thing  
22 was true with the task force. The task force had

1 representatives there that were either past or present  
2 officers from the ACA, from the ICA, from the  
3 Federation, from straight schools, from mixer  
4 schools -- we had quite a blend. And all of these  
5 things we have reached a consensus opinion on.

6 CHAIR STUDLEY: I have Anne -- thank you for  
7 your patience -- and then Cam.

8 MS. NEAL: Two questions. By telling us that  
9 you have not prohibited, in fact give institutions the  
10 autonomy to teach vertebral -- I'll get it  
11 right -- subluxation --

12 DR. WICKES: Correct.

13 MS. NEAL: But am I correct in understanding  
14 you don't require it? You don't prohibit them, but you  
15 don't require it?

16 DR. WICKES: It is -- the standards require  
17 that the students learn how to evaluate, understand the  
18 concepts of subluxation, how to assess for the presence  
19 of subluxation, and how to perform the vertebral  
20 adjustment to correct subluxation.

21 That's a part of our accreditation  
22 requirement. You cannot get accredited unless you show

1 that your students are competent in those areas.

2 MS. NEAL: And one of the fellows who came  
3 through earlier suggested that there was no way to  
4 measure whether, in fact, they obtained that knowledge.

5 DR. WICKES: Actually, it's gotten better with  
6 the 2012 standards than it was in the past. 2012 (sic)  
7 was heavily dependent upon -- the one requirement, for  
8 example, was that you had to render 250 spinal  
9 adjustments -- 2007. That was a quantitative  
10 requirement. It didn't say on how many different  
11 patients. It didn't say what types of conditions you  
12 were treating. It was just a pure number that was out  
13 there.

14 The new emphasis is upon developing competency  
15 matrices that the institutions can go through and  
16 demonstrate that the students have actually achieved  
17 the skills in all different levels -- the psychomotor  
18 skills, the cognitive understanding of it, and the  
19 meta-competency, where it puts it all together.

20 So there's a greater emphasis. If you look at  
21 what the institutions right now are worried about, it's  
22 transitioning from just counting heads to actually

1 being able to prove that their graduates are competent  
2 in all of these different areas. So there's a very  
3 heavy emphasis upon the assessment programs of the  
4 institutions.

5 MS. NEAL: And then a final question. Looking  
6 at your policy manual, in your preface, your very first  
7 bullet point is that you are training to practice  
8 primary healthcare. A need as I understand it, this is  
9 sort of a new term.

10 Instead of saying practice chiropractic, now  
11 it says practice primary healthcare because there is a  
12 bill coming down the road that will go into place where  
13 primary healthcare will be potentially more lucrative  
14 than just chiropractic.

15 I'm just trying to figure out how much of this  
16 movement is being directed by extraneous laws --

17 DR. WICKES: Right.

18 MS. NEAL: -- that may address this as opposed  
19 to the educational quality issue.

20 DR. WICKES: Yes. First of all, the language  
21 regarding primary care in chiropractic is not new in  
22 the 2012 standards. It's been there for probably two

1 decades. So that has not significantly changed.

2 In fact, some of the input we got back -- I  
3 think it was draft two of the standards -- a couple of  
4 the words had been reversed from the previous draft,  
5 and we heard back from people on that. And we said,  
6 well, we'll go back to what we used in the 2007  
7 standards. So that hasn't changed.

8 So you'll find that from -- some institutions  
9 were founded on the idea that the care -- the providers  
10 that they are graduating are very broadly trained. And  
11 other institutions were founded on a much more narrower  
12 scope. That's been the case for a hundred years.

13 CHAIR STUDLEY: Cam, and then Brit.

14 MR. STAPLES: I just want to follow up on your  
15 comment around the fact that you were not  
16 de-emphasizing subluxation in your draft. Obviously,  
17 people have a different opinion about that here.

18 What was the purpose of the language change,  
19 then? Was it to broaden and permit, as you  
20 said -- with elimination of the drug prohibition, was  
21 it to allow schools to expand their curriculum into a  
22 more medical arena without explicitly saying that?

1           DR. WICKES: No. In terms of the drugs and  
2 surgery part, much of the thinking on that had to do  
3 with not wanting an institution to feel that it could  
4 not teach those things. For example, to get licensed  
5 in Oregon, you have to show that you have been trained  
6 in principles of minor surgery.

7           So the institution in Oregon includes that as  
8 part of its curriculum. Other practitioners that come  
9 into Oregon have to do some sort of class that is  
10 administered through the licensing board.

11           But we don't want to put that institution in  
12 the position where it is in violation of the standards  
13 because they're teaching minor surgery in their  
14 curriculum so that their graduates can get licensed in  
15 the state that they're domiciled, we don't want them to  
16 feel as if they're violating the standards.

17           And the other part of the discussion had to do  
18 with this particular phrase that was in there was not  
19 one upon which we were routinely doing a site team  
20 evaluation and making an accreditation decision on. So  
21 it wasn't serving an evaluative purpose for the agency.

22           MR. STAPLES: Maybe I wasn't clear. I was

1 using that as an example of how you removed that to  
2 permit schools to do it. What I'm asking is why did  
3 you make the language change around subluxation if  
4 you're saying it wasn't to minimize it in the  
5 curriculum? What was the purpose of that change? Was  
6 it to broaden what schools could teach beyond that, or  
7 what was the purpose?

8 DR. WICKES: In terms of subluxation, there  
9 was no real change. The 2007 standards had a section  
10 on competency evaluation for assessment of spinal  
11 function, spinal subluxation, and the 2012 section has  
12 it as well.

13 Where the difference is is that we actually  
14 took work that was done in Scotland in terms of  
15 meta-competencies as it is approached in the health  
16 professions, and we basically made our competency  
17 document more contemporary by dividing it into  
18 meta-competencies and required components and  
19 characteristics of evidence.

20 So the term "subluxation" transferred over  
21 from the old standards into the new meta-competency  
22 policy. That has remained the same, so that the

1 expectations for students to achieve those things was  
2 there in 2007 and is in the 2012 document as well.

3 MR. STAPLES: It seems like quite a bit of  
4 misunderstanding occurring around that, if that's the  
5 case. But okay.

6 CHAIR STUDLEY: Brit?

7 DR. KIRWAN: Thank you. Your governing body  
8 you call the council? Is that correct?

9 DR. WICKES: Yes.

10 DR. KIRWAN: One of the points made today was  
11 that the perception is, at least on the part of some,  
12 that the council has become a clique, a group of people  
13 that just have a lifetime appointment, in effect. It  
14 doesn't turn over, and you reorganize, and they just  
15 continue to serve on the council.

16 Is there substantial turnover on the council?

17 Is there opportunity for new points of view to come  
18 on? Et cetera, et cetera.

19 DR. WICKES: I am incredibly thrilled to be  
20 able to say that on January 15th, I will be off the  
21 council.

22 (Laughter.)

1           DR. WICKES:  So I don't have to come back here  
2  again.  We have a substantial turnover in the council.  
3    Our public members, for example, were appointed  
4  in -- let's see, I'm looking at 2006, and that public  
5  member, although he's eligible for another  
6  term -- members can serve for up to three three-year  
7  terms total, a nine-year duration.  That's the cap on  
8  it.  But we also -- he did not run for reelection and  
9  so he'll be off.  So he will have only served since  
10 2006, six years.

11           Another one of our members came on in 2007, a  
12 public member who's a former vice president of a major  
13 university.  Let's see.  We have a vice president from  
14 SACS who is serving on our council as well, and he has  
15 been serving since 2007.

16           DR. KIRWAN:  Maybe just a way to -- in a given  
17 year, how many new people would come on the council?

18           DR. WICKES:  Anywhere from one to three,  
19 maybe.  Dr. Little is the chair of the council  
20 development committee.

21           DR. LITTLE:  We have a process where  
22 approximately seven councilors will be elected from the

1 member programs. So that is something. And the  
2 remainder -- and of those in the member programs, at  
3 least two or three were termed out. I believe it's  
4 approximately three. So those will be replaced with  
5 someone new to the council.

6 Also, in this year the process was to try to  
7 elicit candidates with higher education experience or  
8 experience on an accrediting agency. So we sought that  
9 type of a call for public members.

10 We have an election going on now. So that  
11 will have at least one or two public members that will  
12 be elected from the council as a whole that will be  
13 coming on. So this year we actually will have several  
14 new faces.

15 DR. KIRWAN: Okay. One other real quick  
16 question. You've presumably been sitting in the  
17 audience listening to the comments. You serve a  
18 community, and there seems to be a lot of unhappiness  
19 in the community.

20 In just listening to the comments, do you have  
21 any take-aways or anything -- do you have any things  
22 that you think the organization needs to do to address

1 this concern? Or do you think --

2 DR. WICKES: Sure. Recently I had  
3 conversations with both the ACA and the ICA, and  
4 pointed out that although many other organizations sent  
5 out invitations to the task force to appear in front of  
6 those bodies and discuss the new standards as they were  
7 being developed, neither one of those groups actually  
8 extended an invitation to the CCE.

9 And that was something we just have to fix  
10 next time. We'll be more pressing on them to make sure  
11 we get our foot in that door and have an opportunity to  
12 meet with them.

13 We did meet in dozens of places to try and get  
14 the word out. Unfortunately, we did not anticipate  
15 much of the social media applications that were out  
16 there because a lot of what was circulated -- and we  
17 even heard some of that today.

18 We heard about the high student loan default  
19 rate. The student loan default rate right now, the  
20 federal cohort default rate for the profession, is  
21 about 3.2 percent. And compare that to the national  
22 average of 8.8 percent. So it's not doing bad.

1           But you'll hear things such as 58 percent of  
2   chiropractors have defaulted on their loans. And in  
3   actuality, that number is based on the HEAL loan  
4   program from 1998 vintage, at which time, of those  
5   doctors, of all the health professions that were in  
6   default, 58 percent of them were chiropractors. So  
7   that's a far cry from what we have seen in the public  
8   press, and it's hard to battle that type of thing.

9           We were behind the times on that, and we'll do  
10  a better job of getting information out and sharing it.

11   So that's a big take-away that we have, is we just  
12  need to talk more with all of the groups. We've been  
13  pretty good at accepting invitations from those people  
14  that have extended them to us.

15           DR. LITTLE: The other thing we do is we  
16  annually survey our DCPs. And this is an anonymous  
17  survey, so each one of the chiropractic colleges gets a  
18  survey form and it asks questions about how the CC is  
19  performing, what improvements they want to make, and so  
20  forth. What we don't get back is anything relating to  
21  fear, trepidation, intimidation. We don't hear that.

22           Licensing boards are surveyed. We do a number

1 of surveys out there as well.

2 CHAIR STUDLEY: Can I just ask, to whom do the  
3 responses to that survey go? You mentioned that it was  
4 anonymous. I'm just wondering how it's processed and  
5 whether people are aware of the confidentiality.

6 DR. WICKES: It comes into the council itself.  
7 The council discusses it. And other than at the open  
8 business meeting when we announce that the council  
9 development committee has reviewed the standards -- or  
10 reviewed the surveys, and here's how many surveys we  
11 got back, here's what we heard, we don't go through and  
12 detail out all the items.

13 DR. LITTLE: Actually, we do.

14 DR. WICKES: Oh, did you last time?

15 DR. LITTLE: Actually, we do. Staff  
16 accumulates the data. And also, with regard to  
17 specific outcome questionnaires that we ask, we  
18 tabulate that data and we use it for board improvement.  
19 And we set out -- so really, as part of our planning  
20 for board improvement, we use the criteria -- any  
21 questions that programs have that they'd like to see  
22 certain information on.

1           It helps us. It helps us in planning for the  
2 next year. And we do it annually.

3           CHAIR STUDLEY: Susan, then Arthur, have  
4 comments.

5           DR. PHILLIPS: A question, actually. The  
6 student who had presented earlier described a process  
7 for the selection/election/balloting for new council  
8 members. Could you walk us through how new council  
9 members are arrived at from soup to nuts?

10          DR. LITTLE: Certainly. I mentioned a little  
11 earlier that approximately seven of our council  
12 membership are elected from program representatives.  
13 The council development committee sends -- actually,  
14 through staff -- sends out a call for nominations.  
15 That goes exclusively to the member programs.

16          Those come forward, and consistent with our  
17 policies, we have -- it's really a seat. So there may  
18 be an incumbent in a seat, and we try to match  
19 applicants with similar qualities and similar  
20 experiences for a given seat. So there may -- and  
21 typically, there will be several individuals that will  
22 be run off processes if we -- in order to obtain a

1 majority vote.

2           For the remainder of the councilors, we also  
3 send out a call for nominations. It goes forward to  
4 all 50 states' professional associations. It goes to  
5 the national chiropractic organizations. It goes to  
6 the Federation of Chiropractic Licensing Boards  
7 generally and also all 51 or -2 licensing boards in  
8 each state, a call for nominations. And also, we do  
9 note it on our website.

10           We take the nominations, and if it's obviously  
11 for a public member, we'll categorize and we'll  
12 have -- we have two seats for public members that are  
13 current -- they're current or practicing DC  
14 members -- and try to align candidates with similar  
15 qualities or qualifications to run in that election.  
16 Those are voted on by the board as a whole.

17           DR. PHILLIPS: And could you describe -- in  
18 both instances, you mentioned -- both the institutional  
19 and the larger nomination process, there's a matching,  
20 filtering process, some kind of characteristics that  
21 the nominating board is looking to match. What kind of  
22 characteristics are those, and how are they arrived at?

1 DR. LITTLE: Well, typically, first of all we  
2 have to match people that are applying for public. And  
3 typically we will put all of the candidates in there  
4 and the board votes them on the whole. They might not  
5 get the majority the first go-around, but eventually  
6 we'll narrow it down to two and they'll be voted on.  
7 Typically we include all people in a specific category,  
8 according to whether they're public, a practicing DC,  
9 or from an institution.

10 And then we have several -- for example, if we  
11 have several that are like institutional, if one  
12 particular seat has experience in higher education or  
13 administration, one might be more in quality assurance  
14 or clinic-based, we try to match candidates so that we  
15 have a broad representation eventually on the council  
16 with people with experience in finance, with people  
17 with experience in clinical practice, with people -- so  
18 we have all of those tools available to us.

19 DR. PHILLIPS: So you have, in effect, a  
20 finance seat, a practice seat, a quality assurance  
21 seat?

22 DR. LITTLE: Not in name. But we try

1 to -- that's what the committee tries to eventually  
2 obtain by way of experiences. We set out a call: We  
3 need -- frankly, especially now in present times, we  
4 need candidates with financial experience, either CFOs  
5 or CPAs. So we do send out a special call for that,  
6 and if we get candidates like that, we'll tend to group  
7 them together.

8 DR. WICKES: Within the council itself, there  
9 are four categories of councilors. One category is  
10 seven people that are employees of the chiropractic  
11 colleges. Another category are private practitioners.  
12 Another category are public members. And then the  
13 fourth category is at-large, that can be any of those  
14 others.

15 So those types of seats have to be filled, by  
16 absolute bylaw definitions of what a public member is.

17 But within -- going beyond that, we then say, what  
18 characteristics are we seeking to fill those particular  
19 positions? So if a public member -- we might want to  
20 have someone with expertise in law, or expertise within  
21 higher education, or something like that.

22 DR. PHILLIPS: And one last one before I go.

1 Are those characteristics that you're seeking made  
2 available in the nomination process? We're looking for  
3 law; we're looking for --

4 DR. WICKES: Yes. They're posted on the call  
5 for nominations that goes out to all the places that  
6 Dr. Little described. So that's put in there. So we  
7 have -- the call for nominations includes not only the  
8 categories that we're seeking nominations for --

9 DR. PHILLIPS: Those four categories?

10 DR. WICKES: -- but also the characteristics  
11 within each of those categories that we're looking for,  
12 particular traits.

13 I'll also mention that -- part of your  
14 question, the student raised the issue. That  
15 particular student is from a program, I believe, from  
16 Life West. And that particular institution has two  
17 councilors that are currently serving on the council.

18 CHAIR STUDLEY: Art Keiser, and then Art  
19 Rothkopf.

20 MR. KEISER: Just to follow up on Susan's line  
21 of questioning, who is "we"? When you talk about  
22 the -- is it a nominating committee?

1 DR. LITTLE: For the election process? It  
2 goes --

3 MR. KEISER: You have seven school members.  
4 So you have 25 people who submit their name to be on  
5 the commission. Who whittles that down, and to how  
6 many people, and then who votes on that?

7 DR. LITTLE: Essentially, there will typically  
8 be two seats because how it rotates, it's typically  
9 two. And, for example, for an even number, let's say  
10 that ten come forward. We would typically put five in  
11 each and try to keep it round for each seat.

12 And where we would place them would perhaps be  
13 with individuals according to the characteristics.

14 MR. KEISER: Who's "we"?

15 DR. LITTLE: The council development  
16 committee. There's a development committee on the  
17 council that is currently comprised of approximately  
18 seven individuals.

19 MR. KEISER: So seven -- you have a total of  
20 12 members --

21 DR. LITTLE: Twenty-four members.

22 DR. WICKES: Twenty-four.

1           MR. KEISER: Twenty-four members. And who  
2 appoints the council development council?

3           DR. WICKES: That actually goes through a  
4 process of, first, the election of the committee  
5 chairs. So, for example, in January we'll go through  
6 and the full council will decide who the new committee  
7 chairs are.

8           And then we will -- we're in the process right  
9 now of putting out a poll to all of our councilors to  
10 find out what interest they have in serving on  
11 different committees. And then we look at our bylaws  
12 in terms of how long they can serve on a given  
13 committee; we have to rotate people off of that.

14           When we get all said and done, we usually,  
15 between the council chair and the committee chair, we  
16 come up with a tentative slate. We approach these  
17 people. If they're interested, we then take that back  
18 to the full council, and we require a vote from the  
19 full council appointing these people to any of the  
20 committees.

21           MR. KEISER: That's a complicated process.  
22 One of the -- and I came in late because I had another

1 prescheduled meeting. But one of them said that it is  
2 not fair that certain people have been on the council  
3 for over ten years.

4 Does this process weed that out, or does it  
5 enhance the maintenance of certain members to the  
6 commission?

7 DR. WICKES: There are very few people that  
8 have served that length of time on the council. And  
9 one of the things that we were diligent about when we  
10 formed -- in 2009, when we had the new bylaws approved  
11 in 2009 and merged the two boards together, the board  
12 of directors and the commission on accreditation, is we  
13 said we would not start the clock over on any of those  
14 people.

15 So they did not get things. In fact, the  
16 first group of officers that were elected ended up with  
17 abbreviated terms because of that process. The bylaws  
18 are three three-year term cap.

19 MR. KEISER: Then they have to cycle off?

20 DR. WICKES: Right. Now, they're --

21 MR. KEISER: Is there anybody -- has that  
22 person -- you mentioned two people -- I think one of

1     them was you or somebody --

2             DR. WICKES:   Well --

3             MR. KEISER:   That had been on for a very long  
4     time?

5             DR. WICKES:   Yes.   That was also a  
6     misstatement, or at least it was a partial statement.  
7     At one point, I was on the board of directors, which  
8     was the non-accreditation decision-making body.  That's  
9     what role I was playing at the time that the Life  
10    University situation came down.  I was not on the  
11    decision-making body that reached that.

12            And then I was off for a couple of years from  
13    all activities relating to the CCE.  And then I got  
14    reelected in 19 -- excuse me, in 2006.  I got reelected  
15    to the commission.  And then I'm cycling off,  
16    thankfully.

17            I was just looking at the roster.  Maybe Mr.  
18    Bennett can help me out.  There's probably four or five  
19    people that had been around at the time of the Life  
20    University decision, do you think?

21            MR. BENNETT:   Not that many.  Maybe a couple.

22            DR. WICKES:   All right.  Two or three people

1 that were there that are currently serving. And those  
2 people are all terming out this year as well.

3 MR. KEISER: Have they recycled, or have they  
4 been off completely?

5 MR. BENNETT: Since what period of time?

6 MR. KEISER: 2002.

7 DR. WICKES: They would have -- I can't answer  
8 the question. I don't know because I wasn't there at  
9 the time.

10 MR. BENNETT: Dr. Keiser, let me just answer  
11 this. Before the restructure in 2009 when they moved  
12 the terms from three years, three terms, nine total,  
13 prior to that and ever since the inception, I know back  
14 into the '80s and '90s, there was only two terms for  
15 three years. It was only six years. So up until 2009,  
16 you could only be on any body for six years total.

17 MR. KEISER: But the current -- are any of  
18 these people who have been there for at least ten  
19 years?

20 MR. BENNETT: Well, like Dr. Wickes said, he  
21 was on the board in 2002. And we have one individual I  
22 see at the top of the list that was on the board as

1 well at that time. And then during the restructure, he  
2 combined on the council. But he was never ever on the  
3 commission. So he's only been in the decision-making  
4 process for the last two years.

5 MR. ROTHKOPF: I'd like to address a question  
6 that really hasn't been discussed by any of the outside  
7 individuals, and I'd like you, if you would, respond  
8 to. And that is, as I read the report here more than  
9 two or three times, I was struck by 41 deficiencies.

10 Some of them might fit in what was described  
11 as the picky category, but many are not. And I guess I  
12 came away with a sense that there was a sloppiness  
13 involved here.

14 Examples of a document that was supposed to be  
15 downloaded that we couldn't get. It wasn't an exhibit.

16 A site visit is supposed to be made in six months, and  
17 the institution opened a branch in 2009 and the site  
18 visit didn't take place till 2011.

19 And I came away saying -- and we've only  
20 had -- this is the third session of this newly  
21 reconstituted NACIQI. But I'd say you've -- I think; I  
22 don't think I'm wrong -- you've hit the jackpot in

1 terms of the number of deficiencies. And you've had  
2 time to address them.

3 And I guess I'd ask you, why 41 deficiencies?

4 DR. WICKES: As I look at them, many of them  
5 are related.

6 MR. ROTHKOPF: Are what?

7 DR. WICKES: Are related. Some of them I  
8 would strongly contest, but we have opted not to  
9 because it's just going to be easier for us to go ahead  
10 and provide additional documentation as we go down the  
11 road.

12 The ones that I was most sensitive to had to  
13 do with conflict of interest. And as we drill down  
14 into the staff analysis on that, we find that the  
15 problem is not in terms of us having public members who  
16 have conflicts of interest, but the fact that our  
17 process is one that leaves it open to interpretation  
18 that these people are not declaring all their conflicts  
19 of interest.

20 For example, at the beginning of each of our  
21 meetings, we have them fill out a form, a conflict of  
22 interest form, which has all the different conflicts of

1 interest. But at the bottom of that form is a check  
2 box that says, "My declarations have not changed since  
3 the previous time." And we include with that document  
4 a copy of the spreadsheet that shows all of the  
5 declared conflicts.

6 But that was cited as a noncompliance issue  
7 because there's an opportunity for someone to perhaps  
8 not read the spreadsheet. So we can fix that. That's  
9 an easy one. We'll white out the little box that says,  
10 you know, same as before, and we'll go from there.

11 The substantive change one had to do with  
12 a -- there's probably four or five issues relating to  
13 sub change. And that's because most of those things,  
14 as an agency, we never had to deal with and probably  
15 never will. But we blew it in terms of not having a  
16 policy to cover them all. But we'll fix that.

17 We went through a teach-out process this year,  
18 and you heard one of the presenters earlier today talk  
19 about an institution that went through a teach-out.  
20 That was one where the institution approached us and  
21 said, hey, we've changed our mind.

22 We had actually reviewed their process, looked

1 at them. We'd raised some areas of interest with them  
2 in terms of their total enrollment and, more  
3 importantly, in terms of their performance on national  
4 board scores. But it was not actionable at that point.

5 But they at some point after that meeting  
6 decided that they were going to go ahead and close the  
7 campus because they looked at their enrollment  
8 projections, they looked at their financial forecast,  
9 and said, you know what? We're going to close this  
10 operation down.

11 Our teach-out policy was written a decade or  
12 so ago and did not include many of the things that we  
13 wanted it to do. But instead, we worked with that  
14 program and we put the program that was going to be  
15 going through the -- that had agreed to do the  
16 teach-out itself, we put them through a substantive  
17 change process.

18 And we worked with both institutions to make  
19 sure it happened. And then we turned around and  
20 rewrote the brand-new policy on teach-outs that will  
21 address all four or five deficiencies that have been  
22 cited by staff. There's not a single one that we could

1 take disagreement with from the staff analysis. We  
2 know that it's flawed. And we've got it fixed.

3           The teach-out was another interesting example  
4 of the issue relating to the two camps within the  
5 profession because we had one school that was in the  
6 conservative camp that then turned around and  
7 contracted with one school that's at the other end of  
8 the philosophical spectrum to do the teach-out.

9           And so all of those students went over there.  
10 They're all performing very well. The educational  
11 core curriculum was the same between the two  
12 institutions, although one may have had a different  
13 philosophical emphasis, but the students are performing  
14 well, and that was our concern, is to make sure that we  
15 could guarantee the students had every chance of  
16 success in that process.

17           So yes, I don't like the idea that we've got  
18 these deficiencies. We're working very hard. Most of  
19 them are policy changes, and most of those will be  
20 fixed at our January meeting. And we will have them  
21 all fixed within a very short period of time.

22           CHAIR STUDLEY: You may not believe this, but

1 I am mindful of the time, but thought that this was  
2 important enough for us to be able to pursue it.  
3 Unless other Committee members have critical questions,  
4 I'd like to hear the Department's staff response at  
5 this point. And then we will have an opportunity for  
6 discussion.

7           If you wouldn't mind staying with us in case  
8 there are questions during the discussion period, that  
9 would be helpful.

10           Rachael?

11           Dr. SHULTZ: Throughout this process over the  
12 many years that we have worked with this agency, the  
13 Department has studiously tried to avoid taking sides  
14 in this argument, which has been ongoing. So I'm not  
15 going to comment on any of the remarks that were made  
16 today except on things that would have to do with the  
17 Department's participation in the process.

18           I heard one commenter describe my analysis in  
19 terms that really boggled my mind. I thought that it  
20 was very mischaracterized, and I felt that this person  
21 was putting words in my mouth that had not come out of  
22 it. And on a professional level, I resent that.

1           One word in particular that he used was he  
2   said that my analysis had said that the agency had  
3   turned in suspect documentation or information. I  
4   don't remember his exact wording.

5           I would like to go on the record as saying  
6   that I do not feel like the agency has tried to pull  
7   the wool over our eyes, that they have been very open  
8   and cooperative with us.

9           I particularly appreciate the fact that on  
10  their policy changes, instead of trying to bluff their  
11  way through it, which some agencies sometimes do, they  
12  just said, we see that there's a problem and we will  
13  work with you to fix it. And I really, really  
14  appreciate that.

15          One other thing I would like to point out. In  
16  listening to the comments this morning, I heard  
17  numerous commenters say, the last time the agency came  
18  before the Committee, they only had four findings. And  
19  this time they have so many more, and this indicates  
20  their total disrespect or disregard of the Department  
21  and the Committee.

22          And I would just like to remind everyone that

1 the last time the agency came before the Committee, we  
2 were under the old HEA, and the agency had been through  
3 that same set of regs more than one time. So it makes  
4 sense that after you've been reviewed under the same  
5 set of regs more than one time, you've cleaned up most  
6 of the problems. There's not much left to take care  
7 of.

8           So typically, over a period of time -- and the  
9 HEA was in effect for a number of years, longer than, I  
10 think, any of us expected it to be -- as the years go  
11 on, there are fewer findings because they've already  
12 been addressed by the agency.

13           So while there's no arguing that there were a  
14 number of findings this time, I would like to remind  
15 everyone that we are under a new set of regulations  
16 this time, and that it is typical for an agency to have  
17 more findings when we have a new set of regs because  
18 there are new requirements and we have a lot more  
19 requirements under the HEOA than we had under the HEA.

20           So that's all I have to add. Thank you.

21           CHAIR STUDLEY: Thank you.

22           I'd like to turn back to the two Committee

1 members who led off and were the primary readers for  
2 this agency, Frank Wu and Arthur Rothkopf, and see if  
3 you would like to add anything, whether you have any  
4 summaries or suggestions as we begin our discussion  
5 among ourselves.

6 MR. ROTHKOPF: We've had a pretty full  
7 discussion here. I think everything has probably been  
8 said. I think Frank, at a point either late this  
9 morning or early this afternoon, put out, I think, the  
10 four issues that are here, at least that are being  
11 discussed by those who presented. And of course, there  
12 were some, I think, four or five who came in in support  
13 of re-accreditation.

14 I don't know if I have anything to add other  
15 than just say again -- I take Rachael's point that  
16 agencies have had the -- these are new rules. But I  
17 think there are probably a disproportionate number  
18 of -- what do you want to call them -- failures to  
19 comply or deficiencies, however we want to characterize  
20 them.

21 And I find that troublesome, not going to the  
22 heart of some of the questions, but really as to

1 responsiveness and care with which this process has  
2 been run. I take Rachael's points. But I do think  
3 there's, at least in my mind, an issue there.

4 Frank?

5 MR. WU: I just wanted to observe very briefly  
6 just two points. The first is, entirely separate from  
7 the philosophical dispute, the liberal/conservative,  
8 straight/mixer issues, there are the issues that  
9 are there and that have nothing whatsoever to do with  
10 the controversy in the field.

11 The second comment is just about the many  
12 states that look to this body as part of their  
13 licensure. And it's not just in this field; there are  
14 many other fields where that's true, where there is  
15 some accrediting authority that comes within our aegis  
16 that the states look to.

17 I think that's important to weigh and to look  
18 at that is meaningful. But we shouldn't just take that  
19 as dispositive because I think the states rely on us to  
20 be performing a safeguarding function, and if we look  
21 to the states and assume that they're performing that  
22 function, then each is looking to the other. And so

1 there is some independent check that we have to be  
2 doing something to look at these different rules and  
3 whether they're being met in this case.

4 That said, I would think that, on the whole,  
5 they are being met.

6 CHAIR STUDLEY: Would you like to make a  
7 motion at this point and then have discussion, or hear  
8 the discussion first?

9 MR. WU: I'm happy to make a motion, except I  
10 don't remember the language.

11 (Laughter.)

12 CHAIR STUDLEY: Well, perhaps we can --

13 MR. WU: And I think I'm not alone in not  
14 remembering the exact language. By the time we're  
15 done, we will all know this language.

16 CHAIR STUDLEY: How about if -- it's up and --

17 M O T I O N

18 MR. WU: Great. I adopt what's on the screen.

19 CHAIR STUDLEY: Are there members of the  
20 committee who would like to speak to this subject?  
21 Anne, Cam, George.

22 Let me also note, somewhat belatedly, that

1 Federico has joined us. He was not here this morning  
2 to introduce himself, but would you please do so now?

3 DR. ZARAGOZA: Federico Zaragoza. I'm from  
4 San Antonio Alamo Colleges.

5 CHAIR STUDLEY: Thank you very much.

6 So Anne, Cam, George -- let's start with that  
7 and see whether anyone is moved.

8 MS. NEAL: Mine is a question, really, for the  
9 staff. We've heard a number of individuals say that  
10 there should be a message sent that this is of singular  
11 concern, and it's not just like all the rest.

12 As I look at our various options, am I correct  
13 in understanding that essentially they are to do as is  
14 proposed, or to deny recognition? Is that correct?

15 Dr. SHULTZ: No. You've been given sample  
16 motion language, but you can make motions that are in  
17 accordance with what your evaluation leads you to. You  
18 might, for example, modify and say you wanted a  
19 compliance report, but you wanted to -- you  
20 found -- you believe they're in compliance with eight  
21 of the findings, and so that compliance report would  
22 not include those. You could also put it as "the sense

1 of the committee that" kind of language in there, I  
2 would think.

3 MS. NEAL: Many of them requested deferring a  
4 decision, for instance.

5 dr. SHULTZ: Well, that would be a decision on  
6 renewal of recognition. And a decision -- well, I'll  
7 let Sally that one.

8 MS. WANNER: The place of the deferral has now  
9 been taken by the continuation. So, I mean, it would  
10 just be a wording difference anyway because what you're  
11 doing, unless you want to cut off the agency, is  
12 continuing their recognition. I would say if you want  
13 to express some sort of disapproval, you can do so.  
14 You can say that in your motion.

15 MR. ROTHKOPF: Could I make another suggestion  
16 here? And I'm not sure I'm in favor of it, but let me  
17 put it on the table. And it was raised by some of the  
18 presenters, and that's that the language say that  
19 NACIQI recommend that CCE's recognition be  
20 provisionally continued, and then have the rest of it  
21 there, making it different from some of the others and  
22 giving at least some countenance to what's been

1 discussed here, and to frankly my own concern that  
2 there are more issues presented here than should have  
3 been.

4           They would be continued; you wouldn't cut  
5 anyone off. But I think it would send some message  
6 that something has to happen.

7           MR. WU: I'm fine with that.

8           CHAIR STUDLEY: So the order I've got was Cam,  
9 George, and Art Keiser. You want to let him speak  
10 to -- go ahead, since it seems to be on point.

11           MR. KEISER: Just on this, I'm not sure. I  
12 think we either continue or deny. I'm not sure we have  
13 a provisional. I would be more comfortable if, in the  
14 motion, you brought up some of the concerns, and to  
15 highlight the concerns that you have, whether it be  
16 transparency or whether it be opening of their  
17 political process.

18           But whatever it is, I think that would be more  
19 appropriate than trying to move them to something that  
20 we don't have, which is a provisional status.

21           CHAIR STUDLEY: Cam, and then George.

22           MR. STAPLES: Thank you. Just for starters,

1 I'd like to agree with what Art said. And whatever  
2 that list of things is, that we might just say, and in  
3 particular, or in addition to the agency's list of  
4 recommendations, we will take particular notice of how  
5 you address your conflict of interest issues raised in  
6 the report, or how you address other things.

7           One thing that I want to mention that I would  
8 like to add to the list of things is that -- and  
9 perhaps I should start by asking Rachael about  
10 this -- is the 602.13, the recognition criteria, the  
11 question of whether the agency represents a wide  
12 consensus of the chiropractic community. And the  
13 standard talks about every actor within that  
14 community -- educators, institutions, licensing  
15 authorities.

16           And I have no way of measuring that. I'm not  
17 persuaded -- let me just put it out there -- I'm not  
18 persuaded that they represent a wide consensus. And I  
19 realize a process like this is not easy when you have  
20 all the negatives who come and not the positives, and I  
21 realize that sometimes you can walk away with a  
22 misimpression.

1           But at least from where I sit, that ought to  
2 be something that we add to the list of things that  
3 they justify in the report back to us. I would like to  
4 see more demonstration by the agency that their  
5 standards and that their status as an accrediting  
6 authority does represent a consensus of the actors that  
7 they are required to for our recognition.

8           Because it's a concern of mine that they  
9 represent half of the constituency and the other half  
10 is not represented. And I think that's a valuable  
11 thing for us to know.

12           So I would just say, maybe -- I would ask  
13 Rachel if you had -- when you reviewed that criterion,  
14 you obviously didn't think that was --

15           MS. SHULTZ: We were satisfied that they met  
16 it. We did not have a finding in that area.

17           MR. STAPLES: And I realize that. Okay. So  
18 you have nothing more -- okay. I would just say that  
19 I'm not satisfied and I would like to see us to ask  
20 that for further amplification by the agency on that  
21 point for our next meeting or at the end of the 12  
22 months, consistent with the rest of the motion.

1           DR. FRENCH: Madam Chair, I think most of my  
2 colleagues actually addressed the issues that I was  
3 concerned with. To be very honest with you, while the  
4 third party comments were compelling, I think it was  
5 almost a red herring because I think the issues are the  
6 41 recommendations. If we had dealt with those,  
7 perhaps some of their concerns would have been more  
8 appropriately addressed.

9           So I'm concerned about the language. And I  
10 was wondering also, do we have other options? We're  
11 dealing with 41 basic recommendations. And I was glad  
12 to hear your question, Frank, about whether or  
13 not -- or Art -- whether or not they can deal with  
14 those 41 recommendations within the next 12 months.  
15 That's really what I'm wondering. So I'm just looking  
16 for an option or some tweaking of that motion also.

17           CHAIR STUDLEY: Art Keiser, did you have  
18 language or a suggestion about how to accomplish what  
19 you were describing? Because there was some agreement  
20 that that was attractive.

21           MR. KEISER: No. I think Cam got to the  
22 point. There are certain issues that are concerns, and

1 we address them in the motion, that the agency pays  
2 particular attention to in resolving and satisfying  
3 those when we get this back a year from now.

4 CHAIR STUDLEY: One possibility, since my  
5 colleague here is drafting away and people are  
6 thinking, it has been quite some time since we had a  
7 break. And let's see if there are comments that  
8 anybody on the Committee wants to make to enlighten us  
9 as a group, and that would give the members of the  
10 Committee, if they want to just think about what they  
11 would procedurally like to propose from here.

12 Let's come in ten minutes, and we will -- I  
13 believe we're close to completing this agency. I  
14 appreciate the patience of others who are waiting to  
15 appear this afternoon. We will handle all of your  
16 agencies as scheduled today.

17 So we will take a break for ten minutes. Ten  
18 of 4:00. Thank you very much.

19 (A brief recess was taken.)

20 CHAIR STUDLEY: When we complete this agency,  
21 I will make an announcement about the order of the  
22 agencies to follow. But let's pick up the discussion,

1 and I'd say back to you, Arthur and Frank, to see if  
2 you have a suggestion.

3 MR. ROTHKOPF: Yes. Thank you, Jamie. We  
4 have a revised motion which I would say represents a  
5 consensus of myself, Frank, and Cam. And I think Anne  
6 was also a part of it. But anyone can dissent from  
7 that once you read it.

8 It basically adds to the usual language a  
9 sentence that says, "In addition to the numerous issues  
10 identified in the staff report, NACIQI asks the agency  
11 to demonstrate compliance with Section 602.13 dealing  
12 with the wide acceptance of its standards, policies,  
13 procedures, and decisions, and to address how its  
14 standards advance quality in chiropractic education."

15 CHAIR STUDLEY: And I note that you read a  
16 helpful word that's not in the text. So if the person  
17 with the computer capacity would just add the word "to"  
18 before "address" on the last line, it would save us  
19 later having to parse the sentence.

20 MR. ROTHKOPF: To address.

21 CHAIR STUDLEY: Karen, thank you very much.

22 Would any Committee members like to discuss

1 that motion? Comment on it? Edit it?

2 VOICE: Call the question.

3 MR. WU: I just have a very brief general  
4 comment, which is, I think it's great that we're adding  
5 more nuance. I just think that, in general, is good,  
6 rather than boilerplate each time.

7 CHAIR STUDLEY: I heard someone ask that we  
8 call the question. Are you ready to vote on this? So  
9 that is a motion by Arthur, and who would like to be  
10 the seconder?

11 DR. LEWIS: Second.

12 CHAIR STUDLEY: Earl? Earl is seconding.  
13 Made by Arthur Rothkopf, seconded by Earl Lewis.

14 All in favor please say aye.

15 (A chorus of ayes.)

16 CHAIR STUDLEY: Opposed?

17 (No response.)

18 CHAIR STUDLEY: The motion passes. And we  
19 very much appreciate the staff work on this, the  
20 thoughtful consideration by the entire Committee, your  
21 cooperation in this entire process, and the members of  
22 the public who shared their thoughts with us today.

1           I also appreciate the indulgence of everyone  
2 who was on the schedule that we will now regroup  
3 slightly. So thank you very much. We've concluded  
4 your presentation.

5           So the motion has carried, and the text was  
6 here. Did you have a question, Arthur?

7           MR. ROTHKOPF: What is the order?

8           CHAIR STUDLEY: Right. I'm going to go to the  
9 order here.

10           The next institution up was the Kansas State  
11 Board of Nursing. Because there are no agency  
12 representatives here and some of our primary readers or  
13 others have scheduling issues, we're going to move  
14 Kansas last. Kansas has no outsiders involved.

15           Does that work for you, Anne, or is that a  
16 problem?

17           MS. NEAL: I don't think it's going to pose  
18 any problem, so (inaudible -- microphone not on).

19           CHAIR STUDLEY: That they had --

20           MS. NEAL: I had assumed they weren't sending  
21 anyone.

22           CHAIR STUDLEY: Right. Correct. They aren't.

1       So we can do that one last to accommodate some of our  
2 colleagues who need to leave for something --

3               MS. NEAL: Oh, I see.

4               (Inaudible -- microphone not on.)

5               CHAIR STUDLEY: -- and take them quickly, not  
6 that that's -- this does not speak to the substance or  
7 expected duration of any of these.

8               Just a minute before you -- Joyce, what agency  
9 are you with?

10              MS. JONES: Maryland Board of Nursing.

11              CHAIR STUDLEY: Exactly. I thought --

12              MS. JONES: We would change  
13 (inaudible -- microphone not on).

14              CHAIR STUDLEY: Right. What we were going to  
15 ask, because we would lose both our primary readers for  
16 CEA, the English Language Program accreditor -- so I  
17 may have to work this out here. Just wait a second  
18 while we see if this works.

19              In order to have Frank here -- he has to leave  
20 a little bit later this afternoon -- we were going to  
21 take them in the place of Kansas.

22              MS. JONES: Oh, okay.

1           CHAIR STUDLEY: And then we will pick back up  
2 with Maryland.

3           MS. JONES: (Inaudible -- microphone not on.)

4           CHAIR STUDLEY: Is that -- so we will do  
5 Commission on English Language Program Accreditation.  
6 The primary readers are Bruce Cole and Frank Wu. So we  
7 need to have Frank here. And Chuck Mula is the  
8 Department staff person.

9           So the agency representatives for CEA, I  
10 imagine, have been waiting a little bit for us, and I  
11 hope you don't mind that surprise. So we will first  
12 take CEA, and then we will go back to Maryland Board of  
13 Nursing, then JRCERT, and then Kansas Nursing. Okay?

14          MR. WU: Okay. I'll be brief. This is the  
15 Commission on English Language Program Accreditation.  
16 This is a little bit different. This is a national  
17 specialty agency, and what they accredit are the  
18 postsecondary non-degree English programs. This is  
19 oriented toward foreigners who want to come and learn  
20 the language.

21          And it's different for a number of reasons.  
22 First of all, there is not a Title IV component here.

1 The federal aspect is, the people coming are  
2 foreigners. They need visas.

3 They get visas because the institutions they  
4 attend are a part of the Department of Homeland  
5 Security's program. And so those schools have to go  
6 through the process with CEA in order to qualify to  
7 help issue the visas under the Department of Homeland  
8 Security. So that's why there is a federal aspect.

9 This is a growing field. It's growing because  
10 of new standards post-9/11, especially a tremendous  
11 amount of demand. It's likely that there will be  
12 additional programs that seek to be authorized under  
13 the aegis of CEA.

14 Currently, they accredit 65 programs in 24  
15 institutions in 32 states and Washington, D.C. Their  
16 first review in June of '03, they were granted initial  
17 recognition for two years, and they were last looked at  
18 in 2005, when the Secretary granted the agency  
19 continued recognition for five years.

20 So with that, I will turn it over to our very  
21 capable staff person, Chuck Mula.

22 CHAIR STUDLEY: Chuck, before you begin, just

1 a point of clarification. And does Homeland Security  
2 require that this entity be approved by us for  
3 accreditation so they can approve programs? Or is  
4 Chuck going to explain that?

5 MR. WU: Let me defer it to Chuck to answer  
6 the --

7 CHAIR STUDLEY: Great. Thank you.

8 MR. WU: -- intricacy.

9 CHAIR STUDLEY: Thank you.

10 MR. WU: I know it at the level that Homeland  
11 Security is involved, and --

12 CHAIR STUDLEY: Safer not to know more.

13 MR. WU: Yes. That's right.

14 CHAIR STUDLEY: Chuck, take it away.

15 MR. MULA: Good afternoon, Madam Chair,  
16 members of the Committee. We'll let CEA give you a  
17 really good explanation on that issue.

18 My name again is Chuck Mula, and I will be  
19 presenting a brief summary of the petition for  
20 continued recognition of the Commission on English  
21 Language Program Accreditation, hereafter referred to  
22 as CEA or the agency.

1           The staff recommendation to the Senior  
2 Department Official for CEA is that he continue the  
3 recognition of the agency, and require a compliance  
4 report in 12 months on the issues identified in the  
5 staff report. This recommendation is based on my  
6 review of the agency's petition, supporting  
7 documentation, a visit to the agency, and the  
8 observation of a decision-making meeting.

9           My review of CEA's petition found that the  
10 agency is substantially in compliance with the criteria  
11 for recognition. However, there are outstanding issues  
12 that the agency needs to address.

13           These issues fall primarily in the areas of  
14 its monitoring process of institutions, its appeal  
15 policies and procedures, and its substantive change  
16 policies and processes, all of which are results of the  
17 new requirements set forth in the Higher Education  
18 Opportunity Act that were effective in July 2010.

19           We believe that the agency can resolve the  
20 concerns I have identified and demonstrate compliance  
21 in a written report in a year's time. Therefore, as I  
22 stated earlier, we are recommending to the Senior

1 Department Official that the agency's recognition be  
2 continued, and that you require a compliance report in  
3 12 months on the issues identified in the staff report.

4 This concludes my report. Representatives  
5 from the agency are here, and I am also available for  
6 any questions you may have. Thank you.

7 CHAIR STUDLEY: Thank you very much.

8 Would you like to speak to us about the report  
9 and recommendation?

10 MS. SMITH-MURDOCK: Yes, thank you. My name  
11 is Rebecca Smith-Murdock. I'm the current chair of the  
12 Commission on English Language Program Accreditation.  
13 The Commission on English Language Program  
14 Accreditation, CEA, appreciates this opportunity to  
15 address the Committee regarding CEA's grant of  
16 continued recognition by the Secretary.

17 Before proceeding, we want to thank Chuck Mula  
18 for his continual responsiveness and feedback to CEA on  
19 regulation-related issues that have arisen over the  
20 years. Also, I would like to note that responses to  
21 the three reflective questions that you ask are  
22 incorporated in some of our comments that follow.

1           The recognition by the Secretary of Education  
2 is very important to CEA. Over its past 11 years of  
3 existence, CEA has benefitted from and actively sought  
4 the external oversight of its policies and procedures  
5 by the Department of Education staff.

6           As a result of this, we have created strong  
7 policies and procedures, and CEA has grown to be an  
8 entity that the field of English language program  
9 teaching looks to for guidance in terms of best  
10 practice in language teaching and administration.

11           This is true not only in the United States but  
12 also internationally, where the accreditation of  
13 English language programs in the preparatory years of  
14 English-medium universities is of great and growing  
15 interest.

16           As stated in the staff review, CEA accredits  
17 English language programs in, one, regionally  
18 accredited colleges and universities, and two, in  
19 independent language schools. The student population,  
20 as was noted, of these entities is in general  
21 international students on F-1 visas coming to the U.S.  
22 to improve their English skills prior to pursuing

1 academic study at American colleges and universities,  
2 or for professional and personal purposes.

3           Such programs and independent language schools  
4 that admit F-1 students must be authorized by the  
5 Department of Homeland Security's student exchange and  
6 visitor program in order to issue those I-20s.

7           In December 2010, the President of the United  
8 States signed the Accreditation of English Language  
9 Training Programs Act, which is Public Law 111-306.  
10 And this law requires that all independent English  
11 language training institutions must seek accreditation  
12 by -- must apply, I'm sorry, to seek accreditation by  
13 today, December 14, 2011, and must be accredited by  
14 December 2013 by a recognized accrediting agency.

15           This means that without accreditation  
16 independent language schools will not be able to issue  
17 I-20s and admit international students in the future.  
18 Accreditation by CEA, therefore, has become a matter of  
19 sustaining business for many independent language  
20 schools.

21           And at this point, as a point of information,  
22 I want to state that English language programs that are

1 a part of regionally accredited colleges or  
2 universities are not required by this new law to seek  
3 separate programmatic accreditation because of their  
4 affiliation with a larger accredited institution.

5           Heretofore, until the passage of Public Law  
6 111-306, CEA has had a steady applicant pool of around  
7 40 programs and institutions in process seeking  
8 accreditation at any time. However, as of today, CEA  
9 has over 160 applications for eligibility, the majority  
10 of which are from independent language schools.

11           To meet this challenge of increased numbers,  
12 CEA has already taken steps to double full-time staff  
13 from two to four, to add a cadre of well-trained  
14 contract employees, to transaction additional site  
15 reviewers, and to add extra commission meeting time to  
16 meet accreditation needs over the next two years.

17           Fortunately, also, in 2010 CEA completed a  
18 comprehensive review of standards and created a new  
19 template for the self-study report, which will be  
20 electronic and, God willing, eventually on the web,  
21 which the commission believes will lead to more  
22 efficiency for both sites and staff.

1           Thus, in spite of extremely rapid expansion,  
2 CEA is prepared to continue to provide an accreditation  
3 experience that focuses on continuous improvement  
4 protocols and the value of the self-study process  
5 itself. As a specialized accrediting agency, CEA  
6 prides itself on its ability to respond to the needs of  
7 the field, all the while maintaining widely held  
8 standards and following policies and procedures.

9           Now, in terms of the reporting requirements  
10 recommended by staff, we would like to make a few  
11 general comments.

12           We agree with the findings of the staff, which  
13 we think fall into four areas of CEA's policies and  
14 procedures. And my colleague Teresa O'Donnell, the  
15 executive director of CEA, will briefly discuss these  
16 issues.

17           MS. O'DONNELL: Yes. Thank you. I will  
18 address these very briefly and quickly because I know  
19 you're all getting weary of the day and I'm sure are  
20 ready to go.

21           The first issue was on our appeals board  
22 membership. We have had one appeals board in the past

1 11 years. It was before the requirement was added that  
2 a public member serve. We have since revised our  
3 policies and procedures to require a public member and  
4 to require academics and administrators. That has been  
5 taken care of. And should we have an appeal in the  
6 future, and I imagine we will, we will make sure that  
7 we have those representatives on the appeal board.

8           The initial staff report on CEA's petition for  
9 recognition identified a weakness in CEA's annual  
10 report requirement. We totally agree with that, and in  
11 fact we're working on coming up with a more rigorous  
12 reporting requirement.

13           The new report is actually going to be sent  
14 out tomorrow, December 15th. Respondents, our  
15 accredited schools, must reply by March 15th, and after  
16 that we will have the documentation that we have used  
17 our new report.

18           In terms of substantive change policies, there  
19 were several areas there. First of all, a couple of  
20 years ago we changed our substantive change policy. As  
21 Rebecca mentioned, we try to be in tune with what's  
22 happening in our field.

1           And one of the areas that sometimes comes up  
2 as an issue for us in terms of the regulations is the  
3 substantive change policy, in that we accredit programs  
4 in universities and the independent language schools,  
5 and their administration is very different in the sense  
6 that English language programs in universities often  
7 aren't even within a department. They may be in a  
8 continuing education. And they're really often -- the  
9 upper administration may require changes over which  
10 they have no control.

11           Or, for example, there may be a huge influx of  
12 students right now, Saudi Arabian and Chinese students.

13           And Saudi Arabian students tend to have very low  
14 English proficiency, and a lot of the programs have had  
15 to add a level. And they're not able to ask for CEA's  
16 blessing on that in time to actually serve the  
17 students.

18           So a couple years ago we changed our  
19 substantive change policy to respond to that issue, and  
20 made it such that only change of control or change of  
21 ownership would need to be reported ahead of time; and  
22 then all the other issues, which are the same as those

1 listed in the criteria, could be reported with the next  
2 annual report.

3           Seeing the staff response to that change, we  
4 have now gone back to our original policy, which  
5 exactly follows the regulation. And we hope that we  
6 can implement it satisfactorily.

7           Also, a couple of the other areas under  
8 substantive change we had failed to respond to in our  
9 initial report, and staff did not catch that until our  
10 later report. And this is not to say anything about  
11 that, but unfortunately, in our overlooking that, we  
12 failed to show that yes, in fact, we have a policy on  
13 when a substantive change requires a site visit.

14           And that is, we have a very strong policy on  
15 change of ownership and control following the sale of a  
16 school, and also when a program or a school opens a new  
17 institution, a new site. So we have all that. We  
18 could document that tomorrow, if need be.

19           Also, under the substantive change, there is a  
20 requirement for a teach-out policy. Because we are not  
21 a Title IV, we really thought never that we needed a  
22 teach-out policy. And a couple years ago, we actually

1 brought it up to the commission, and they said no.

2 This doesn't really make sense for us.

3           However, we do want you to know that in a way,  
4 there is a parallel policy that the Department of  
5 Homeland Security -- through the immigration policy for  
6 visa holders. It is that if a school closes, it must  
7 provide for transfer of those international students to  
8 another school. So we count on that policy. And I  
9 suppose when we respond to your requirements, we will  
10 state that as an overarching policy for CEA.

11           One of the other issues was in terms of our  
12 reporting. And again, we agree with staff on this  
13 policy. We have not reported to state licensing  
14 agencies because, in the past, we had only a few -- we  
15 only had one school in California, where there is the  
16 Bureau of -- BPPE; they've changed the name. You're  
17 probably aware of it.

18           And now with all the new applications we're  
19 getting from New York, New Jersey, Pennsylvania, and  
20 Illinois, we find that there are licensing requirements  
21 in those states for postsecondary English language  
22 schools. So in the future, we will be reporting to

1 those state agencies.

2 And again, as Rebecca said, we want to thank  
3 our staff analyst wholeheartedly for always being there  
4 for us when we have questions and concerns.

5 CHAIR STUDLEY: Do Committee members have  
6 questions for the agency?

7 MR. MULA: So I --

8 CHAIR STUDLEY: I have one. I'm sorry. This  
9 question of -- you gave us an example of adding new  
10 academic level, a new -- more basic than what was  
11 provided, as an example of something that was one of  
12 the critiques, one of the shortcomings that you would  
13 need to correct. And I sense that you seemed uncertain  
14 about whether that was, A, workable, and B, an example  
15 of substantial change.

16 And we take seriously the back-and-forth that  
17 you both have had, and when an agency says, we see the  
18 point and we can correct it. But I sense that you  
19 thought that might not fit.

20 And I personally wonder, without going back to  
21 the definition of substantial change, whether adding an  
22 academic level within the same subject that meets the

1 students' capacity when they present should be  
2 something that you have to notice in advance because it  
3 could be detrimental to the students if they show up  
4 and you evaluate their skills.

5 We do have the option of differing from the  
6 Department on a particular recommendation. And if we  
7 don't think that one is a change that you ought to be  
8 required to make, we can do that.

9 So I guess it's a question for Chuck. Am I  
10 correct that that example is actually part of the  
11 substantial change, and the other is --

12 MR. MULA: Yes, it was, Madam Chair. And we  
13 were concerned because of their increase in the  
14 institutions. Before, if that level is a newer level  
15 that's just creeping up, the regionals would -- a  
16 near-substantive change, that the English language  
17 program or the English program at the university or  
18 school would notify the regionals of the change because  
19 since it was a program attached to a regional  
20 university, it would mostly go to the regionals. And  
21 for whatever reason, regionals were not passing that  
22 information on to CEA, and they were left out of the

1 loop.

2           But we wanted to get more involved, and it's  
3 going to take some communication, I think. But it is  
4 going to be difficult for them, probably, to hear and  
5 get involved in at least the approval process of that  
6 change if it's going to the regionals first.

7           CHAIR STUDLEY: I didn't understand the  
8 regional loop. So do you want to speak to this?

9           MS. O'DONNELL: Yes. The regional accrediting  
10 bodies in some cases do include the English language  
11 programs. They become part of the institutional  
12 review. But in many cases, the English language  
13 program is not involved at all in a regional review.

14           So some regional accrediting agencies -- some  
15 universities, say, might include the English language  
16 program in that broader regional review, but some are  
17 not. They tell us that they don't receive a review at  
18 all.

19           In fact, our field, although we have -- right  
20 now, probably two-thirds of our accredited entities are  
21 in universities, they do it for professional reasons,  
22 and they don't -- they disapprove of the fact that the

1 other English language program gets some credit by  
2 being under the umbrella of regional accreditation, but  
3 they never get reviewed, if that makes sense.

4           So I don't think that -- I can ask  
5 Rebecca -- I don't think that a regional -- that an  
6 English language program would ask its higher  
7 administration to report whatever.

8           CHAIR STUDLEY: I may have misunderstood. I  
9 was asking about what I thought was a narrower concern.

10           MS. O'DONNELL: Oh, okay.

11           CHAIR STUDLEY: So let me just see if it is a  
12 real behavior that's going on. I thought you said that  
13 you thought that it was the better practice to allow  
14 a -- to treat a school or a program's addition of a  
15 lower level, more basic class as a change that they  
16 could report to you after the fact with their next  
17 annual report, but that the Department's expectation  
18 was that that be treated as a substantive change that  
19 you had to -- that they had to seek approval of before  
20 they could do that.

21           MS. O'DONNELL: Yes.

22           CHAIR STUDLEY: I sense that you thought that

1 might not be -- that that might be a constraint on the  
2 programs that was not good for them. And from my  
3 perspective, I wondered whether that was in the best  
4 interests of the students.

5 We do not have to agree that that should be a  
6 substantive change if you think it shouldn't be. So  
7 I'm asking you to --

8 MS. O'DONNELL: I agree. You did hear in my  
9 voice some concern that they won't tell us anyway in  
10 that case, possibly, because they -- and so can we  
11 actually stick to a change in policy. You know, we can  
12 tell them and require it, but we don't know if there's  
13 a change until they tell us. And I think that's an  
14 example of where they just may have to make a change.

15 CHAIR STUDLEY: And it may not be a  
16 substantive change if all they have to do is have  
17 section A and section B of --

18 MS. O'DONNELL: Exactly.

19 CHAIR STUDLEY: -- class one, and one of them  
20 goes slower.

21 With that, I'll give it back to Frank and see  
22 if any others have comments.

1 M O T I O N

2 MR. WU: I'm ready to make the standard  
3 motion.

4 MR. ROTHKOPF: Second.

5 MS. GILCHER: I was just going to point out  
6 that there is in the substantive change  
7 requirements -- it's a substantive change if there's  
8 the addition of programs of student at a degree or  
9 credential level different from that which is included  
10 in the institution's current accreditation or  
11 pre-accreditation.

12 I'm not sure that is what's being described  
13 here. But I did want to clarify that we do have a  
14 regulation addressing that.

15 CHAIR STUDLEY: If this is in fact a change in  
16 program of study.

17 MS. O'DONNELL: So what we did in preparing  
18 our own substantive change policies is follow the  
19 regulations and interpret that particular one the way  
20 it was appropriate for us.

21 CHAIR STUDLEY: Well, Frank, let me just ask.  
22 My own thought would be to ask that we take out that

1 one line, but I don't want to tangle things up.

2 MR. WU: Yes. I think what's going on is the  
3 staff is saying, if there's a substantive change,  
4 approval must be sought, which I think --

5 CHAIR STUDLEY: Is this a substantive change?

6 MR. WU: -- is an appropriate thing to say.

7 CHAIR STUDLEY: Yes.

8 MR. WU: But you've raised a very different  
9 point, which is, I don't think it's for NACIQI to  
10 decide that the addition of a remedial level  
11 constitutes a substantive change. And the agency would  
12 presumably have some discretion to say, that's not a  
13 substantive change.

14 So we have to stick with the rule that  
15 substantive changes you would need the approval in  
16 advance.

17 CHAIR STUDLEY: Right.

18 MR. WU: But it would be your judgment whether  
19 that's a substantive change.

20 CHAIR STUDLEY: Which could be worked out.

21 MR. WU: And I'm amenable to adding a  
22 sentence.

1           CHAIR STUDLEY: Well, it sounds consistent  
2 with the way you've analyzed it. It sounds like the  
3 agency and the staff can work that out with this  
4 back-and-forth --

5           MR. WU: Exactly.

6           CHAIR STUDLEY: -- to guide both of you.

7           MR. WU: We wouldn't even need to say  
8 anything. I think this discussion being on the record  
9 would be enough guidance. So I'll stand by the motion  
10 I made. I think I heard Arthur second.

11          MR. ROTHKOPF: I seconded.

12          CHAIR STUDLEY: Any discussion of the motion?

13          (No response.)

14          CHAIR STUDLEY: All in favor, please say aye.

15          (A chorus of ayes.)

16          CHAIR STUDLEY: Opposed?

17          (No response.)

18          CHAIR STUDLEY: Thank you very much. The  
19 motion carries, and thank you all for your  
20 participation and thoughtful comments. And thank you,  
21 Chuck.

22          We are now going to move to the Maryland

1 nursing agency. And thank you. Now we really would  
2 look to speak with you, and thank you very much. This  
3 is the Maryland Board of Nursing, MSBN. The action  
4 before us for consideration is the petition for renewal  
5 of recognition by the agency. The primary readers are  
6 Earl Lewis and Aron Shimeles, and the Department staff  
7 is Joyce Jones.

8 Earl or Aron, which of you --

9 MR. SHIMELES: All right. Thank you.

10 So the Maryland Board of Nursing is a state  
11 agency for the approval of nurse education. The agency  
12 currently has approved 23 registered nursing programs,  
13 15 programs in baccalaureate degree nursing, and 14  
14 licensed practical nursing programs, totaling 37  
15 approved programs in Maryland.

16 Of the total number of approved nursing  
17 education programs, 16 programs are not accredited by  
18 either of the two recognized national nursing  
19 accrediting agencies. Therefore, Secretarial  
20 recognition of the Maryland Board of Nursing is  
21 necessary to provide professional and financial  
22 resources not otherwise available to some students who

1 pursue professional training in Maryland schools of  
2 nursing.

3 CHAIR STUDLEY: Joyce?

4 MS. JONES: Good afternoon. My name is Joyce  
5 Jones, and as a member of the Department's  
6 accreditation group, I will summarize the analysis and  
7 recommendation made after our review of the Maryland  
8 State Board of Nursing.

9 The staff recommendation to the Senior  
10 Department Official for this agency is to continue the  
11 recognition as a state agency for the approval of nurse  
12 education, and to require the agency to submit a  
13 compliance report in 12 months on the issues identified  
14 in the staff report.

15 We based our recommendation on our review of  
16 the agency's petition, its supporting documentation,  
17 and an observation of a joint site visit at the nursing  
18 programs located at the Howard Community College in  
19 Columbia, Maryland.

20 Our review of the agency's petition found that  
21 the agency substantially complies with the criteria for  
22 recognition. However, it needs to address a few

1 outstanding issues that include the following. And  
2 these are demonstrative items that it needs to handle,  
3 with the exception of one.

4           It needs to demonstrate, with additional  
5 documentation, that it will provide evidence of the  
6 rolling functions of its agency staff and operating  
7 procedures for the entire agency.

8           It would need to demonstrate that it requires  
9 programs to include tuition and refund policies in the  
10 nursing education program publications, and also in its  
11 renewal survey or its self-study and site visit  
12 reporting.

13           And, in addition, it would need to demonstrate  
14 that it not only collects information under Section  
15 3(e), but that it also assesses that information  
16 regarding the comprehensiveness of its annual report.

17           And finally, the agency needs to assure that  
18 as part of its monitoring, that it reviews a copy of  
19 the program's audited financial report at least every  
20 two years. And that's based on its own internal  
21 review, not that of the Maryland Department of Higher  
22 Education.

1           We believe that these issues will not place  
2 the approved programs, students, or financial aid that  
3 they receive at risk, and that the agency can resolve  
4 these concerns and demonstrate compliance in a written  
5 report in a year's time.

6           Therefore, as previously stated, we are  
7 recommending to the Senior Department Official that the  
8 agency's recognition be continued, but that he require  
9 the agency to submit a compliance report in 12 months  
10 on those identified areas.

11           The representatives from the agency are here  
12 today.

13           This concludes my presentation, and I thank  
14 you.

15           CHAIR STUDLEY: Thank you very much.

16           We'd like to hear now from the agency  
17 representatives. Welcome.

18           MS. KENNEDY: My name is Patricia Kennedy.  
19 I'm director of education and examination. We  
20 responded to these recommendations, but we've not had a  
21 chance to work with staff in terms of have we been  
22 specific enough and detailed enough in terms of

1 responding to the recommendations.

2 CHAIR STUDLEY: So are you saying that you've  
3 already done what they've asked you to do, but you just  
4 haven't had a chance to close the loop with them?

5 MS. KENNEDY: Correct.

6 CHAIR STUDLEY: Okay. Is there anything -- so  
7 you agree that all of them warrant the kind of response  
8 that staff is suggesting?

9 MS. KENNEDY: Yes. Yes. We did not provide  
10 the detail that they expected, and realized that once  
11 we got these recommendations. But we have the  
12 information, and we were able to go back and to  
13 document this information and to provide samples of  
14 this information. But we've not yet closed the loop.

15 CHAIR STUDLEY: Thank you.

16 Are there any questions or comments from the  
17 members of the Committee on the Maryland Board of  
18 Nursing? Anne?

19 MS. NEAL: Am I to understand that all the  
20 problems have been solved, Joyce?

21 MS. JONES: You are to understand that they  
22 just reported to you that they have addressed them.

1 Our office has not seen --

2 MS. NEAL: You haven't?

3 MS. JONES: -- the documentation. And when I  
4 spoke with them earlier this afternoon, they sort  
5 of -- well, this morning -- they sort of indicated that  
6 they'd done everything. And perhaps they don't need 12  
7 months. I think that they can address that.

8 But they pretty much put the documents  
9 together; at least, they've reported. I have not seen  
10 them. But they were fairly easy documents to put  
11 together, and I knew that they had them.

12 CHAIR STUDLEY: Do you have any brief comments  
13 on the two questions that we included in the letter?  
14 Entirely optional if you'd like to take that occasion.

15 DR. LEWIS: (Inaudible -- microphone not on.)

16 CHAIR STUDLEY: Oh, yes. Yes. I apologize.

17 DR. LEWIS: (Inaudible -- microphone not on.)

18 CHAIR STUDLEY: Yes. Exactly. If they -- too  
19 much truth. Is there a motion?

20 M O T I O N

21 DR. LEWIS: So move --

22 MS. WILLIAMS: Second.

1 DR. LEWIS: -- to accept this recommendation,  
2 to continue the agency's recognition, and require the  
3 agency to come into compliance within 12 months.

4 CHAIR STUDLEY: Thank you. And I heard a  
5 second from Carolyn. Thank you.

6 Any discussion of the motion?

7 MS. NEAL: I would just add I feel the same  
8 way with this one that I did earlier, that if you can  
9 come through quickly and get this behind you, I would  
10 recommend you do that.

11 CHAIR STUDLEY: Thank you.

12 All in favor, please say aye.

13 (A chorus of ayes.)

14 CHAIR STUDLEY: Opposed?

15 (No response.)

16 CHAIR STUDLEY: Thank you very much. And now  
17 I reiterate the invitation, if you'd like.

18 MS. KENNEDY: Dr. Woodson, to the left of me,  
19 is deciding whether or not she's going to present the  
20 first one. So I'm going to present the first one and  
21 give her an opportunity to look ahead and decide on if  
22 she's going to do the second one, and then we'll

1 have -- Pamela Ambush-Burris can do the next one.

2 CHAIR STUDLEY: Okay. And they can be brief,  
3 but we would appreciate your thoughts if you have  
4 something to offer. Thank you.

5 MS. KENNEDY: Since the last review and  
6 submission, the Maryland Board of Nursing has been  
7 faced with two significant issues. The first major  
8 issue has been budgetary restraints. This has caused  
9 increased workforce issues, namely, amplified workload  
10 responsibilities with decreased staff.

11 The second major issue is information  
12 technology. The Board of Nursing has completely  
13 upgraded the board's database system, and this has led  
14 to incompatibility with software, and this has caused  
15 some major delays.

16 And by delays, we mean we tell students, or  
17 prospective applicants, that it's going to take five to  
18 ten working days to get any kind of information, the  
19 results from anything.

20 But because of incompatibility, sometimes  
21 we've got to find where the record is, and the record  
22 can be in one of three places. It can be with

1 scanning, it can be with finance, or it can be with our  
2 office.

3 But because of where we have to look to find  
4 it because of the incompatibility, we've now got to go  
5 to technology for them to find out where that  
6 information resides.

7 Those issues have been resolved, for the most  
8 part.

9 DR. WOODSON: Good afternoon, everyone. I'm  
10 Dr. Emmaline Woodson. I'm the deputy director of the  
11 Maryland Board of Nursing, and the director for -- I'm  
12 sorry, the supervising director for the education  
13 department.

14 One of the questions that was asked of us, the  
15 thorniest challenges faced by our board, the thorniest  
16 challenge relating to the criteria for recognition was  
17 the location of documents, as she just said.

18 And some of the other issues that were asked  
19 of us, what do we feel were the strong points of our  
20 board, and we feel that we have an excellent  
21 relationship and communication with all the schools in  
22 the state; that we have strong professional, collegial

1 relationships with the nursing schools and programs;  
2 and that there is an organization of -- an openness  
3 between the board and the schools so that we are able  
4 to coexist in a conducive and working relationship.

5           Our board meetings are open to all the schools  
6 each month, so they come whether or not they have  
7 information to present to listen to the process for the  
8 board. Students are able to come to the board meetings  
9 on a monthly basis if they have concerns or questions  
10 or just wanted to see how the board works.

11           So our regulations, we feel, are very clear  
12 and concise, and that they enhance the authentication  
13 required of the programs in meeting our standards and  
14 coming to -- and meeting the program outcomes that we  
15 expect.

16           MS. AMBUSH-BURRIS: My name is Pamela  
17 Ambush-Burris, director of education and licensure.  
18 And I just want to address the challenges that we've  
19 met.

20           Regarding the criteria for recognition, we had  
21 the documentation, but we didn't have the requested  
22 format that the Department of Education required. With

1 our submission, documentation was included that was not  
2 well-defined by the instructions, and thus it wasn't  
3 displayed the way you expected.

4 Often it was difficult to know if information  
5 was being sought, and we felt that this led to  
6 duplication of the written report and also submission  
7 of insufficient details that were required by the  
8 Department of Education. So that was some of our  
9 challenges that we have met when writing this report.

10 CHAIR STUDLEY: Thank you very much.

11 Does anyone have any questions? Yes?

12 MS. NEAL: I actually have a question. I'm  
13 trying to follow through my earlier encouragement.  
14 Let's assume that they come back within a month. They  
15 have the information and Joyce says, yes, they have  
16 fulfilled the requirements.

17 Can we then via conference call give them four  
18 years? Or, I mean, I'm just trying to see how, in  
19 effect, we would actually expedite this.

20 MS. GILCHER: It is conceivable to have a  
21 public meeting via teleconference, but I think that  
22 would be a very unusual precedent to set. I will defer

1 to Melissa in terms of what the FACA requirements are.

2 EXECUTIVE DIRECTOR LEWIS: I would advise, if  
3 you were going to have a telephonic meeting, that you  
4 would not have it just for one agency, or even two or  
5 three, honestly, because of the amount of effort going  
6 into meeting the FACA requirements within the  
7 Department so that the Committee meeting can be held.

8 There is a tremendous level or number of  
9 clearances that have to be obtained, and also the  
10 public has to be noticed for 30 days and given the  
11 opportunity to respond.

12 Other than that, as soon as the agency's  
13 report is received, the analyst would need at least two  
14 weeks, probably 30 days, because she's got other work  
15 in addition. I mean, I'm just speaking for the staff  
16 here. But she'd have to balance out her workload.  
17 We'd have to give due process to the agency with a  
18 draft. It would take at least six months, minimum.

19 CHAIR STUDLEY: Anne, would this meet the very  
20 sensible objective that I think you're trying to offer?

21 What if we try and deconstruct all that and think  
22 about what we can suggest, for the statute, if

1 necessary, or next time the regulations that we deal  
2 with are approved, or whether there is some process  
3 that we can maneuver among those so that if we approved  
4 something, either subject to completion of so that we  
5 would already have done the approval, or so that it  
6 could be executed without returning to us under  
7 circumstances that we judged at this point.

8           We may do better than trying to use existing  
9 and, as you can hear, cumbersome in other ways  
10 procedures. Would that take us in that direction? And  
11 I think we can take a look at what it would involve,  
12 both at the state where we pass a motion and allow  
13 ourselves to differentiate between the ones that we  
14 would like to afford that way and more significant  
15 ones, and whether there are changes in law that would  
16 give us some additional options. Thank you.

17           Any further questions for this agency?

18           (No response.)

19           CHAIR STUDLEY: Thank you very much. You have  
20 the vote, and we look forward to a smooth process from  
21 here so that we can move it along. Thank you very  
22 much.

1           So we did vote, and we are moving to the third  
2 of this afternoon's latter group of agencies, the Joint  
3 Review Committee on Education in Radiologic Technology.

4     I'm guessing it's pronounced J-CERT or Junior-CERT?  
5 JR-CERT?

6           MS. UTZ: J-CERT.

7           CHAIR STUDLEY: J-CERT? Okay. This is again  
8 a petition for renewal of recognition. The primary  
9 readers are Arthur Keiser and Carolyn Williams, and the  
10 Department staff member is Elizabeth Daggett. And we  
11 welcome you and the agency representatives.

12           Arthur or Carolyn, who will be --

13           MR. KEISER: Good afternoon. The Joint Review  
14 Committee on Education in Radiologic Technology is both  
15 a programmatic and institutional accrediting agency for  
16 radiography, magnetic resonance, radiation therapy, and  
17 medical dosimetry.

18           The agency accredits programs of higher  
19 education that are based in hospitals and medical  
20 centers, and the accreditation of those programs --  
21 offering these programs is a required element for  
22 enabling them to establish eligibility to participate

1 in programs under Title IV of the Higher Education Act,  
2 as amended.

3           Consequently, the agency must meet the  
4 requirements under the separate and independent  
5 provisions of the Secretary's criteria, or must seek  
6 and receive waiver of those requirements.

7           JRCERT currently accredits 734 programs in 49  
8 states, the District of Columbia, and Puerto Rico. Of  
9 these 734 programs, approximately 200 are housed in  
10 institutions not accredited by other national  
11 accrediting agencies recognized by the Secretary.  
12 Approximately 37 of these programs participate in the  
13 Title IV funding program.

14           I'll now refer to the staff to make their  
15 presentation on the concerns.

16           MS. DAGGETT: Thank you, Dr. Keiser.

17           Good afternoon, Madam Chair and members of the  
18 Committee. My name is Elizabeth Daggett, and I am a  
19 member of the accreditation division staff that  
20 completed the review of the petition for re-recognition  
21 for the agency, JRCERT.

22           The staff recommendation to the Senior

1 Department Official for the agency is to continue the  
2 agency's current recognition, and require a compliance  
3 report in 12 months on the issues identified in the  
4 staff report.

5 This recommendation is based on our review of  
6 the agency's petition, its supporting documentation, an  
7 e-meeting of the agency's board of directors on August  
8 2, 2011, and a meeting in person of the agency's board  
9 of directors on October 14, 2011.

10 Our review of the agency's petition found that  
11 the agency is substantially in compliance with the  
12 criteria for recognition. There are some outstanding  
13 issues that the agency needs to address in the  
14 recognition issues of organizational and administrative  
15 requirements, and required operating policies and  
16 procedures.

17 In brief, the issues concern the agency's  
18 appeals panel membership, substantive change policy,  
19 and documentation of substantive changes, public  
20 disclosure correction, teach-out plans and agreements,  
21 and agency action in response to an adverse action by  
22 another body.

1           We believe that the agency can resolve these  
2 concerns we have identified and demonstrate its  
3 compliance in a written report in a year's time.  
4 Therefore, as I stated earlier, the staff is  
5 recommending to the Senior Department Official to  
6 continue the agency's current recognition and require a  
7 compliance report in 12 months on the issues identified  
8 in the staff report.

9           Thank you.

10           CHAIR STUDLEY: Thank you. I'll be interested  
11 in the agency's comments.

12           MS. UTZ: My name is Gay Utz, and I serve as  
13 the chairperson on the board of directors for the Joint  
14 Review Committee on Education in Radiologic Technology.

15           I'm credentialed in radiography and have served as a  
16 radiologic technology educator since 1980. For the  
17 past 17 years, I've served as radiologic technology  
18 program director at Gadsden State Community College  
19 located in Gadsden, Alabama.

20           DR. WOLFMAN: I'm Darcy Wolfman. I'm a  
21 physician at Walter Reed National Military Medical  
22 Center in Bethesda, Maryland and an assistant professor

1 of radiology at the Uniformed Services University of  
2 the Health Sciences, also in Bethesda, Maryland. And I  
3 am the director member nominated by the American  
4 College of Radiology.

5 MS. UTZ: Our chief executive officer is  
6 Leslie Winter. Leslie is credentialed in radiography,  
7 and prior to her employment at the JRCERT, she was a  
8 radiologic technology program director.

9 Madam Chair and members of the Committee, we  
10 would like to thank you for this opportunity to speak  
11 on behalf of the JRCERT. We would also like to express  
12 our appreciation to Elizabeth Daggett for her  
13 assistance in developing our potential. Her knowledge  
14 of the regulations was clearly evident, and her  
15 guidance proved invaluable during the process.

16 We are extremely proud of our organization,  
17 and committed to our vision of excellence in education.

18 We believe that educational quality and integrity  
19 cannot be compromised. The JRCERT accreditation  
20 process is designed to assure that there are  
21 appropriate radiation safety practices in place to  
22 safeguard our students and our patients.

1           An additional strength of our organization is  
2 that our board of directors, with the exception of our  
3 public member and all professional staff, are  
4 credentialed in the radiologic sciences. The board's  
5 qualification and knowledge of issues facing the  
6 radiologic sciences provides the foundation for sound  
7 accreditation decisions.

8           Additionally, the professional staff's  
9 credentials and accumulated years of experience in the  
10 profession enhance our organization's ability to serve  
11 as consultants to programs during the accreditation  
12 process.

13           The greatest challenge facing our organization  
14 is to maintain a balance between meeting recent  
15 additional requirements from USDE while continuing to  
16 provide an accreditation process that assures the  
17 highest level of educational quality in a manner that  
18 is cost-effective for both our programs and the JRCERT.

19           Specific examples of requirements that have  
20 added additional burden to our organization include:  
21 documenting state authorization to provide  
22 postsecondary education, providing greater oversight of

1 Title IV funding, evaluating distance education, and  
2 monitoring teach-out agreements associated with program  
3 closures.

4           The JRCERT will make every effort to meet  
5 these criteria. However, these additional requirements  
6 will require the deduction of significant additional  
7 hours of staff time, which in our opinion is  
8 detrimental to our focus on assuring educational  
9 quality. Furthermore, the expenditure of additional  
10 staff time will result in increased accreditation fees  
11 that will ultimately be absorbed by our programs.

12           MS. WOLFMAN: I'm going to address the  
13 compliance issues identified in the staff report.

14           In regard to the qualifications for the  
15 appeals panel members, we are going to submit  
16 appropriate CV to document the appeals panel members  
17 are qualified for their roles, and that the panel  
18 includes both educators and practitioners.

19           In regard to approval procedures for  
20 substantive changes for freestanding programs, the  
21 newly revised policy requires approval by the board of  
22 directors before the substantive changes included in

1 the grant of accreditation for all programs, including  
2 freestanding programs.

3 To date, we have not had the opportunity to  
4 apply this policy with a freestanding program. Upon  
5 receipt of a substantive change from a freestanding  
6 program, we will submit the appropriate documentation.

7 Also, we will develop a detailed step-by-step  
8 procedure for review of all substantive changes that  
9 will be submitted with our response.

10 It should be noted that the revised policy  
11 does identify a comprehensive onsite review for  
12 circumstances in which changes made or proposed by the  
13 program are sufficiently extensive to require the  
14 JRCERT to conduct a comprehensive onsite review.

15 The JRCERT standard operating procedure for  
16 this comprehensive onsite review is submission of a  
17 self-study report, onsite visit, and a new grant of  
18 accreditation. However, in order to clarify the  
19 policy, we will revise the policy to clearly define  
20 that a full, comprehensive evaluation include a  
21 self-study report, onsite visit, and an accreditation  
22 decision by the directors.

1           In regard to accurate disclosure of program  
2 information, the JRCERT has not in its history  
3 encountered an incidence of inappropriate disclosure of  
4 program information. If the circumstance arises, we  
5 will happily provide the document to assure enforcement  
6 of this policy.

7           In regard to approval of teach-out agreements  
8 and teach-out plans, it is once again noted that the  
9 JRCERT has not in its history had the opportunity to  
10 review a teach-out agreement or a teach-out plan.

11           The policy will be revised to include all  
12 specific events, as required under Section  
13 602.24(c)(1), that might trigger a program's submission  
14 of a teach-out plan. Additionally, we will develop a  
15 detailed, step-by-step procedure for review of  
16 teach-out agreements and plans that will be submitted  
17 with our response.

18           In regard to the JRCERT being informed that a  
19 program is the subject of an adverse action by a state  
20 or other accrediting agency, we provided an example of  
21 our followup to a receipt of a notification of a  
22 pending adverse decision received from a recognized

1 accrediting agency.

2           As identified in the policy, upon receipt of a  
3 final decision of denial of institutional  
4 accreditation, we would not renew accreditation of this  
5 program.

6           We will revise the policy to identify that the  
7 JRCERT will initiate an immediate review of the program  
8 when it learns that the program is subject to an  
9 adverse action by another body. Furthermore, we will  
10 develop a detailed procedure for this review that will  
11 be submitted with our response.

12           MS. UTZ: This concludes our remarks. Once  
13 again, on behalf of the JRCERT board and staff, we  
14 would like to thank the Department and the Committee  
15 for the opportunity to present additional information  
16 in support of our petition of recognition, and we're  
17 happy to answer any questions that you might have.

18           CHAIR STUDLEY: Thank you very much.  
19 Appreciate it. And thank you, Elizabeth.

20           Any questions from the Committee members for  
21 this agency?

22           (No response.)

1 CHAIR STUDLEY: Seeing none, do you have a  
2 motion?

3 M O T I O N

4 DR. WILLIAMS: The same as was made  
5 (Inaudible -- microphone not on.)

6 CHAIR STUDLEY: Motion made by Carolyn. Did I  
7 see a second?

8 MR. KEISER: Second.

9 CHAIR STUDLEY: By Arthur. And we are  
10 adapting that language now to this agency.

11 Is there any discussion of that motion?

12 (No response.)

13 CHAIR STUDLEY: Standard language checks out,  
14 everybody? Okay. All in favor, please signify by  
15 saying aye.

16 (A chorus of ayes.)

17 CHAIR STUDLEY: Opposed?

18 (No response.)

19 CHAIR STUDLEY: Thank you very much. We  
20 appreciate your thoughtful presentation.

21 I think we can move to the Kansas entity. And  
22 we will see if we can move through that and conclude on

1 time.

2 This is the Kansas State Board of Nursing, and  
3 the action is, again, a petition for renewal of  
4 recognition. The primary readers are George French and  
5 Anne Neal, and the Department staff member is Chuck  
6 Mula. There are no representatives attending for the  
7 agency.

8 Which of the readers is going to lead off?

9 DR. FRENCH: Thank you, Madam Chair.

10 CHAIR STUDLEY: Thank you.

11 DR. FRENCH: The Kansas State Board of Nursing  
12 is a state agency licensed for the approval of nursing  
13 education in the state of Kansas.

14 Recognition by the agency enabled the  
15 professional nurse programs to seek eligibility for  
16 federal assistance pursuant to the Nurse Training Act  
17 of 1964, as amended. Recognition also allows program  
18 graduates of the agency's accredited schools to enter  
19 military service in the Nurse Officer Corps.

20 The agency accredits 46 pre-licensure programs  
21 that includes baccalaureate and associate degree  
22 nursing programs and practical nursing programs, and

1 eight graduate degree programs that include advanced  
2 professional nurse practitioner programs, registered  
3 nurse anesthetist programs, and nurse midwife programs,  
4 for a total of 54 programs approved by the Kansas State  
5 Board of Nursing.

6 MR. MULA: Good afternoon, Madam Chair and  
7 members of the Committee. This is a very brief summary  
8 of the Department's review of the petition for  
9 continued recognition of the Kansas State Board of  
10 Nursing, a state agency, for the approval of nurse  
11 education.

12 The staff recommendation to the Senior  
13 Department Official for the agency is that he continue  
14 the recognition of the agency for a period of four  
15 years, which is the maximum amount of time of  
16 recognition allowed a state agency. This  
17 recommendation is based on my review of the agency's  
18 petition for continued recognition and supporting  
19 documentation provided with it.

20 My review found the agency in compliance, full  
21 compliance, with the Secretary's criteria for  
22 recognition, with no issues or concerns.

1           This concludes my report, and I am available  
2 if you have any questions. Thank you.

3           MS. GILCHER: I just have one little  
4 correction. It's actually to renew their recognition,  
5 not to continue.

6           MR. MULA: Thank you, Kay.

7           CHAIR STUDLEY: Thank you. Is there any  
8 discussion among the committee members? Any questions  
9 for Chuck or the primary readers about the Kansas  
10 nursing give you?

11          MR. KEISER: I just have one little question.  
12 Why wasn't this put on the consent agenda?

13          CHAIR STUDLEY: That's a good question. It  
14 has come up since, and we will look at -- in the future  
15 look at whether there are more candidates for that.

16          EXECUTIVE DIRECTOR LEWIS: During our  
17 discussion about what would be on the consent agenda,  
18 the Committee agreed that compliance reports with no  
19 issues would be the items included on the agenda. We  
20 didn't consider putting petitions on there.

21          CHAIR STUDLEY: You're at least the second  
22 person who has suggested that for me. Why don't we act

1 on this agency, and then we'll come back to that  
2 question for just a moment.

3 Are there any questions about the Kansas  
4 agency recommendation?

5 (No response.)

6 CHAIR STUDLEY: In that case, is there a  
7 motion to renew their recognition for four years? Do  
8 we have motion language for that? Anne, thank you.

9 M O T I O N

10 MS. NEAL: We recommend that the Kansas State  
11 agency's requested renewal of recognition with its  
12 current scope of recognition be granted for a period of  
13 four years.

14 DR. FRENCH: Second.

15 CHAIR STUDLEY: Any discussion?

16 (No response.)

17 CHAIR STUDLEY: All in favor, please say aye.

18 (A chorus of ayes.)

19 CHAIR STUDLEY: Opposed?

20 CHAIR STUDLEY:

21 (No response.)

22 CHAIR STUDLEY: The motion carries. They will

1 be renewed.

2 I think we should take up the question of what  
3 we will invite or consider for the consent calendar.  
4 We may need -- we'll see whether there are any  
5 authority issues. But we may be able to broaden it,  
6 and then, obviously, members can still call something  
7 forward if they would like to consider it.

8 DR. LEWIS: I would suggest we put all  
9 no-issue recommendations from staff on the consent  
10 agenda. We can always pull it off. It's still a vote  
11 with full approval based on the recommendation. I  
12 don't see why there would be a technicality because  
13 we're all voting on the consent agenda.

14 DR. FRENCH: I agree.

15 CHAIR STUDLEY: I think that's -- I'm  
16 comfortable with that, and we can talk about that.

17 Does that require a vote, or is that --

18 EXECUTIVE DIRECTOR LEWIS: I would think that  
19 would -- yes, that would require a vote, please.

20 CHAIR STUDLEY: Okay. Let's consider that a  
21 motion. Do you need Art to restate the language of the  
22 motion?

1 EXECUTIVE DIRECTOR LEWIS: Please.

2 M O T I O N

3 MR. KEISER: I move that NACIQI consider all  
4 agency petitions and requests or reports that do not  
5 have any concerns or recommendations by the staff to be  
6 part of the consent agenda.

7 DR. FRENCH: Second.

8 CHAIR STUDLEY: Concerns or negative  
9 recommendations.

10 Okay. Moved and seconded. Any discussion?  
11 Cam?

12 MR. STAPLES: Just more of a process one. And  
13 I admit, I don't recall when we got notification that  
14 these were on there. But if we're going to have a  
15 longer consent agenda, when do we anticipate being  
16 notified so we can review the items for potential  
17 removal from consent?

18 EXECUTIVE DIRECTOR LEWIS: Per the  
19 regulations, the Committee and the agency will receive  
20 the final draft staff analysis at least one week in  
21 advance of the meeting. Seven days.

22 MR. STAPLES: Okay. That works. Thank you.

1 EXECUTIVE DIRECTOR LEWIS: And most of the  
2 time, it's two weeks.

3 DR. NEAL: Would it be possible to withdraw it  
4 from the consent agenda on the day of the meeting, or  
5 would that require the people to fly out otherwise? I  
6 mean, I'm just looking at the practice.

7 EXECUTIVE DIRECTOR LEWIS: I didn't hear the  
8 first part of the question.

9 MS. NEAL: In other words, if it's on the  
10 consent agenda and you decide at the last moment you  
11 want to pull it off, the agency may not be there.

12 EXECUTIVE DIRECTOR LEWIS: No. If they're on  
13 the consent agenda, we tell them that if they're pulled  
14 off, they'll be reviewed immediately after the vote on  
15 the consent agenda.

16 MS. NEAL: So ideally, you pull them off  
17 before the day of the meeting?

18 EXECUTIVE DIRECTOR LEWIS: For planning  
19 purposes, yes.

20 CHAIR STUDLEY: We will walk through the  
21 ramifications of that and ask you to revise the motion  
22 at the next meeting if there's anything that we think

1 would not be workable or would be in the better  
2 interests of the agencies. But I think that approach  
3 is something everyone is comfortable with.

4 I think we were discussing. We did not vote.  
5 All in favor, please say aye.

6 (A chorus of ayes.)

7 CHAIR STUDLEY: Opposed?

8 (No response.)

9 CHAIR STUDLEY: The motion carries. Thank  
10 you. I can't think of a better note on which to end  
11 the day's business. We will reconvene here tomorrow  
12 morning at 8:30 a.m. and go through the day with an  
13 expected close again at 5:00.

14 Thank you very much for your interest in this  
15 important work. Do I hear a motion to adjourn for the  
16 day?

17 M O T I O N

18 MR. KEISER: So moved.

19 MR. STAPLES: Second.

20 CHAIR STUDLEY: Okay. Moved by Mr. Keiser,  
21 seconded by Mr. Staples.

22 All in favor?

1 (A chorus of ayes.)

2 (Whereupon, at 4:55 p.m., the Committee was  
3 adjourned, to reconvene the following day, Thursday,  
4 December 15, 2011, at 8:30 a.m.)

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