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
Welcome and Introductions
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

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)

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
AGENDA

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

Action for Consideration: Petition for Renewal of Recognition

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George T. French
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Department Staff:
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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)

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
AGENDA

North Central Association of Colleges and Schools, 
The Higher Learning Commission (HLC)  

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)

Representatives of the Agency:  
Sylvia Manning, President, HLC

Third Party Oral Commenters:  
None

BREAK

The Council on Chiropractic Education, Commission  
on Accreditation (CCE)  

Action for Consideration: Petition for  
Renewal of Recognition

NACIQI Primary Readers:  
Arthur Rothkopf  
Frank Wu

Department Staff:  
Rachael Shultz

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
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

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
Commission on English Language Program Accreditation (CEA)

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)

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)

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
Kansas State Board of Nursing (KSBN)

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

MOTIONS: 19, 30, 52, 75, 290, 320, 329, 346, 350, 352, 354
CHAIR STUDLEY: Good morning. Good morning and thank you all for coming. This is a meeting of the NACIQI, the National Advisory Committee on Institutional Quality and Integrity, and we're eager to get started with our three days of business.

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

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

So if we could begin with you, Arthur.

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

DR. PHILLIPS: Susan Phillips, provost and vice president for economic affairs, the University at Albany, State University of New York, and chair of the
public policy subcommittee.

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

MR. STAPLES: Good morning. Cam Staples.

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

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

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

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

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

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

MR. KEISER: I'm Art Keiser, chancellor at Keiser University in Florida.
DR. FRENCH: Good morning. I'm George French, president of Miles College in Birmingham, Alabama.

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

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

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

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

As you know, one of the primary functions of NACIQI is to advise the Secretary on whether it recognizes specific accrediting agencies, state approval agencies, and others within our jurisdiction. That's what we'll be focusing on today and tomorrow morning.

We've invited accrediting agencies this year to address a new and additional set of questions. The questions are short. We've asked you to give us the
short version. But we hope that by adding to our
discussion with you this way, we will help ourselves
and the field of accreditation in higher education and
the federal issues surrounding this to have a little
better sense of what's going on in the field.

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

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

Then, beginning at midday tomorrow and into
our session on Friday, we will be deliberating or
continuing to respond to a request from the Secretary
that we offer recommendations regarding the content of
the reauthorization of the Higher Education Act. That
process will continue into 2012, but we are looking forward to making some significant progress starting tomorrow and into Friday.

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

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

EXECUTIVE DIRECTOR LEWIS: Thank you, Jamie.

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

One of the handouts out there is the guidelines for third party oral commenters. There are
two different methods to make third party public comments. The first is to sign up in advance, and we have a list of those individuals. And if you would please check in at the table across from the Christmas tree at the end of the hall, we'd appreciate it.

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

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

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

   There he is. Yes. Thank you.

   Members, if you feel the need to recuse
yourself from any agency that I'm not aware of, please
do excuse yourself from the table. And you're welcome
to watch the proceedings from the back of the room.

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

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

Then tomorrow, we'll have a
government-provided lunch for the members here in this
room while we listen to a presentation from Jamie
Merisotis, president and CEO of the Lumina Foundation.
And the audience is also welcome to join us and listen
to Jamie's presentation after they obtain lunch.
Thank you very much, and I look forward to a very productive meeting. And it's a pleasure to have everyone here today. Thank you.

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

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

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

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

That's sort of a double negative.

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

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

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

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

CHAIR STUDLEY: And one final procedure
comment for those of you planning your schedules. We have a time on our agenda committed and will be available for public comment on the Higher Ed reauthorization recommendation portion of our agenda for Friday at about 3:00.

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

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

So with that, we will move into the substantive portion of our meeting. We're going to
start with two agencies that are included this time on
the consent agenda. This involves interim reports
submitted by two agencies, one, the Western Association
of Schools and Colleges, Accrediting Commission for
Community and Junior Colleges; and second, the American
Optometric Association, Accreditation Council on
Optometric Education.

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

(No response.)

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

MOTION

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

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

Arthur?

MR. KEISER: I'll second it.

CHAIR STUDLEY: So we're going to work at that
pace today? Terrific.
All in favor of the motion?

(A chorus of ayes.)

CHAIR STUDLEY:  Opposed?

(No response.)

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

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

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

Larry, are you going to be --

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

CHAIR STUDLEY:  The post vocational education, practical nursing.
DR. VANDERHOEF: Got it. Yes.

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

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

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

More specifically, the State Education Department is responsible for accrediting or registering all credit-bearing programs, whether public or independent. Vocational educational programs that lead to associate degrees and credit-bearing certificates and diplomas are included in the agency's
application as a recognized approval agency.

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

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

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

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

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

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

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

Therefore, as I stated earlier, we are recommending to the Senior Department Official to continue the agency's current recognition, and require the agency to come into compliance within 12 months and submit a compliance report that demonstrates the agency's compliance with the issues identified in the staff analysis. Thank you.
CHAIR STUDLEY: And we now welcome the representative of the agency. Are you Mr. Murray (sic) or Dr. Murray?

MR. MURPHY: Mr. Murphy.

CHAIR STUDLEY: Murphy? Murphy. I apologize. Would either of the readers like to add anything at this point? No?

Would you like to speak to the recommendations?

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

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

So we look forward to responding throughout the year and making sure that we comply with those
criteria that are of concern right now.

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

MR. MURPHY: Yes.

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

MR. MURPHY: Correct.

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

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

We typically do the same function that the typically higher education review unit would do, but ours is -- what we're able to do is work literally right next to the board, the State Board for Nursing. Same with the other 48 provisions in New York.
So we're one of those units that, luckily, a couple of years ago, for the first time in 20 years, we got a fee increase for all the professions. And all the associations went along with this.

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

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

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

MR. MURPHY: Yes. Yes.

MR. FRENCH: Thank you.

CHAIR STUDLEY: Do any other Committee members
have questions or comments on this agency? Anne?

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

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

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

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

MR. MURPHY: I think it's a great idea. I honestly hadn't thought too much about that until you just brought that up. But we certainly have the capability within the state department. We convene meetings all the time that way now.
I think it's a great suggestion. But I really think that we'll be able to do the traditional and the distance methods, I really do. We're traveling all the time, anyway. Our review staff, we have five review staff. Two are dedicated to nursing solely because it's the biggest profession by far in New York State. And they're on the road. They're constantly convening groups anyway.

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

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

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

CHAIR STUDLEY: Anyone else with a question or
CHAIR STUDLEY: Do you have a recommended action that you want to propose?

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

CHAIR STUDLEY: Right. We will help you out.

Excuse us. We are groping for the terms of art to accomplish the -- to put the next step before the Committee. If you'll give us a moment, please.

(Pause)

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

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

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

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

MR. VANDERHOEF: All right.

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

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

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

DR. HONG-SILWANY: I'm sorry. It's that the current scope of recognition is continued with the compliance, not that a renewal is granted. Is that right? Is that the verbiage?
CHAIR STUDLEY: The question was whether it is a continuation --

DR. HONG-SILWANY: Continuation.

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

Excuse us.

(Pause)

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

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

CHAIR STUDLEY: Yes.

MR. VANDERHOEF: "Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance
report that demonstrates the agency's 
compliance" -- with the issue identified below. We
don't need that on there. Right?

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

MR. VANDERHOEF: Fine. All right.

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

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

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

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

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

In the last negotiated rulemaking, we negotiated around that issue of what did it mean to be in compliance. And, as a result, the procedures were changed so that we were in accordance with the statute. So an agency has to demonstrate full compliance before the renewal of recognition.

CHAIR STUDLEY: Thank you.

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

(No response.)

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

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?
(No response.)

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

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

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

CHAIR STUDLEY: Yes.

MR. MURPHY: Okay. I'm sorry.

CHAIR STUDLEY: The sort of broader questions about --

MR. MURPHY: Yes. Yes, I do.

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

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

CHAIR STUDLEY: Exactly.

MR. MURPHY: And two items that you believe
our agency does well? Is that what we're talking about
here?

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

MR. MURPHY: Okay.

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

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

CHAIR STUDLEY: Sure. Go ahead.

MR. MURPHY: Yes. Okay.

CHAIR STUDLEY: You get two chances.

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

In New York, we have very distinct regulations
that relate to whether a school out of the state can
come in and, first of all, just do education in New
York, and second, it gets even more complex when you're
talking about clinical placements.

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

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

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

What that does is it allows us to apply our
registration standards to those institutions and put
very specific parameters on how many students they could place. They need to speak to the issues of whether it's going to affect our present New York State institutions because it's become actually a little bit more challenging now to place students into clinical internships.

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

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

So it's become an issue with us when out-of-state institutions come in and just think that
they're going to place people anywhere they want. And so we have found this a real thorny issue.

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

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

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

But we again hold these schools to very strict standards. We tell them whether it's realistic. We look at their facilities and their ability to place
people into clinical placements.

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

    As far as what we do well, I'll be brief here. We've been doing this for a long time. And one thing we do well that may not be real unique -- I'm not sure how other nursing accrediting agencies do this -- but we are very open-door, proactive.

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

    Our agency says, look. If you're having issues, schedule an appointment, come up to Albany, and we'll talk to you. We've got nursing staff that have been doing this for a long time, and so we've got an
open-door policy. Of course, within our schedules, we do this. But we typically are able to work with these schools that are having issues.

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

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

So we have both the institutional capacity review to do distance ed and whether they've got all the systems in place to do the correct faculty training and they've got the correct software. And it's equivalent in quality and outcomes to their brick and mortar program.
So I think those are the two things that I would say that we do real well. And I'll entertain any questions, if you have any.

CHAIR STUDLEY: Yes?

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

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

MR. MURPHY: Yes.

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

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

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

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

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

It's also a very difficult question because some schools say, well, you're asking us to make sure it's comparable in quality. We think it's actually going to be better. So I think that's another aspect. It's tricky because you don't -- it's tricky because we even put in our registration letters when we register these programs, we want to make sure that
you're giving us assurances that your faculty and outcomes are comparable in quality.

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

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

I'm waiting for the day, though, where we're going to start to get more and more proposals where they start to do even some telemedicine. Then we'll have to really begin to deal with that, with clinicals. But right now, the model is typically clinicals the way they typically are, onsite, and distance ed for the
MR. ROTHKOPF: Just maybe a followup question. Do you ever in your determination outcomes go to employers, the hospitals or whatever other institution the graduate is working at, to compare the results of an in-person versus a distance education? Is that part of the analysis of outcomes?

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

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

MR. ROTHKOPF: Thank you.

CHAIR STUDLEY: Thank you. As you can see, we are experimenting with this new format. We still are
on track in terms of our schedule.

Cam, do you have --

MR. STAPLES: May I ask just one question?

CHAIR STUDLEY: Sure.

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

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

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

MR. MURPHY: I wasn't prepared to answer that question.
(Laughter.)

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

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

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

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

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

One of the issues, actually, that was brought up in ours that makes us look in the mirror is a lot of the issues that have to do with the financial capacity to make sure that we're still keeping our process -- pretty much the summary issue of what all
the concerns are with the accreditation body here is that we make sure that our process is objective.

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

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

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

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

MR. STAPLES: This process, this recognition process by the federal government, is not a burden, you don't know, to the state?
MR. MURPHY: The only issue that really kind of vexing me again was this credit hour. I don't know how many more times we could try to address the issue. But this goes along with any accrediting issue, is sometimes you get caught up in details. It's just part of the process.

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

MR. STAPLES: Thank you. you

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

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

MR. FRENCH: Thank you, Madam Chair. And my colleague gave the overview of the New York State Board of Regents in the initial presentation. The only thing
that we would add would be the fact that it's already been indicated by Mr. Murphy that the Regents oversee the education, licensure practice, and conduct of practitioners of 45 of the 47 licensed professions.

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

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

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

We will turn it over to the staff representative.
CHAIR STUDLEY: Thank you very much.

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

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

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

The outstanding issue in the staff analysis requires document regarding the agency's application of its policy for requiring audited financial statements every other year, and evidence that programs comply with the agency's requirement for submission of a current catalogue.
Therefore, as I stated earlier, we are recommending to the Senior Department Official to continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issue in the staff analysis. Thank you.

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

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

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

I'm not sure of the exact wording of how we're going to do it, but it's basically going to say to make sure that every two years they submit the audited financial statement.
We have our own staff that reviews all colleges in New York State and higher ed institutions, and institutions that have associate/baccalaureate programs. But we do recognize the concern, so we're going to make sure that we drill down into all of the nursing programs by adding that language and requirement of the schools.

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

DR. HONG-SILWANY: No.

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

MOTION

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

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

MR. KEISER: I'll second --

CHAIR STUDLEY: Oh, sorry. Thank you.
MR. KEISER: I'll second the motion.

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

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

CHAIR STUDLEY: Sure.

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

MR. FRENCH: Therefore. Therefore, not thereafter.

MS. GILCHER: It should be thereafter.

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

I think we're suggesting we would like to have
the report 30 days before we come here.

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

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

MR. FRENCH: Right.

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

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

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

EXECUTIVE DIRECTOR LEWIS: George, the agency has a year to come into compliance. They submit the report 30 days after that. And then the staff will have approximately six months to review it and to work with the agency and give them due process. And then, at approximately 18 months to two years from this date, the agency will come back for review before the NACIQI.
MR. FRENCH: If that's the intent of the organization, that's fine.

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

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

CHAIR STUDLEY: Yes.

EXECUTIVE DIRECTOR LEWIS: Yes, please.

CHAIR STUDLEY: Right. Is that change being made?

VOICE: Yes.

CHAIR STUDLEY: Okay. Thank you.

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

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

Frank, do you have a comment?
MR. WU: Yes. I have two suggestions. The first is that we not have a split infinite, so we move the "within a 12-month period" -- "an opportunity, within a 12-month period, to bring itself into compliance."

The second is I think there's either a word missing or there's some problem, even if it's "thereafter." The sentence is really awkward. And I don't think you can have "within 30 days, thereafter."

It's either -- it should be a semicolon, a period, or there's a verb missing in the "thereafter" clause. I think it would just be cleaner if we broke it into two sentences.

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

MR. WU: Just take out the word.

CHAIR STUDLEY: The "thereafter" is unnecessary.

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

MR. FRENCH: Thank you.

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

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

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

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

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

Anyone else, or are we ready to vote?

MR. FRENCH: Madam Chair, I would suggest that we make the same change on the first action that we took just based upon what was on the screen.
CHAIR STUDLEY: All in favor of the motion, please say aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

(No response.)

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

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

As I understood it, you were observing that the field of vocational nursing, and perhaps it applies as well to the other nursing program, has been the subject of workforce projections and a great deal of publicity about the national need for growing our capacity in certain nursing and medical fields, but that other factors are intervening to change that. How do you think about providing applicants with information about these job force trends and developments as they make decisions about whether to
get this kind of education or more specific choices once they have decided that they want to do it?

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

MR. MURPHY: Yes. Right now, we're actually in the middle of -- the New York State Education Department does an eight-year statewide higher ed plan. And it's a very comprehensive document, and it basically shows what are the trends in New York State higher education.

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

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

They drill down into where are shortages --
CHAIR STUDLEY: No pun intended.

(Laughter.)

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

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

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

In addition, the schools themselves, I have to tell you, are being held now to very rigorous standards as to what they have to report to the students and show them, what are the placements? This stuff usually is published alongside everything else -- graduation rates, retention rates, persistence rates.
So there's a level of -- even outside of what our scope would be and our charge would be in our office, I think more accrediting bodies are really holding some of these schools' feet to the fire on this to make sure that you're not just graduated 150, 200 students at a time and they have nowhere to go.

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

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

CHAIR STUDLEY: Thank you. I won't take further time at this point, but if there's anything
that you have that you could easily send us on
the -- you mentioned rigorous standards for student
information.

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

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

Anyone else have a brief question for Mr.
Murphy?

(No response.)

CHAIR STUDLEY: With that, thank you very
much. We appreciate your being here on behalf of both
of these agencies. And we appreciate your assistance,
Jennifer, in reviewing both of them. We will now
release you from the hot seat.

MR. MURPHY: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

Our review of the agency's petition found that the agency is substantially in compliance with the
criteria for recognition. However, there are a number of issues that the agency needs to address.

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

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

Finally, the agency needs to demonstrate a consistent process for selecting representative members on its site teams and decision-making bodies; the effective application of its student achievement standards by its onsite teams; that it provides each institution and program with a detailed written report assessing its success regarding student achievement; that it requires and evaluates the public disclosure of
transfer of credit elements; and that the process for
determining credit hour assignments is reviewed and
evaluated by its site teams and by its decision-makers.

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

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

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

DR. YOHO: Good morning. I'm Robert Yoho.
I'm the immediate past chair of the Council on
Podiatric Medical Education. I'm also the dean of the
College of Podiatric Medicine at Des Moines University.
I'm joined here this morning, to my far left,
with my predecessor and former chair of the council,
Mr. Andrew Weiss, who is director of finance and systems at Georgetown University Hospital; and also, to my immediate left, by Mr. Alan Tinkleman, who is the director of the Council on Podiatric Medical Education.

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

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

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

The council and I concur with this statement. It takes this very seriously, and will take it upon
itself to respond in a timely and appropriate manner to
each issue identified.

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

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

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

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

CHAIR STUDLEY: Thank you very much. We
appreciate that.
Do any of the Committee members have comments or questions? I see Arthur and then Cam.

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

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

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

CHAIR STUDLEY: Cam?

MR. STAPLES: Thank you, Jamie.
I have a couple questions, one about -- the recommendations seem to have two categories. One category is very minor modifications to statements or policies that I have a question about, which is that you were notified at one point by the Department in the initial report that there were issues with those particular policies, whether it was your records policy or some others.

Then you went back and you made revisions, and then there was still some very -- in my estimation, very minor lack of compliance with the modification. So I guess I want to ask you about that process. Some of those seem to be bordering on insignificant. And I guess the Department is bound to say you're either in or you're out completely. So the failure to mention every fine point in your new disclosure policy renders you out of compliance.

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

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

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

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

(Laughter.)

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

MR. STAPLES: If it makes you feel any better, I thought the same when I read them, and I'm not faulting the staff. I think there's a level of specificity that is now standard review.
But it seemed to put you over the edge in a number of categories, so I was just curious how that could have happened unless there just wasn't an understanding, when that first communication was made, how specific you had to be. But that's just one question.

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

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

MR. TINKLEMAN: In that case, it's neither.
The CPME adopted new requirements and procedures two years ago, and as Dr. Yoho mentioned earlier, we have very few onsite evaluations. The visit that we needed to use to document our compliance was the first visit using our new requirements that include extensive guidance for the onsite evaluation team related to student achievement.

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

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

MR. TINKLEMAN: Yes.

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

MR. TINKLEMAN: That's correct.

MR. STAPLES: Great. Thank you very much.

MR. TINKLEMAN: You're welcome.
CHAIR STUDLEY: Would you like to make a motion?

MR. STAPLES: I would, Madam Chair.

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

MOTION

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

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

(Pause)

CHAIR STUDLEY: It's CPME?

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

Steve, since we're continuing accreditation, does the scope change need to be effective immediately, the one that you would add to this motion?
MR. PORCELLI: It would be a change in title.

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

MR. PORCELLI: Yes. It should happen.

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

MR. KEISER: May I ask a question?

CHAIR STUDLEY: Certainly. Go ahead.

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

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

Then they had a candidate status. Once the students were there they did a site visit, self-study, the whole nine yards. They decided that they wanted to...
do a self-study, and they wanted to strengthen their
review process.

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

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

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

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

MR. KEISER: So does the Department recognize
a candidate if it's a freestanding -- it's a
not-for-profit institution?
MR. PORCELLI: There seems to be a -- I'm having trouble locating the exact regulation, but there seems to be a difficulty in recognizing, for Title IV purposes, a status where there are no students present. And it's kind of a moot question, because if there are no students, there are no students getting Title IV money, and so on.

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

MR. KEISER: But let me understand it. So the school decides it wants to open an institution of podiatric medicine. It then applies for candidacy, which is prior to the opening of the first class. We recognize that status, and then are the students eligible before they get the provisional status? I'm not sure that works.

MR. PORCELLI: That would be something our lawyer may want to comment on. But we are recommending them for provisional -- we're recommending that they be
recognized for provisional, which would be with the students present.

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

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

MS. WANNER: That's right.

MR. KEISER: That makes sense.

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

Anne?

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

I guess I want to ask you, as I understand it, you and most of the entities that we're seeing today are being asked to come back in 12 months. And as I understand it, if you don't fulfill the requirements in 12 months, either you're then out on the street or
there has to be some special showing.

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

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

I think, to sort of add on Alan's comment, I think the grey zone really narrowed recently. So I think what we're attempting to do is to adjust to there's black, there's white, and there's a grey zone. We understand that that shade of grey has narrowed quite a bit, and we really need to -- and we need to ask questions. If we're not exactly sure what we're doing, it would seem that it would be a reasonable request to follow up with appropriate consultation to make sure that we don't doom ourselves by not falling into compliance with these.

So I think later Alan -- or, I'm sorry,
Andrew -- may have some comments related to the questions that also may address your comment's last question.

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

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

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

CHAIR STUDLEY: I think, when we talk about that as a process matter, I will want to separate out, at the very least, the difference between "coming
back" -- your phrase -- in the sense of completing the steps that, in this case, the agency agrees are sensible and need to be recorded and reflected, and "coming back" in the sense of making another in-person visit to us at a meeting where we gather.

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

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

Cam?

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

Is it the Department's interpretation -- and Kay just mentioned this earlier, I think, about the revised negotiated rulemaking, which requires absolute
compliance in the sense that there is no substantial compliance -- there's no opportunity for us to say, for example, you're continued for five years. Submit back in six months a report indicating you made the following changes to your publication, sufficient to satisfy a Department review.

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

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

CHAIR STUDLEY: Arthur?

MR. ROTHKOPF: Do you mind if I --

CHAIR STUDLEY: Sure.

MR. ROTHKOPF: It may be a conversation to have further when we get into our policy discussions about how to refine the future regulations and/or statutes. I would say, just for this agency, at least
from my view, they should still come back on the
achievement issues.

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

CHAIR STUDLEY: Arthur?

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

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

But the bylaw changes or the channels were
made in their process, and we cited that for
noncompliance. That's another thing we could look at:
How do we deal with ones where they weren't able to
actually show the implementation because of timing
issues?
Some of these things could come up where it would last greater than a year, and they'd still be out of compliance in 12 months now because they didn't have a teach-out or a train-out during the period of time.

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

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

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

I think we've identified a fruitful area for
further conversation in terms of the rules going forward. Frank?

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

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

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

MS. NEAL: Along those same lines, in looking at the student achievement aspect, correct me if I'm wrong, but you all have a requirement that a school
have an assessment plan; that is establish competencies
or student learning outcomes; that there be
identifiable program outcomes; and then you also have
acceptable floors for placement on graduation.

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

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

My sense, though, is because of the recent
change in the documents, we've sort of used an
alternative pathway, and that is, all colleges are
required to submit an annual report. And in that annual report, they're required to respond to I think it's Standard 8, which is educational effectiveness, which includes all of these.

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

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

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

(No response.)
CHAIR STUDLEY: Would you like to make a motion?

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

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

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

CHAIR STUDLEY: Great.

MR. KEISER: I'll second.

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

(Laughter.)

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

(No response.)

CHAIR STUDLEY: All in favor, please say aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

(No response.)

CHAIR STUDLEY: The motion carries.

I definitely from that conversation do hear the hunger for us to look at the options that we have
about these approvals and about the recommendations and about the process that follows, also, to make it as smooth and as minimally invasive as possible, both on behalf of the agencies and in consideration of our time.

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

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

Thank you.

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

I mulled over your questions at length, and it's hard to answer them without being cliche in generalities. But that said, regarding challenges, my
focus was centered on ensuring that the council maintained relevance while balancing the realities of student demand and residency placement needs. Podiatry has some very big concerns in that area, and the council has been at the epicenter of those questions.

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

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

That's a tough spot to be in when the historic persona of the council has been to gently guide and cajole the entities that it oversees into positive directions. That said, where the new accreditation criteria seem to suggest a more objective approach, it often gives us a little less room for subjectivity, which is a valuable tool when we're considering our peer institutions.
So it's been a challenge to look at the new criteria and implement them into our existing structure, but I think a rewarding one. I think we have been very much benefitted from the process.

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

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

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

In CPME, there is active involvement of expert
and practicing podiatrists in the accrediting process. And I think that the combination of lay persons and academicians with the professional community has really been a great benefit to the process as a whole. This results in a finely tuned review that benefits institutions engaged in the continuous improvement process. And I think it also safeguards and advances the profession as a whole.

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

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

Do the Committee members have any questions for this team?

(No response.)

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

AGENCY REPRESENTATIVES: Thank you.

CHAIR STUDLEY: We are going to move into the next agency, the North Central of Colleges and Schools, Higher Learning Commission, before we take our break.
This item before us is an informational report. There are no Committee readers assigned to the item, and there are no staff who will be presenting.

DR. LEWIS: And as --

CHAIR STUDLEY: Earl, do you need to --

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

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

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

DR. MANNING: Thank you. Your agenda indicates that Karen Solomon, our vice president for legal and governmental affairs, would be here as well. But unfortunately for me, Karen is serving the greater good by acting on jury duty at the moment.

CHAIR STUDLEY: I heard that coming.

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

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

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

In order to be admitted to candidacy, the institution must fully meet all the eligibility requirements and then must demonstrate that it is
likely to meet all the criteria in full within the
period allowed for candidacy.

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

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

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

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

At the end of the decade, 37 of them were
accredited. That's 31 percent. And at the end of the
decade, 49 of them, or 41 percent, had either timed
out -- that is, they had failed to meet the time
restrictions at various stages in the process -- or had
dropped out, or had been denied and had not moved
forward. The remainder were still in the process
because it does take, in fact, several years to get
through.

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

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

Then in December of 2009, CSU-Global, as a
separately accreditable, or potentially separately accreditable, entity, went through the eligibility process. They had a candidacy visit in October 2010.

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

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

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

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

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

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

Both those issues were cleared up between February and June, and at the June meeting, the board did waive candidacy and grant initial accreditation, with the provision that the institution graduate its first class within 30 days of the board's action in June.
The institution, in fact -- and we knew this would happen -- graduated its first class seven days later, and the initial accreditation became effective on that date, which was June 30th.

Should I just keep going?

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

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

That completes my report.

CHAIR STUDLEY: Thank you very much.

Arthur?

MR. ROTHKOPF: Yes. I'd like to go back and be sure I understand your comment about there were 120 institutions that were seeking accreditation, initial
accreditation, and at the end of the process, only 37
were granted. Tell me what exactly.

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

   MR. ROTHKOPF: What's that?

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

   MR. ROTHKOPF: Still in the process.

   DR. MANNING: Right.

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

   DR. MANNING: Let me just clarify because we're not that rigorous, although we might be. It's 120, and 37 we accredited. But an additional 34, at the time that I did this snapshot, were still in the process. So we might still be about to accredit them. For instance, the two that we just described would
have been in the process.

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

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

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

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

Some of them, I believe, do not have accreditation through any recognized gatekeeping agency. And those studies, I assume, are not getting Title IV funds. But I'm just giving you the general range of possibility. I don't have the data to your question. But we could get it.
MR. ROTHKOPF: Yes. Thank you. I'd be interested. I mean, it's a question that really slips over into the conversation we start tomorrow afternoon about what the policies ought to be if you've got institutions that have not met the standards of one of the regions, yet they've met the standards of somewhere else, some other accrediting body.

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

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

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

So, on its face, it takes longer than it did before. And based on your report, it appears that there are teams of four or more, and that they can come
to these institutions for onsite evaluations over the
course of three days.

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

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

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

This, frankly, produced a lot of expense on
both sides, and a lot of expenditure of time as well as money, in an effort that seemed essentially like a waste of resources.

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

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

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

MS. NEAL: When you were responding to Arthur,
would it be possible for you to also indicate if in fact there were applicants that just decided it was a process that they could not pursue for cost or whatever reason? Will you be able to supply us with that as well?

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

(Laughter.)

CHAIR STUDLEY: Are there any other questions or comments?

(No response.)

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

CHAIR STUDLEY: Thank you very much.

Appreciate it.

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

(A brief recess was taken.)

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

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

The court reporter has asked me to ask you, on behalf of CCE, when you speak, to introduce yourselves,
identify yourselves, so that he can get the proceedings reported correctly.

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

MR. ROTHKOPF: Yes. Thank you.

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

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

Let me talk a little bit about its recognition history. CCE was first recognized by the Commissioner of Education in 1974, and has received periodic renewal of recognition since that time.
It was last reviewed for continued recognition at the spring 2006 NACIQI meeting. At that time, it received a continued recognition for a period of five years, and was requested to submit an interim report on items related to four criteria.

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

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

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

Each commenter is requested to speak for under
three minutes, up to three minutes, and the executive
director will keep time at that point. Then there will
be an opportunity for the agency to respond, if it
chooses, to third party presentations; for the
Department to respond to agency and third party
presentations; and then the Committee will discuss and
vote.

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

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

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

Our review of the agency's petition revealed
several issues in several areas of the criteria. In particular, in the area of organizational and administrative requirements, the agency must provide more information on the selection and categorization of its representatives, including appeals panel members, conflicts of interest, and recordkeeping.

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

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

Since many of the issues identified in the staff analysis only require the need for policy modifications or additional documentation, we believe that the agency can resolve the concerns we have identified and demonstrate its compliance in a written report in a year's time.
Therefore, as I stated earlier, we are recommending to the Senior Department Official that CCE's recognition be continued and that the agency submit a compliance report in 12 months on the issues identified in the staff report.

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

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

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

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

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

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

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

I'd like to start by saying that we concur with the findings that have been reported to you by staff, and are already working diligently on making the policy changes that will address many of those areas.
I asked during the break if it would be okay if I addressed some of the questions, the three questions that have been imposed to each of the agencies at this time. So with your indulgence, I'll go ahead and weave that into my comments.

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

One is the organization of the council itself. The accrediting agency in the past was comprised of two relatively separate bodies, a 12-person board of directors and a 12-person commission on accreditation. In March of 2009, the bylaws were changed and voted into acceptance by the members to consolidate this into a single body, a 24-person council.

So we have been growing since March of 2009 and adjusting to this new entity and working with our policy revisions and so forth, and I think that some of the things that had been pointed out as weaknesses in the staff report are simply because we haven't been
able to get to everything that we want to accomplish in that area.

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

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

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

Those 24 people widely represent the colleges, the philosophical backgrounds that were alluded to
earlier. They represent various levels of expertise in higher education and administration and finance. And, of course, our public membership is very critical to us.

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

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

These are now heavily outcomes-based. Previously, our standards had quite a few quantitative requirements, and we are now focusing on clinical competencies. And this has also put us at a little bit of a quandary, and this goes into the next area in terms of challenges, in that we have been moving more
towards outcomes-based assessment and less towards check boxes and itemization of things.

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

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

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

So what are the thorniest challenges that we have faced relating to the accreditation requirements,
the federal regulations? Well, part of this has to do with the public comment period and the expectations that we receive and reflect upon the input from our public constituents.

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

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

So we're learning to better deal in getting information out to our public groups, and in dealing with the feedback we get from that. We met on 20 different occasions with major groups throughout the nation to discuss our proposed revisions.
We got great feedback along the way, but we need to do a better job in the future. The thing that we do exceptionally well that we'd like to highlight is the training that we put into our site team visitors. We regularly put on training, and this is attended by in excess of 90 percent of the members of our site team pool.

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

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

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

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

CHAIR STUDLEY: The structure that I described was to have Committee discussions and voting afterward.
If you have a point of clarification right now while it's fresh --

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

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

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

First up is Robert Braile.

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

The public deserves accountability. Based on
the experiences of the CCE handling of the GCC's formal complaint against the agency and one accredited program in December of last year, the CCE's performance, in our opinion, is not acceptable.

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

The CCE process for handling complaints is unfair and designed to impede any attempt to address violations either by CCE-accredited programs or the agency itself. For example, GCC did not receive a response to its complaint until eight months later. CCE then requested GCC to send comments within 10 days. CCE took five long years revising its standards under questionable processes and circumstances. The results led to further violations in the areas of student services, recruiting admissions, career placement, and student complaints.

The GCC provided third party comments to
request, at the time of acceptance, students must be advised of the total expected cost of the chiropractic education, program graduation rate, and career placement information. Additionally, the CCE has not demonstrated significant efforts to engage students in the standards review process, in violation of 602.21(b)(4).

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

The underlying cause of the problem with the CCE is the true culture, which has been operating in protecting of its ruling group and their agenda. The CCE make readily available to the public the qualifications and relevant employment and organizational affiliations of its members and principal staff -- not really. They guard this
information like a secret so that no one recognizes
they mostly recycle the same people over in different
positions.

We would like NACIQI to recommend to the CCE
to institute an open, transparent, and democratic
process of leadership, succession, ensuring
participation and involvement from other constituents.
The days of changing the rules to protect those who
rule need to come to an end. Only this way will the
CCE then represent balanced judgment in the execution
of its duties.

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

I thank you. If there are any questions?

MR. STAPLES: Just one technical question.
Could you explain who you represent? I'm not sure I understand the acronym.

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

MR. STAPLES: Georgia Council of Chiropractic.

DR. BRAILE: Yes.

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

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

MR. STAPLES: Thank you.

CHAIR STUDLEY: Thank you very much.

DR. BRAILE: Thank you.

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

You may begin. Thank you very much.

DR. ERICKSON: Thank you for your time. As a
graduate, a new graduate of just three years, and an active practicing chiropractor, I would like to present to the Committee Section 602.21 as a point of concern about the CCE.

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

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

Arne Duncan stated, "This Committee will play a vital role in ensuring the highest standards of
accountability for accrediting agencies." These agencies have the formidable task of assuring the schools participating in federal student aid programs provide a quality education to their students. The vital step I pointed will aid the Committee in fulfilling Arne Duncan's mandate.

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

Thank you.

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

(No response.)

CHAIR STUDLEY: Thank you very much.

Christopher Kent.

DR. KENT: My name is Christopher Kent. I'm a chiropractor and an attorney. I'm making this presentation in my capacity as president of the Foundation for Vertebral Subluxation, a 501(c)(3)
nonprofit focusing on policy, education, research, and service.

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

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

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

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

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

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

So what should be done? FES seeks application of the principles of good governments, including transparency, accountability, and meaningful participation for all stakeholders. Accreditation
should be a collegial, not an adversarial, process for all participants regardless of philosophy.

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

Thank you.

CHAIR STUDLEY: Thank you.

Mattie Leto, or Leto.

DR. LETO: Thank you. My name is Mattie Leto. I am testifying today for Dr. Arnold Burnier. His testimony has been certified by a public notary.

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

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

"That decision prompted a federal judge to
refer to the cartel-like actions of the CCE as, 'An aggressive group of leaders of the eight liberal chiropractic schools who had only one-third of the chiropractic students had undertaken a series of corporate manipulations in order to reduce the representation and dominance of the eight conservative chiropractic schools, who had approximately two-thirds of all the chiropractic students; that these corporate manipulations, which may very well have violated CCE's corporate charter, were calculated to give dominance to the liberal minority group over the conservative majority group; that the end result has been the disaccreditation of the largest of all the colleges of chiropractic and the turning loose of hundreds, perhaps thousands, of students to be attracted to the other schools. Actions which would violate the antitrust laws, if incorporated in an accreditation procedure, per se, indicate a lack of due process.'

"In the 2006 re-recognition hearings, the CCE was asked to reform its behavior, yet since 2006 the CCE has become bolder in pushing their agenda forward. The CCE is also guilty of self-appointing its members
in its selection and election process. An example of this is Gerry Clum's writing.

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

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

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

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

"2) That all members currently present in the
CCE who were engaged in the removal of Life University's accreditation in 2002 be permanently removed from their positions within the CCE.

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

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

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

CHAIR STUDLEY: Are there any questions?

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

DR. LETO: Those were the terms used by the federal judge that made that statement. I would say that in this case, the liberal chiropractic schools were more of the schools that are pushing the
profession of chiropractic into medicine, and the conservative chiropractic schools are the chiropractic schools that stick to the long-held principles of chiropractic, which is vertebral subluxation.

CHAIR STUDLEY: Thank you very much.

Any other questions?

(No response.)

CHAIR STUDLEY: Thank you.

Kathleen Linaker.

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

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

I am here today to just mention or discuss how CCE has assisted D'Youville in starting its program. We are the newest chiropractic program to undergo the entire accreditation process.
The process and procedures that outlined by CCE are very easy to follow. The staff at CCE is very helpful in helping us understand the process and to meet the standards and to use the accreditation process to improve the educational process for our students and to improve the quality of our graduates.

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

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

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

So that is pretty much all I wanted to say.
today, unless you have questions for me.

CHAIR STUDLEY: Do any Committee members have questions?

(No response.)

CHAIR STUDLEY: Thank you very much.

Appreciate your appearance.

Michael McLean.

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

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

I sit here today to urge you to rein in an out-of-control CCE. The same, small, self-elected group that controls the CCE has ruled with impunity the profession it regulates, and has created a climate of
fear so deep that no college administrators dare criticize CCE for fear of CCE withdrawing their accreditation, a virtual death sentence, as it did to Life College of Chiropractic in 2002 after Life's president criticized CCE to the Department of Education. It took Federal Judge Charles Moye's intervention to undo this travesty.

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

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

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

I sit here today to urge you to rein in an out-of-control CCE, not to simply send them a message. The 2006 NACIQI sent them a message; they didn't get it. The 4,000 aggrieved DCs who complained of CCE's new standards sent them a message; again, they didn't get it. The CCE has not been listening to its messages.

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

CHAIR STUDLEY: Thank you very much.

Are there any questions from the Committee?

(No response.)
CHAIR STUDLEY: Thank you, sir.

Joe Merlo.

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

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

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

Since the CCE's governing structure allows for
no new members not picked by the current ones, we have no way to change the CCE's leadership. For this reason, our only options are to appeal to the federal government.

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

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

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

Our concerns are with fairness, anti-competitive behavior, gross imbalance in the governance of the agency, and the very real potential for injury to non-favored institutions, and ultimately to the integrity and credibility of the chiropractic
accreditation in general.

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

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

We will take it to the Congress if we must, and we will take it to the courts if that fails. We would prefer to see this solved right here, right now. But we will pursue a democratic rule of the profession wherever we must. We beg you to mandate such.

Thank you in advance for your consideration of the comments by the silent majority of the chiropractic
CHAIR STUDLEY: Questions?

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

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

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

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

CHAIR STUDLEY: Earl, and then Ann.
DR. LEWIS: I have a question. If CCE were to disappear, is there an alternative body to accredit the chiropractic industry?

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

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

DR. MERLO: Not currently.

DR. LEWIS: Thank you.

CHAIR STUDLEY: Anne?

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

Are you suggesting that there would be many more that would be able to, say, get reimbursement for the federal Medicaid program if CCE would accredit these bodies, but they're not? I'm just trying to
understand. What universe are we talking about here?
Because it seems fairly small, in looking at the
description.

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

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

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

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

DR. MERLO: Yes.

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

(No response.)

CHAIR STUDLEY: Thank you very much.

DR. MERLO: Thank you, Committee.
CHAIR STUDLEY: Sarah Mongold.

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

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

The council's election procedures, detailed in the current CCE bylaws, is a source of concern and holds the potential for this violation. As is currently outlined in Section 6.03 of the bylaws, anyone, including students, can make a nomination for an open position on the council. The nominations are
then forwarded to the nominating committee, which is where the potential problem arises.

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

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

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

As a result, the council is potentially able to manipulate the election process and perpetuate its own agenda, without regard to the will of the
profession as a whole and without regard to the goal of
graduating excellent chiropractors who will be
successful in practice.

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

Thank you.

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

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

I've heard four different claims. The first
claim is that in chiropractic, there are two schools of
thought. One is more liberal. One is more
conservative. I've seen also that that's referred to as "mixers" versus "straights."

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

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

And then the fourth claim is that the mechanism by which they do this is they are selecting individuals who are part of the process who, because as schools, these types of schools compete with each other, the liberals dominate CCE and want to drive out the conservative schools, such as this Life school that sued, successfully, in 2002.
So those are the four claims: one, that there's a division; two, that CCE has taken sides; three, that CCE disfavors schools that are on the other side; and four, that the mechanism that we ought to be concerned about is some sort of conflict. Right? There's a conflict of interest within CCE.

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

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

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

(Laughter.)

VOICE: Smart girl.

MR. WU: Thank you.

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

Are there any questions for Ms. Mongold?
(No response.)

CHAIR STUDLEY: Thank you very much.

Appreciate it.

MS. MONGOLD: Thank you.

CHAIR STUDLEY: The next speaker is Judith Nutz Campanale.

DR. CAMPANALE: It's Judith Nutz Campanale.

Thank you, Madam Chair. You're not the first person, obviously, to have said that.

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

It's the position of the IFCO that the CCE has adulterated the accreditation process by using their power and influence as a political tool to change the objective of chiropractic from a separate and distinct profession that specifically contributes to patient health through the care of the spine and nerve system into the medical role of a primary care physician.
They have attempted to achieve this transition through various tactics. In fact, the very thorough staff that reported to you on this matter noted over 40 different ways that they are failing to comply with the Secretary's standards. However, for the purpose of this brief presentation, I wish to focus solely on one.

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

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

Now, there are two ways that I believe that the CCE is violating this code. First, the CCE's own accreditation standards as of January 2012 defined a chiropractic practitioner as a primary healthcare
physician. The time I have today does not allow me to
go into that exact definition, although it has been
previously forwarded to the Committee.

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

The second way that CCE violates 602.13 is
that the recently adopted 2012 CCE Standards and
Policies has eliminated the requirement of chiropractic
programs to train candidates in the detection and
correction of vertebral subluxation. This is the focal
point of chiropractic, as widely recognized by the
Association of Chiropractic Colleges, federal programs, most state licensing boards, and the majority of practitioners throughout the world.

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

CHAIR STUDLEY: Would you please --

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

Thank you very much for allowing me to comment today.

CHAIR STUDLEY: Thank you very much.
Does anyone have any questions? Cam?

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

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

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

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

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

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

CHAIR STUDLEY: Anne, and then Brit, and then Arthur Rothkopf.
MS. NEAL: Is there anyone accredited by CCE currently that advocates or teaches vertebral subluxation?

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

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

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

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

DR. CAMPANALE: Organizational members or --

DR. KIRWAN: However you want to describe it.

DR. CAMPANALE: I don't have that number off the top of my head.
DR. KIRWAN: Just roughly.

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

DR. KIRWAN: But over 500?

DR. CAMPANALE: Yes.

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

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

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

DR. CAMPANALE: It includes all schools. Indeed.

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

DR. CAMPANALE: Yes.

MR. ROTHKOPF: All there.

MR. WU: Jamie?
CHAIR STUDLEY: Yes, sorry. Frank?

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

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

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

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

MR. WU: Exactly.

DR. CAMPANALE: Yes.

MR. WU: Okay. I just wanted to make sure, because I was trying to ask what motivates people who are now practitioners in the profession, who have graduated from school, whose schools are up and
running, they're doing fine. But you have a fear that if CCE ultimately prevails, it will shift the entire field, and that's the fear.

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

CHAIR STUDLEY: Earl?

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

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

CHAIR STUDLEY: Anne?
MS. NEAL: So following up on that, so if there is an alternative, you're saying, to CCE --

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

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

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

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

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

CHAIR STUDLEY: Thank you. Any further questions?

(No response.)

CHAIR STUDLEY: Thank you very much.

DR. CAMPANALE: Thank you all again.

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

David O'Bryon, please.

MR. O'BRYON: I'm David O'Bryon. I'm the
executive director of the Association of Chiropractic Colleges and represent all the chiropractic colleges in the United States and some international programs as well. And I'll try to weave in some of the questions that you've raised.

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

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

As a sidebar, I would encourage, in your discussions later today when you talk about how the groups meet and compliance and that kind of thing, the "substantially meets," which is normally the criteria or catchall to help in regard to smaller issues that
come up, I think is something that all the accrediting bodies would work to. And it would help your process in terms of addressing issues that we have.

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

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

I think our colleges -- I represent, as I said, all of them -- so the conservative and the liberal schools all are within my organization. And if we have 18 people voting, we have no less than 26 opinions on any one issue. So you guys can appreciate the work within our organization.
But what I wanted to do is to say to you that CCE has a lot of information they sent back and forth with our institutions, with our schools, and they provided a lot of input back and forth. It is controversial because change is controversial and stressful to everybody.

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

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

Thank you.

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

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

(Laughter.)

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

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

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

DR. KIRWAN: All of them.

MR. O'BRYON: Correct.

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

MR. O'BRYON: Yes, sir.

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

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

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

MR. O'BRYON: Yes, sir.

DR. KIRWAN: By regional accrediting.

MR. O'BRYON: For institutional accreditation.

But all of them programmatically are accredited by CCE.

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

MR. O'BRYON: If CCE disappeared tomorrow?

DR. KIRWAN: Right. Exactly.

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

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

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

MR. O'BRYON: For licensure purposes --

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

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

DR. KIRWAN: Thank you.

CHAIR STUDLEY: Larry?

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

MR. O'BRYON: No.

DR. VANDERHOEF: -- at all.

MR. O'BRYON: No.

DR. VANDERHOEF: Okay. This leads to my more practical first question. What's your guess as to why
most of the people here are negative? And by the way, you said you don't -- you're not against -- you don't want them to not be accredited. I don't think that's what the comments have been. The comments have been that they should be accredited with a strong --

MR. O'BRYON: Messages?

DR. VANDERHOEF: Yes.

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

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

And there is certainly in the profession a conservative wing, which is very positive -- and all of our schools teach vertebral subluxation; that was a question, all the schools teaching chiropractic adjustments. It's part of the clinical practice skills
and the competencies which they walk out the door with.

That's part of the -- they have.

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

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

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

DR. VANDERHOEF: Well, just a quick followup.

MR. O'BRYON: Sure.
DR. VANDERHOEF: One learns over time that it's easy for the silent majority to really be silent, and that what you hear primarily -- a minority voice can be a very loud voice. Do you think there's a possibility that that's what's happening here today?

I'm trying to get a sense what --

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

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

I think one of the things that's driving this, in my opinion, is some of the states have now moved to do some ancillary procedures. That causes a lot of concern among practitioners of the conservative -- that that might be becoming a new trend. I think that you have other states that have put their practice scope together, and they're all united in one vein.
We have a tendency in the chiropractic profession -- and my background is law rather than chiropractic; I've represented them for years, but -- in the legal field, there are a number of practitioners here, lawyers in the group. We don't have a problem -- if you're a family practitioner or an immigration lawyer or a litigator or not, you're all part of the law profession.

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

CHAIR STUDLEY: Frank?

MR. WU: I just want to make sure that I heard you right. So you represent all of the schools?

MR. O'BRYON: Yes.

MR. WU: So it's a mix of liberal and conservative schools. And on behalf of all of the schools, you're telling us that you do not object to CCE continuing to have this role. Did I hear that right?

MR. O'BRYON: That is correct.

MR. WU: Okay. I have two followup questions.
The first is, I assume -- and I just want to make sure I have this right -- that your group also doesn't take any view on whether it's better to be liberal or conservative, mixer or straight. You're agnostic on that.

(Laughter.)

MR. WU: Right?

MR. O'BRYON: Absolutely. I'm a man of deep faith, but an agnostic in this case.

(Laughter.)

MR. WU: Yes. All right. Okay. And because claims have been made that there's a vast cartel and people have -- that there's self-dealing or something going on, I also wanted to ask, very bluntly: Does your group have any connection, financial or of any type, with CCE?

MR. O'BRYON: We don't. We're a 501(c) organization, totally separate. We do have -- there was actually a ruling that came out of the Department which I proffer to you all if you are considering this, where it was an uneven application of the law, which I think is in violation of the policies of the
Department, in our view, where we had -- anybody who served on my board -- for example, all the presidents of the colleges serve as my board at the colleges and/or their designee. And the Department made a ruling that nobody on my board could sit on the CCE board.

Well, in small communities, that's a difficult scenario. For example, Dr. Riekeman, the president of Life, had to leave my board to serve on CCE's board during his tenure, and had a designee to serve.

In other cases, the Department has allowed -- said, it's not the whole board. It's just people on your executive committee. So when I went back and queried that, I said, well, why do they have executive people only and others? That's another consideration, is that you consider how to move forward with accreditors if you'd put that on an agenda.

Because we want all the input, too, from our institutions, just like CCE needs to have the institutional input as well.

MR. WU: Well, one more question, if I may.

Do the schools actually identify themselves as part of
one of these two groups? Could I tell by looking at their website, this is a liberal versus conservative school?

MR. O'BRYON: I don't think so. I mean, maybe I'm so jaded over the years. I don't look at -- I look at all my schools because they're all graduating with similar standards, and it's just the type of practice you would like to practice.

It's not to say -- I mean, everybody has their own ideas. And our colleges individually had lots of input and gave lots of input into CCE's process -- for example, in changing the standards. Did they get all accepted? No. Is everybody 100 percent happy? No.

Well, the accreditation process is one of -- it's a journey for seeking excellence. You're always going to have issues that you identify and want to make better. And I think that's where we -- we're on that journey.

CHAIR STUDLEY: Arthur? Do you have a question?

MR. ROTHKOPF: No, thank you.

CHAIR STUDLEY: Anyone else? Anne?
MS. NEAL: I'm trying to understand the accepted scholarly standards, if you will, in your field. And if we look at the academy, I mean, there are often debates in the academy in terms of, let's say, whether post-modernism dominates in a field versus classical liberal.

I'm trying to understand, in the context of chiropractic, are you saying that by not mandating vertebral subluxation, that that's tantamount to flat earth? In other words, it doesn't need to be taught any more?

MR. O'BRYON: I don't think that's what CCE means, and that -- actually, it's in their policies, not their standards. And that's a source of disagreement of the professional groups that I think are speaking out here. They would prefer to see it in the standards as opposed to the policies because you can change policies more easily than standards.

But that has been in the profession -- for example, the primary care designation has been in the standards for two decades.

MS. NEAL: But what's changed is it's no
longer going to be required to be taught. So the community is deeply concerned that that will affect them going forward, unlike standards in the past. Is that right?

MR. O'BRYON: Well, I think it's in the policies, so you'd still have a requirement to do that.

MS. NEAL: I see people shaking their heads behind you.

MR. O'BRYON: Yes or no?

SEVERAL VOICES: No.

VOICE: One sentence in one paragraph on page 57.

MR. O'BRYON: The metacomp is easy to come out with in terms of that. That's how they would come out in the teaching. I think that answers your question.

CHAIR STUDLEY: Thank you very much. Appreciate your participation, Mr. O'Bryon.

William O'Connell, please.

MR. O'CONNELL: As the second in three Irish-surnamed guys, I say good morning to you all.

I'm William O'Connell. I represent the American Chiropractic Association. I am the chief staff officer
of that organization. We are the largest professional society representing doctors of chiropractic and students of chiropractic, both in the United States and internationally.

We're well-informed about CCE's processes. We're very familiar with its geographic scope nationally. We're very familiar on a national scale with its work. ACA, as some of the commentators you've heard before here this morning, regulate and makes comments about standard changes and so forth. We participate in these processes.

Not only that, we also have members of our leadership who at one time or another have served on CCE committees. Because they're active in their colleges, at different points they've been on the recipient end of CCE's services. And to all of my leaders' unanimous opinion, they have high regard for CCE's processes.

We also support very strongly the effect of comprehensive quality state licensure on public welfare and patient safety. It's a big issue, of course, with provider communities like ours.
And we are pleased that all states and territories accept the authority of CCE. It's a fundamental licensing requirement, as you'll hear more after my comments from the next gentleman, that a preponderance of all states require the qualified applicants for licensure to have accreditation for their degree from a chiropractic school that's been accredited by CCE.

In the interest of continuing this public safeguard, ACA certainly supports the Department to continue uninterrupted CCE's accreditation recognition. CCE has established its standards and policies that are rigorous. To borrow a phrase from the standards, your standards, your regs, it's a reliable authority regarding the quality of education provided by the colleges it accredits.

ACA knows of this, again, because we have been involved in filing comments about standards and policies. We have watched some of our ideas gain credibility, and some didn't. However, at the end of the day, we respect the judgment calls made by CCE committees, its councils,
and so forth. We have a high respect for the people who serve on them and the standards that they're applying. We know they're fair.

We believe their procedures conform with USDE regulations as we understand them. We think they are comprehensive. Their reviews have occurred at regular intervals. They're involved with relevant constituencies in a meaningful opportunity to receive input from them on a regular basis. So they certainly comply with due process and the various requirements for reviews of standards in the regs under 602.21 and .25, certainly.

ACA believes that CCE is in compliance with the substance of the USDE standards, as set forth in Section 602. We respectfully request that NACIQI consider -- or continue supporting the accreditation of CCE.

And I thank you for your attention. I'd be happy to give you any comments or answers to questions if I might be able to. Thank you, Madam Chairman.

CHAIR STUDLEY: Thank you. I see Art Rothkopf. Anyone else have a question? Let me start
with Brit Kirwan's question -- how many members do you have?

MR. O'CONNELL: Sure. We have a bit over 15,000 members.

CHAIR STUDLEY: Thank you.

MR. O'CONNELL: And as I mentioned, that includes providers and students.

CHAIR STUDLEY: Arthur?

MR. ROTHKOPF: Yes. I'd like to go back to a point that was not part of your statement but others referred to, and I just want to understand. And that refers to Medicare reimbursement, and maybe other insurance reimbursement in the private side.

Is it accurate that if a licensed chiropractor does services that would be considered more medical or surgical as opposed to traditional, that that is not covered by Medicare or other insurance plans?

MR. O'CONNELL: Basically, that's a correct statement. Several years ago --

MR. ROTHKOPF: That's correct?

MR. O'CONNELL: Yes -- the ACA was involved in gaining the standard in Medicare to allow for the
compensation, the reimbursement, for providing
treatment of vertebral subluxation.

There are a number of other services provided
by DCs that are compensated for by other third party
payors outside of Medicare. Medicare represents
roughly 20 percent of the clientele of DCs across the
United States. So you can understand there's another
80 percent --

MR. ROTHKOPF: Could you speak up a little louder?

MR. O'CONNELL: Sure. Be happy to. Sorry.

There are 80 percent of those out there who are insured
by other sources that DCs treat. And as you heard
earlier from Mr. O'Bryon prior to me, the field of
healthcare is changing, and we're trying to prepare
these DCs to provide other services in the future.

I think we're all familiar with the effects of
healthcare reform. Very shortly, in a few years, we're
going to have 32 million uninsured added to the pool
who are going to need primary care. This country has
an enormous, severe shortage of primary care providers.

Who are you going to reach for? Well, we
believe the DC of tomorrow is one of those who
is -- one of the provider groups that's going to be
helpful in that regard. They need to be able to do
more than just take care of the vertebral subluxation.

MR. ROTHKOPF: And you're not concerned that
because there's no reimbursement by at least 20 percent
of the insurers, that that's not going to have an
impact on the graduates and those in the profession who
perform those services? And does that, as some have
said, affect their ability to repay student loans?

MR. O'CONNELL: Sure. No, that is not an
issue relative to student loans. This is an issue that
is subject to change. We're in active work with the
Secretary of HHS relative to getting support for the
amendment of the Medicare codes that impact in this
area so that there will be other services that DCs can
provide that will be compensated, will be reimbursed.

Again, it's antagonistic to the federal
government's goals of treating a larger population
without sufficient providers to do it. And we want to
be part of that solution, so we're trying to increase
the territory, if you will, that Medicare
reimbursements -- the services for which it will reimburse a DC. It is an unfortunate artifact that it only does vertebral subluxation.

MR. ROTHKOPF: I understand that. Thank you.

MR. O'CONNELL: Sure. You're welcome.

CHAIR STUDLEY: Anne?

MS. NEAL: Is there some reason that the CCE tent can't be big enough to accommodate the vertebral subluxation folks so that consumers have a choice?

MR. O'CONNELL: I think, Ms. Neal, what you heard earlier today is that, in fact, it is doing that. You heard earlier from the agency in its presentation that all the colleges are represented on its board, that all of its decisions to accredit have been unanimous among its council, and its site visits include folks from all different kinds of schools and different positions on this liberal/conservative paradigm you referred to.

So CCE does not exclude those who are what you're calling here this morning conservative. It has significant input. You're hearing some criticism of it from those who feel, for whatever reason,
disenfranchised, and they represent a relatively small minority of the population.

The mainstream numbers, whether they be conservative or liberal, are engaged in the process of accreditation. As you heard, all the schools are accredited by CCE. They all participate in the judgment process that that accreditation system represents.

Does that help answer your question, or am I missing something?

MS. NEAL: In the case Life, for instance --

MR. O'CONNELL: Sure.

MS. NEAL: -- CCE, apparently, and Life didn't get along, but SACS didn't have a problem. Is there an explanation for that?

MR. O'CONNELL: "Didn't get along" is a statement of an historical issue. They're currently represented. They're currently involved in CCE. If you look at the folks who sit on the council for CCE, they represent on this spectrum we're referring to all ends of it.

There simply is no lopsided nature to that
seesaw that it's all over here on the so-called liberal side -- at least, I've not seen it. I've looked at the folks who sit on that. I couldn't identify that for you. There's no listing of the ship to one side that's liberal in CCE.

CHAIR STUDLEY: Cam?

MR. STAPLES: Thank you. I'm looking at one of the standards for recognition, and it talks about the fact that the agency must demonstrate that its standards, policies, and procedures are widely accepted by educators, educational institutions, licensing bodies, practitioners, employers in the professional field, et cetera.

And I guess the question I would ask of you is for our purposes, for the federal government's purposes, I guess, how would we interpret wide acceptance when you have what appears to be -- I don't know if it's an even division.

When you talk about the schools, it seems like they're relatively evenly divided between the two philosophical camps. State licensing, I don't know how that -- that's probably -- it varies from state to
state about what the scope of practice is for chiropractors and what's permissible.

So how do we evaluate whether the new standards are widely accepted in the face of what we have here, which is an enormous outpouring only on one side?

MR. O'CONNELL: Sure. Yes. Well, let me directly give you, then, the evidence. To restate a point I made earlier, you've got 43 of the licensing bodies for the states and territories that do require CCE accreditation. You have a preponderance of all the state licensing bodies that recognize the CCE authority.

The gentleman following me is from the FCLB, and I'm sure will want to comment further on that and help you document that further. But this is in strong evidence throughout the United States.

These licensing boards depend upon CCE accreditation. The fact of the matter is, if CCE went away, just for the sake of this discussion, and you didn't have that, then you've got a situation where in 30-some-odd states, DCs simply would not be able to be
licensed at all. That's what the effect would be.

MR. STAPLES: Well, let me ask a question, though. I understand that's the present situation. But that's what I'm asking, is in terms of -- maybe more in terms of what the scope of the profession's licensure approval is currently in states. How do the new standards square with what chiropractors are permitted to do under their licenses in many states?

MR. O'CONNELL: Sure.

MR. STAPLES: Is there, I guess I'm asking, is there national acceptance among licensing bodies of a more medical focus to the profession, or is that aspirational and in the hope that, just like reimbursement, that if you create a broader scope, people will pay for it and people will allow you to do it within their licensing process?

MR. O'CONNELL: Right. Right. Let me see if I can answer that. It's not so much a medical orientation as it is a primary care orientation. Chiropractors are trained in all of our schools to fulfill what all 50 states require, is that they serve as portals of entry to care.
In other words, they're like, say, occupational therapists or physical therapists. These are doctors. They are a prime portal of care. People can come to them directly.

So what you need to do, what we're trying to do in the system and have been doing for years, is to prepare these folks to fulfill the expectation that they can service that expectation of the 50 states and be indeed a portal of care entry for primary care.

This is not a new thing. It is a severe problem in the United States that we are emphasizing here because we are trying to address it and trying to be helpful towards national health policy.

So it's not a matter of -- if a DC chooses to focus their practice on vertebral subluxation issues only, they can do that. But you'll find that the large body of the provider community is moving in a somewhat broader direction, not so much because of reimbursement and remuneration issues in general, but they're trying to fulfill the expectation of why they went into the chiropractic profession in the beginning, to become a doctor of chiropractic.
That isn't just limited to the spine and the neck. That has broader areas of the body that we're called upon to assist with -- not exclusively, but as a participant in the healthcare team, as a participant in the primary care process.

Does that help, or am I missing your question?

MR. STAPLES: A little bit. But I think that's fine for now.

MR. O'CONNELL: Okay. Thank you.

DR. FRENCH: Madam Chair?

CHAIR STUDLEY: Anyone else? Yes?

DR. FRENCH: You made note of the council and the councilors -- they don't appear to be either liberal or conservative, but a fair representation. What about the appeals committee process? The staff made a note of that. Are you familiar with the appeals makeup?

MR. O'CONNELL: I have not done personally an analysis of that, so I would not be a good person to make comment regarding that. I can tell you that I have not heard from my leadership on my boards or my committees, folks who have historically at some point
or another worked with CCE, either again as an institution that's been accredited by it or participating on these committees, site visit teams, and so forth -- I have not heard where this is a problem. It simply doesn't come up.

DR. FRENCH: Thank you.

CHAIR STUDLEY: Anyone else?

(No response.)

CHAIR STUDLEY: Thank you very much, sir.

MR. O'CONNELL: My pleasure, and thank you for your attention and patience.

CHAIR STUDLEY: Appreciate it.

And now Mr. O'Connell.

DR. O'CONNOR: Good afternoon. My name is Dr. Lawrence O'Connor, president of the Federation of Chiropractic Licensing Boards, also known as the FCLB. I'm here on behalf of the federation's elected board of directors.

By way of background, I've been in private practice in New Jersey for the last 28 years. This has included 11 years of service to my state Board of Chiropractic Examiners, where I am now vice president
and immediate past president.

The FCLB was founded in 1926, and serves as the chiropractic profession's only nonprofit organization comprised of governmental agencies for the licensure and regulation of doctors of chiropractic. Our boards include all 51 chiropractic licensing boards in the United States and several U.S. territories as well as regulatory agencies in Canada, and two national licensing authorities in Australia and New Zealand.

The FCLB supports the chiropractic regulatory agencies in fulfilling their mission of public protection. An essential component of protecting the public includes assuring an acceptable level of quality regarding academic credentials of licensure candidates.

Currently, all chiropractic regulatory agencies in the United States depend on the Council on Chiropractic Education to assist them by way of direct assessment of educational programs leading to the doctor of chiropractic degree.

Essentially, by law, the boards outsource
their legal responsibility to the measure of effectiveness of the board the programs leading to the DC degree. They outsource to the CCE.

In light of our boards' reliance on CCE, the federation has actively observed the organization's functions and actions since its incorporation since 1974. We do this to assure regulators of the CCE continue effectiveness and due diligence.

Specifically, I'd like to address CCE's compliance of four USDE regulations that affect licensure and regulation; the first two, 602.11, Geographic Scope and Accrediting Activities, and 602.13, Acceptance of the Agencies by Others.

The council on chiropractic's accreditation is accepted to ensure that applicants for U.S. licensure have graduated from an accredited program in all 54 jurisdictions in the United States, including 50 states, the District of Columbia, and three territories.

Of these boards, only Puerto Rico has its own approval process, presently allowing the professional association to determine which schools are recognized.
Eight boards indirectly reference CCE, most often as a chiropractic accrediting agency recognized by the USDE. However, 45 of our governmental regulatory agencies specifically refer to the CCE in their laws.

Third, 602.21, Review of Standards, Constituency Involvement, Licensing Boards: CCE consistently engaged in active communication with the regulatory agencies throughout the standards revision process. I will briefly cite five examples.

One, the initial standards revision survey in May 2006 included an invitation to regulators to participate.

Two, in July 2006, just one month after the CCE's commission on accreditation was awarded the maximum five-year recognition by this Committee, the CCE empaneled a 14-member task force to review accreditation standards. Members were not selected to represent specific constituencies, but rather to ensure a board range of talent, experience, opinions, and a history of service. Three people with significant regulatory and practice experience participated in the five-year process.
Three, in January 2007 the FCLB assisted the standards subcommittee for admissions in surveying regulatory agencies about their legal requirements and opinions regarding student prerequisite qualifications for admission.

Four, CCE participated formally in 14 FCLB meetings from 2006 to 2010, prior to the final adoption of the revised standards, to provide opportunities for licensing boards to have direct input into the process.

In addition --

CHAIR STUDLEY: I need to ask you to wrap up. There will be time for questions.

DR. O'CONNOR: Okay. Almost pretty much done. And basically, we have in both formal comment periods for two drafts, November 2009 and September 2010, FCLB submitted detailed components, which some were accepted as participated.

And my closing comments, which there were six different short points; but basically, not to have CCE in the licensing world would bring licensing to a screaming halt.

CHAIR STUDLEY: Thank you very much. The
Committee members can follow up if they have any questions.

Are there questions for this witness? Cam?

DR. STAPLES: I'll make it quick. I realize we're under a lack of time.

CHAIR STUDLEY: That's okay.

MR. STAPLES: But I just want to ask you -- and you may not know every standard in every state.

DR. O'CONNOR: I hope I can answer your questions.

MR. STAPLES: But maybe you do. Are you concerned at all that the standards, as they would be revised, and the breadth of the scope of practice that that would anticipate, is that going to be recognized presently by the licensure scope of practice in most of the states the chiropractors operate in?

DR. O'CONNOR: Well, most of the states, by statute, have CCE written in. So to change a statute would take anywhere from one to four years. So that would be a pretty daunting task.

MR. STAPLES: But don't they also have a scope
of practice defined beyond just recognition of CCE? I mean, it's not just CCE that they recognize.

DR. O'CONNOR: Not necessarily. A lot of -- the trend is right at this particular time not to define chiropractic in the statute but more in the regulation.

MR. STAPLES: Well, in the regulations, then, I guess the same question applies.

DR. O'CONNOR: Yes.

MR. STAPLES: My question is, would the new standards that some think is beyond the scope of traditional practice, would that match up with licensing requirements for --

DR. O'CONNOR: That could be a possibility that there could be changes, yes, if that's what you're asking.

MR. STAPLES: Meaning they would not match up? It would not necessarily match up with a lot of states' licensure requirements?

DR. O'CONNOR: No. I think probably, in most states, it would match up.

CHAIR STUDLEY: Any other questions?
(No response.)

CHAIR STUDLEY: Thank you very much.

DR. O'CONNOR: Thank you for your time.

CHAIR STUDLEY: Let me just clarify. We have several people who signed up in advance, and three additional people who signed up onsite. We're going to stick with the schedule and go till 12:45, wherever we are on that list. I had thought we might be able to have everybody testify before lunch and not hold you over, but I think we will end wherever we are at that point.

So the next speaker is Corey Rodnick.

And I would also, and I will say this again shortly, but I would ask all of the members of NACIQI to refrain from discussing this matter during lunch to ensure the integrity and transparency of the review process.

And I would invite your cooperation in not tempting them to do so by not approaching any of the members of the commission to discuss anything about this proceeding.

Mr. Rodnick. Thank you.
DR. RODNICK: Hi there. I'm Dr. Rodnick. I have been practicing in Michigan since 1983. I currently have four practices in Michigan. I am on the Michigan State Board of Chiropractic Examiners. I am the central regional director for the International Chiropractic Association, and on the Board of Regents for Life Chiropractic College West. I am here representing myself, however, and although I have experience that I would like to share.

This past October, I represented the State of Michigan to the FCLB meeting, where we heard a report from the CCE. They raised the guide point average for admission requirements from 2.5 to 2.75.

When it was asked, what are the admission requirements for medical schools, the answers we were told were that they do not have one, and as a matter of fact, that chiropractic is the only healthcare profession that has a minimum requirement out of all the different healthcare professions.

CCE has an unprecedented requirement for grade point averages on entering students. No other healthcare discipline, first degree level, has such
requirements. It should be an institutional decision, just like all the other healthcare professions. And I'd like to see that removed as a requirement. That's one.

Two, in the mission statement, on the sixth and seventh bullet it states, number 6, "Informing the educational community and the public of the nature, quality, and integrity of the chiropractic education"; and number 7, "Serving as a unifying body for the chiropractic profession."

By removing "drugless" and "nonsurgical" from the standards, the CCE is apparently strategically steering the profession into the medical model, which will confuse the public on who we are, and is creating dissension within the chiropractic profession by doing so. Chiropractic is a drugless, nonsurgical profession, and it should be clearly stated as it has been done in the past, or change the mission statement.

Number 3, and lastly, most of my practice deals with the diagnosis of vertebral subluxations. Vertebral subluxation complex is not mentioned and should be part of the educational program of the
chiropractic degree, Section H specifically. In the meta competencies, this should be added.

That was it, and if there's any questions, I'd be happy to answer.

CHAIR STUDLEY: Thank you very much.

Are there any questions?

(No response.)

CHAIR STUDLEY: Thank you, Mr. Rodnick.

Henry Rubinstein.

DR. RUBINSTEIN: May it please the Committee, Henry Rubinstein, DC, Esquire, general counsel for Doctors for Excellence in Chiropractic Education, the DECE, a nonprofit watchdog organization for governance and education.

CCE commits egregious actions in their governance and lacks veracity to adhere to the criteria for recognition. We agree with this body's recent assessment, yet differ as to disregarding opposing stakeholders of the proposed standards being minimally noteworthy. We seek serious consideration of the following:

That the DOE withhold recognition until
governance issues within CCE are resolved;

Examine the 2012 standard for compliance with the Department requirements and regulations;

Withhold recognition until the 2012 standards are repromulgated to ensure compliance;

Seriously consider option C in this body's draft modification of the linkage between accreditation and institutional eligibility; and

To require more public members on CCE boards and committees.

This body addressed in the staff report dozens of areas of noncompliance: over two dozen times stated CCE failed to provide sufficient documentations or documents at all; at least a dozen times failed to have a policy for a rule; at least half a dozen times filed suspect reports; many times failing to provide proper training policies; about a dozen times failed to provide vital evidence; and on numerous times stated they will file policies without a timeline.

CCE uses excuses such as, it will, or we're in the process of doing it, or we'll get around to it.

This body in 1997 listed only four major deficiencies.
Apparently, CCE does not fear this Department or Committee.

This body has had problems with CCE's handling of public members and proof thereof; lack of decision-maker information; absolute conflicts of interest; substantive changes; student support and career placement, a Title IV problem; faculty recruiting tactics; and they can't even assess a simple head count.

In conclusion, on page 33 of the staff report, C(3), Complaints Against Itself, no documentation is noted as to handling such a complaint by the staff. So where is the majority of opponents to the standard changes to go into effect in 2012 to go for aid other than this agency?

In light of that, we ask that CCE be allowed to continue, but only under provisional recognition, and within a plainly timely manner.

I have 46 seconds, so I'm going to utilize them, please, if I may.

CHAIR STUDLEY: No. I think your time has concluded. You're over. What you are is over that
DR. RUBINSTEIN: Oh, thank you very much.

CHAIR STUDLEY: Thank you very much. The red light was the endpoint. Appreciate it, Mr. Rubinstein.

DR. RUBINSTEIN: No questions?

CHAIR STUDLEY: Are there any questions from the Committee?

(No response.)

DR. RUBINSTEIN: Thank you very much. Have a great day.

CHAIR STUDLEY: Thank you, sir.

Gary Shultz.

DR. SHULTZ: Moments before lunch, always the best time.

CHAIR STUDLEY: Someone has to do it.

DR. SHULTZ: Yes. Somebody has to be in that pipe.

My name is Gary Shultz. I am the vice president for academic affairs at University of Western States. I also had the privilege of serving in various roles with the Council on Chiropractic Education over the years.
I wanted to first address a comment that I don't feel comfortable allowing to rest with this Committee without having some response. There's been statements regarding universal faculty fear about disagreeing with CCE and its standards, and also lack of inclusion of students.

And I would just like to affirm for the Committee that at the University of Western States, I took it upon myself to share the access to the standards revision process with those constituents, my faculty and our students, and encouraged them to speak directly with the CCE through the process that was identified. So anyone who had an issue or an interest in commenting had the opportunity to do so. I only hope that other institutions exercised that right.

I would like to comment on 602.15(a), subsection (6), which is the conflict of interest section. And by virtue of my experiences with the CCE, I would like to comment to the Committee that in all of my dealings, I have borne witness to significant attention paid to conflict of interest.

There has been substantial discussion. There
have been forms filled out. Members are always encouraged to consider thoroughly and seriously all the issues that they could potentially bring to the table that would bias their decision-making.

And I just want this Committee to understand that the culture of conflict of interest and the seriousness with which it is taken is very present and accounted for in the CCE, at least in all of my dealings.

Lastly, I'd like to speak to 602.21, paragraph (c), which is involvement of individuals within the standards revision process. I've already commented that at our institution, we have utilized our internal resources to ensure access to all interested individuals.

But I just want to state that from my vantage point, having seen WASC go through standards changes and having seen Northwest Commission engaging in standards changes, I would like to say that my experience with the CCE standards revision process is that it was the most transparent process, the most inclusive process, and the most outreaching process
that I have had the privilege and opportunity to participate in. And that's all I have.

CHAIR STUDLEY: Thank you very much, Mr. Schultz.

Are there questions for this speaker?

(No response.)

DR. SCHULTZ: Thank you.

CHAIR STUDLEY: Thank you very much.

I think we will break there, and I appreciate folks waiting. The next speaker up will be Steve Tullius, or Tullius, and we will complete the group.

We will reconvene at 1:45. There are a number of places nearby within walking distance where people can get lunch. Again, I'd ask the Committee members not to speak about this particular matter during our break. And we will pick up here when we return.

Committee members, any procedural questions?

(No response.)

CHAIR STUDLEY: Our lunch is going to be available for us in a room that Melissa will lead us to.

(At 12:41 p.m., a luncheon recess was taken.)
AFTERNOON SESSION

(1:50 p.m.)

CHAIR STUDLEY: Welcome. Thank you very much.
I appreciate everybody's promptness.

We're going to pick back up with public
comment on the Commission on Accreditation of the
Council on Chiropractic Education. And the next person
who has signed is Steve Tullius. Thank you very much.

DR. TULLIUS: Madam Chair, thank you,
honorable Committee members. I'm here today because in
the past year I've witnessed the injustice of what the
Committee correctly described as a cartel in 2006, a
minority political/educational group seeking to remove
a segment of the profession, not through an academic
intellectual process, but through political
manipulation of this federally recognized agency.

The staff has recommended we seek out a
separate accrediting body. This cartel has ensured
through past violations of the criteria and what could
be viewed as antitrust violations as well that that
option is virtually impossible.

The issue at hand is not our ideological
differences, as some will have you think, but the
violations of the Secretary's criteria for recognition,
the one thing that the honorable members of this
Committee must respond to.

If philosophy is to be considered, then it is
the branch known as ethics which should be used to
judge the agency in question. I implore you to look
deeper beneath surface.

The violations include: conflicts of
interest; an incestuous selection process designed to
limit involvement from a diverse section of
stakeholders; lack of acceptance by and representation
of the profession; and creating a culture of fear
amongst educators and member institutions.

I have personally communicated with five
former and current college presidents and a plethora of
faculty that have confirmed these statements. They
have also indicated they would not dare testify against
the CCE out of fear of personal and institutional
backlash.

As Gerry Clum, past president of Life West and
former CCE councilor, recently noted, "The last
chiropractic program to express concern in this setting was Life University. The next few years of CCE entanglements at Life University were, in part, payback for having the temerity to speak up about the agency that accredits you."

Honorable members, I ask you as individuals appointed due to your experience, integrity, impartiality, and good judgment, and your demonstrated knowledge in the fields of accreditation and administration of higher education, do these statements reflect a body that the U.S. Department of Education could possibly endorse?

The Department staff has done a fine job documenting the more than 40 areas of noncompliance. However, continuance of CCE recognition without serious inquiry into our allegations would make a mockery of our nation's educational system and our core ideals of justice and equal rights.

As a U.S. citizen and doctor of chiropractic, I'm requesting the following of the Committee:

Convene a third party investigation into the various past and current violations of the CCE;
Delay the decision to extend recognition for one year, and require the CCE to demonstrate compliance with the many violations heard here today; and Reform the election process to become more inclusive and more representative of the profession.

If you wonder why Dr. O'Connell from the ACA supports the CCE, you can look no further than the nine ACA members out of the 18 on the council, and the 22 out of 38 from the site team, which the ICA and IFCO combined have one. There is clearly a misrepresentation of the profession and lack of collegiate acceptance and willingness to reach out to their colleagues.

May I leave you with one final thought, that between the pristine, blameless picture the supporters of the CCE have painted and the less-than-perfect drawing of others, that the truth lies somewhere in between. I trust that you will do whatever it takes to seek that out.

I'm more than happy to answer questions.

Thank you.
(No response.)

CHAIR STUDLEY: Anyone?

DR. TULLIUS: Thank you.

CHAIR STUDLEY: Thank you very much.

John Ventura, please.

DR. VENTURA: I'd like to thank the Committee for affording me this opportunity to speak. As I am not here representing an agency, I want to tell you a brief bit about my background.

I've been in full-time chiropractic practice for 28 years, and in addition, for the past 12 years, I've served as a clinical instructor in the Department of Family Medicine at the University of Rochester School of Medicine and a part-time clinical assistant professor at New York Chiropractic College.

In addition, I've held recognition status with the National Committee for Quality Assurance on Back Pain Recognition Program since its inception, and my office served as a test site for the pilot program.

So I come to you as an individual practitioner with an extensive experience in education as well as a
background in quality improvement, and I'd like to
voice my strong support in favor of the continued
recognition of the CCE as the accrediting agency for
chiropractic institutions.

   I believe we need to redirect the focus of our
attention back to the public that this agency is
designed to serve. The mission of the CCE is to ensure
the quality education of chiropractic in the United
States, and the purpose of that is so that we best
serve the safety and interests of the public.

   In his text, "Surviving in Healthcare," Dr.
Dieter Enzmann outlines the path taken by healthcare
professions in defining legitimacy and competency for
health professions, and competency is best demonstrated
by standardized training that is based in science.

   Legitimacy is best demonstrated by shared
professional educational standards that are
patient-centered and evidence-based. In reviewing the
standards put out by the CCE, I feel they are
fulfilling this mission of providing a quality
education that is both patient-centered and
evidence-based, and I strongly encourage you to
continue your recognition of the CCE.

Thank you.

CHAIR STUDLEY: Thank you very much.

DR. TULLIUS: Thank you.

CHAIR STUDLEY: Gary Walsemann.

MR. TURNER: I am going to present the ICA presentation. I am the general counsel of the ICA. Gary Walsemann, Dr. Walsemann, is here as well. My name is James Turner. I'm an attorney, general counsel of the ICA, International Chiropractic Association.

The association wishes to say that the staff has done a very good job in reviewing the CCE application, but the number of criteria which they've found to be not compliant with shows an agency that needs to be looked at with care.

We agree with the concerns expressed by the staff report, especially those addressing conflict of interest. However, we would like to see a provisional approval for the period of time that's been allowed to the agency to correct its mistakes.

The ICA did present a 27-page set of written comments with 500 pages of supporting documents that we
believe raise serious questions about the governance at ICA -- I'm sorry, at the CCE. The first and chief area of concern focuses on the issue of governance.

During the past five years, the CCE has undertaken changes in its corporate governance structure that have resulted in the creation of a self-perpetuating organization that is incapable of avoiding the appearance of conflict of interest, let alone conflict of interest.

These charges have greatly exacerbated the problems discussed by this Committee five years ago, CCE's new organizational structure, which favors one or two chiropractic institutions to the extent that an inordinate amount of influence on policy, standards, and accreditation activities has acted through that influence to advance their own political agenda. And it presents flagrant examples of conflict of interest. You have heard some of those here today, I want to underline.

The ICA itself asserts that the present governance structure of the CCE is a violation of the Secretary's criterion 602.14(b)(3), as the evidence
shows that changes in the governance structure of the
last five years were designed to effectively advance
the consolidated control of this small group.

In particular, they've changed the rules five
times over the last few years, and each time started
the time limit clock running again. Indeed,
essentially the same group of people who were involved
with running CCE at the time of the Life involvement
are still in charge of the CCE.

In addition, you've heard word about comments
being received by the CCE. They did set up a task
force. The task force made a series of recommendations
based on the mass of comments from all across the
profession. They recommended to the council ways of
addressing these issues, and those were all rejected by
the council, or essentially rejected. All the major
ones were rejected.

Essentially, that report of the task force
itself was rejected. The entire process is one
designed to reinforce the small group of people who
have been in charge of this agency since ten years ago.

Thank you very much for your listening, and I
would hope that you would do a provisional approval and allow the agency to correct itself over the next year; a non-provisional approval will allow it to just slide along and not effectively address the problems that need to be addressed. And I'm open for questions.

CHAIR STUDLEY: Arthur?

MR. ROTHKOPF: I'd be interested in the number of members of your association, and the extent to which they are U.S. or foreign-based.

MR. TURNER: There are 8500 members, and they're in every state in the U.S. and in every province of Canada. And there are international members in over 50 other countries.

MR. ROTHKOPF: Thank you.

CHAIR STUDLEY: Other questions? I have one question, given your role. What definition are you using of conflict of interest?

MR. TURNER: Conflict -- I have not used a definition, per se. I'm adopting essentially the standard issue that it appears -- it would be the financial or personal or institutional relationship that compromises the ability of an individual to have
an objective view of what it is that they are reviewing, as opposed to a subjective view.

So that individuals who are involved with a set of views or affiliated association that would compromise their ability to see objectively what's happening would create a conflict of interest.

The appearance of that possibility is also a problem in and of itself. The conflict is one problem and the appearance is another.

CHAIR STUDLEY: Are you asserting that there are traditional financial conflict of interest abuses going on?

MR. TURNER: I would assert that there are institutional conflicts. Whether those are financial or not, I think, is more subjective. But there are decisions that have been made that favor the viability of certain institutions over the viability of other institutions.

And we are asserting that that does in fact take place, that there are individuals and institutions who have treatment by the CCE which is more favorable to them than it is to people who do not have roles in
the CCE and are subjected to regulation by the CCE. People in positions in the agency are affiliated with schools that are regulated by the agency that get treatment that is less rigorous than the treatment they get if they are schools who do not have people in that particular setting.

CHAIR STUDLEY: Thank you.

Any other questions?

(No response.)

CHAIR STUDLEY: Thank you very much. Stephen Welsh.

DR. WELSH: Before you start the clock, could I for the record note that I do not represent Care More Chiropractic Colleges? I represent Care More Chiropractic Center. There was a typo in whatever was put on.

CHAIR STUDLEY: We don't revise the agenda, but it will be noted in the transcript. Thank you very much.

DR. WELSH: Thank you. All right. Although I am the secretary/treasurer of the ICA and the past president of the GCC, I appear before you today on my
own behalf. I would like to focus on an area which I consider to be the root of the problem we've been discussing today.

Five years ago, a member of this Committee observed that, "There's a perception in my mind that one institution has pretty much a good deal of control over both the policy-making process, which is the board, and the accreditation function, which could cause some of the problems we're hearing today."

Well, today, five years later, the situation is worse. In 2009, the CCE reorganized for the fourth time in ten years, combined the responsibilities for policy-making and accreditation, elected a vice president from the same institution to become the chair, and further consolidated the influence of that one institution at CCE.

Ten years ago, the CCE revoked the accreditation of Life University. It was subsequently restored by a federal district court. At that time, Dr. Wickes was on the board. Dr. Little was the vice president. Today, ten years later, these same individuals are here today trying to convince you that
they have done no wrong. You see, term limits are meaningless when all you have to do is reorganize and restart the clock.

In January, I attended the public meeting of CCE, during which they addressed the proposed new standards. I was appalled at what I observed, what I heard, and how the events were reported in the official minutes.

I heard them discuss the possibility of yet another reorganization. I heard them joke about shuffling chairs in a leadership position. I heard them mock the feedback received from the profession at large during the standards review process.

On June 20, 2011, I sent a letter requesting a copy of the minutes of that public meeting. To date, it remains unanswered. The official minutes submitted in this application for renewal were a total whitewash. Motions that were made, seconded, and voted on were omitted from the record.

This council has lost touch with the profession. This council has lost its sense of integrity and transparency at the executive committee
This council would have you believe that the root of the problem is intra-professional differences of philosophy.

It is not. The evidence is in the record. The problem is an executive committee fraught with conflicts of interest, unethical behavior, and a total disregard for the stakeholders they are supposed to serve. The staff had it right the first time. This council is not responsive to its stakeholders. That is why there are so many of us here today.

I will close with a quote from the hearing five years ago. A member of this Committee at that time said, "Because I believe if we simply hear it, discuss it, anguish over it, and then give them five years of recognition, that we haven't been the impetus for any corrective action," for the profession, and I worry about the profession.

What I ask is simple. Please deliver a message to this council that they can't ignore. Please provide the impetus for corrective action. There's a reason we're all here today. Please do not accept their excuses. We all are worried about the future of
our profession. Thank you for your consideration.

CHAIR STUDLEY: Thank you very much.

Are there any questions from Committee members? Anne?

MS. NEAL: The staff recommendation is for 12 months for them to review these things. Are you recommending something different from that?

DR. WELSH: The problem that I have is that they have already publicly been addressing the profession, stating that 80 percent of the agencies being reviewed are getting 12 months. So if they get the same thing that everybody else gets, they're going to walk away and claim, we don't really have a problem. Now, I don't know whether you can defer a decision and do something different than what you've done for everybody else. But if they walk out of here with the same answer that the majority of other agencies got here today, then they're going to claim a win. And they don't deserve to walk out of here without something different.

CHAIR STUDLEY: Frank?

MR. WU: I have a general conceptual question.
What if CCE just said, we have a philosophy, and our philosophy is we are going to be more liberal. And the conservative school of thought, we think that that's bad. We just don't think that that's good chiropractic treatment, and so we're going to openly adopt a policy, and we will evaluate schools, and we will reward those that have this philosophy and penalize those who don't. What would happen then?

DR. WELSH: I have no idea. The problem is, okay, that they are supposed to be representative of the entire profession. And it's one thing to have policies that say you are; the issue isn't the policies, the issue is the behavior. And the record of their behavior speaks for itself.

MR. WU: Okay. I'm just asking, and we'll have more of a chance for conversation, because it occurs to me that there are other fields where there are multiple agencies at work, and in some disciplines, those agencies actively have different views. MDs and DOs, for example, have just very different views of the world, and they've decided that each will exist and each will have its own set of
schools. And I presume that DO schools wouldn't do well by MD standards, and vice versa. So I'm just asking --

DR. WELSH: And in theory, what you're implying is correct. But from a practical point of view, as you already heard, there's so many states that have it encoded in their law, okay, that it would be nearly impossible to successfully begin a second accrediting agency. So in theory, you're correct. Practically, it's almost impossible.

CHAIR STUDLEY: Brit?

DR. KIRWAN: Yes. Do you have any thought as to why -- I mean, you have very strong feelings, expressed them as such today -- why the association that represents all the chiropractic colleges in America would advocate that CCE continue in its current form? So the colleges that are producing the chiropractors apparently are not unhappy with this organization. So what's the disconnect here? Why is it that so many are expressing unhappiness when the colleges themselves don't seem to be?

DR. WELSH: I'm not quite sure how to answer
that except this way. What I heard expressed was that
the existence of CCE is critical to this profession.
And I don't think that there's anybody here today that
disagrees with that.

So the Association of Chiropractic Colleges of
course is going to come and say, we need continued
recognition. And we all recognize that. Okay? They
represent the cross-section of all the schools.

The fact of the matter is, all of the schools
are members of the CCE.

DR. KIRWAN: Right.

DR. WELSH: The problem is --

DR. KIRWAN: Excuse me. Just as a followup,
but they don't raise questions like conflict of
interest. And you would think they would be
sensitive --

DR. WELSH: As was testified earlier today,
the last college to bring issues before this body in
the late '90s ended up losing its accreditation in
2002, and then was reversed by a federal district

DR. KIRWAN: Okay. Thank you.
CHAIR STUDLEY: Are there any other questions? I have one for you, sir, just briefly.

Have any chiropractic colleges been denied accreditation since 2002, to your knowledge?

DR. WELSH: No. But one of them has had to close. I'm not quite sure exactly why. When I was at the meeting in January, that particular institution requested a policy waiver, which was summarily dismissed. Whether or not that had any association with the decision to close that branch campus, which was one of the conservative schools, I do not know.

CHAIR STUDLEY: Thank you.

DR. FRENCH: Madam Chair, could I follow up with your question?

CHAIR STUDLEY: Sure. Certainly.

DR. FRENCH: Are you familiar with the colleges that have had sanctions from CCE in the same period?

DR. WELSH: Not really, because everybody is done in secret. It's all confidential. Okay? The one time we got a glimpse into what they were doing was actually reading the transcripts of the court cases
back in 2002. That's where the veil of secrecy got broken.

If you really look at it, once they combined the accreditation function with the policy-making and even the standard-setting, it's all done in a secret. It's not an open and transparent process. Okay?

Everybody is sworn to secrecy. They don't even record the minutes accurately of their public meetings.

So I don't know, because it's all a secret.

CHAIR STUDLEY: Anyone else?

(No response.)

CHAIR STUDLEY: Thank you very much.

DR. WELSH: Thank you.

CHAIR STUDLEY: Let me just recap the process from here. There are three additional speakers who were not listed in the agenda -- Ronald Hendrickson, Donald Hirsh, and John Bomhoff. And then we will have agency responses to the third party presentations, the Department's response, and Committee discussion and voting.

So right now, Mr. Hendrickson, would you please come forward? Thank you.
MR. HENDRICKSON: My name is Ronald Hendrickson, and I'm here as an individual. But I bring perhaps a unique personal experience and perspective with the chiropractic profession. I've been a patient since the night I was born 60 years ago. I spent 30 years of my professional life in the employ of a chiropractic organization, including 20 years as its executive vice president. And I'm married to a chiropractor and have participated in and/or observed the evolution of accreditation issues and education issues over a very long period of time. And I'm here because the opportunity to make comments was presented. And I think it would be really important, having listened and sat through all the discussion, to remind this Committee that the outpouring of public comments is profound. It's massive. And for 4,000 individuals to navigate the comment process to the concomitant needs to be taken very seriously. There's a point at which quantity takes on a quality all its own. And I think it would be a big mistake to dismiss, as appears to have been done in the
staff report, as those expressions of philosophical
differences because here's really the heart of the
issue.

The issue of competition between institutions
and the hundreds of millions of dollars that change
hands every year take this to an entirely different
level and demand, I think, a different level of
consideration by this Committee.

And, for example, I flat-out disagree with Dr. Ventura about how the standards, as promulgated, to go
into effect in 2012 represent an appropriate pathway
because they are so incredibly inconsistent with
what -- or unspecific in comparison to how chiropractic
is defined in the state laws.

This Committee was provided, in the exhibits
that were submitted by the International Chiropractors
Organization, a very specific digest of how
chiropractic is defined in the various state laws.

And I think that's worth a look because what
has happened here with the promulgation of standards is
a situation where, in the years to come, consumers are
going to be denied any level of confidence if, in fact,
institutional autonomy and the ability to teach widely

divergent approaches to chiropractic healthcare is
maintained, any confidence at all to look at if, in
fact, you seek care from a graduate of this institution
versus that institution, you're going to get anything
remotely comparable. And that's a serious issue.

Again, what is needed here is to take a step
back, look at the big picture, and understand that
action by this Committee could prevent a great deal of
distress to thousands of individuals, not to mention
the millions of consumers who rely on chiropractic
healthcare.

And I thank you very, very much.

CHAIR STUDLEY: Thank you.

Are there any questions?

DR. FRENCH: Madam Chair?

CHAIR STUDLEY: Yes?

DR. FRENCH: Following up, now, on Frank's
question earlier, I think you've dissected the issues
very well. I guess what I'm hearing from my last
question, if we haven't lost accreditation, we haven't
had sanctions, the harm is what you anticipate with the
change in the standards in 2012. Is that correct?

MR. HENDRICKSON: Well, that's a partial picture of what has, I think, motivated this outpouring of concern. The standards changes, which as I'm sure you've heard and has registered with you the issues of the removals of "without drugs and surgery/subluxation" language, and the teaching matrix that accompany the requirements of the institutions in the previous standards, are gone.

And so, indeed, prospectively there is a wide body of concern. But there is a bigger picture. We are looking at an institution, an accrediting agency, as distasteful as it may be to contemplate, is absolutely capable of very cold-blooded anti-competitive behavior.

All any individual needs to do is to read the judge's opinion in the Life case, which, by the way, was provided to this Committee as an exhibit by the International Chiropractors Association to their submission, to understand how profound and far-reaching that potential in the future is.

And the concern is so great because it
manifested itself in the past. And again, these are complex issues that I think require maybe exceptional consideration and maybe exceptional solutions.

CHAIR STUDLEY: Anyone else?

(No response.)

CHAIR STUDLEY: Thank you very much.

MR. HENDRICKSON: Thank you.

CHAIR STUDLEY: Donald Hirsh.

DR. HIRSH: Thank you, Madam Chair and the Committee. I had prepared comments last night; I spontaneously decided to come here and testify because this was so important to me. I canceled all my patients; I practice in Maryland, so it wasn't that hard for me to come down here because I feel very strongly about this.

All my written comments I could have torn up. Dr. Welsh did, I think, such a brilliant job of covering the salient issues, and some of the other speakers, I thought, were very profound.

But I'd like to just say that I have a son who has special needs. He has cerebral palsy. Excuse me. And he wants to be, and I want him to be, the first
chiropractor with cerebral palsy. I have a great fear of what this profession is going to look like in ten years when he's ready to enter that realm.

The current standards have been manipulated by CCE as part of this manipulative process of their governance to just rid all of the standards of anything chiropractic. Dr. McLean talked about going to a dentist. How would you like to go to a dentist and them not even know how to fill a cavity or how to clean your teeth? That's unconscionable.

But the way that the standards have been promulgated, and that will appear in January, just a few weeks from now, we'll have a chiropractic curriculum that it is possible that institutions -- that forced this issue, by the way -- so they manipulated the process to create standards that have nothing to do with chiropractic and will move the profession to medicine.

How would you feel going to an office, thinking you're going to a chiropractor, when who knows what you're going to get? And that's the fear that I have for my son.
Also, as educators and people who have been involved in education, I just want to leave with one parting remark. In all the scholarly articles I've read, and I've read dozens and dozens on accreditation, you hear the word or the concept of the importance of the stakeholder, over and over and over and over again. And in the case of CCE, I have never seen or heard of such a blatant disregard.

They dot the I. They cross the T. They bamboozle. They convince people that they are following the rules. But they really are a small clique that have manipulated this profession to the point that this body has a chance to rein them in and require esome fairness, and they have the opportunity to ensure that the citizens of this country will get chiropractic care by a trained chiropractor, not somebody who goes to a quasi-chiropractic school and doesn't learn what the core curriculum of chiropractic is.

So I really thank you very much. You have a very sobering job before you, and I hope you take this job very, very, very seriously, which I know you do.
Thank you.

CHAIR STUDLEY: Thank you very much, Mr. Hirsh.

Are there any questions for this presenter?

DR. FRENCH: I had another question, Madam Chair.

CHAIR STUDLEY: Yes.

DR. FRENCH: Going back to my previous question, I do understand the standards that are going to change. But the word "manipulation" that has been used often today, I'm really looking for the concrete examples of the manipulation. Can you help me with that?

DR. HIRSH: Well, I will do my best. The liberal schools are the ones to bring chiropractic to a more medical model, an allopathic model of healthcare; versus the conservative schools, which, by the way, we've modernized. Some of the brightest minds and people with multiple degrees are chiropractors who believe in a non-allopathic model, as acupuncturists do and other professions.

Okay. The standards created a window of
opportunity to disregard all things chiropractic so the schools that were in the minority, and controlling CCE, could now do whatever they please without the restraints of the language and the concepts and the core requirements that the old standards offered.

DR. FRENCH: And when will the standards take effect?

DR. HIRSH: The standards will take effect in, I believe, two weeks.

DR. FRENCH: That's what I'm just really trying to get to. I'm looking for the gap between Life University, which I know has been cited, and now, where manipulation and where the damages have really been that I can just point to and see.

DR. HIRSH: Yes. There was a tremendous amount of fear and difficulties once Life lost its accreditation. I mean, that was a very sobering moment, the first time in the history of accreditation law that a federal judge reversed an accreditation decision. That is not a feather in the cap of CCE.

But -- can you repeat the question? I'm so sorry.
DR. FRENCH: I'm really just trying to get the concrete damages.

DR. HIRSH: Right.

DR. FRENCH: I understand the standards, which are the anticipated damages.

DR. HIRSH: Okay. Yes. Right.

DR. FRENCH: But I'm really trying to see, when you say manipulation and all this occurred, where the damage is to colleges at this point.

DR. HIRSH: Thank you. Thank you. Right. So there was one set of standards that taught all the chiropractic principles. The conservative schools had a little bit, but they were very draconian in the site visitation teams. I'll give you an example.

Chiropractors, for the last hundred years, have been using X-ray. The site visitation teams, without any standard, by just using their own authority, virtually cleaned house in all the chiropractic colleges, and now a very small percentage of patients can be X-rayed.

So there was a set of standards that had chiropractic in them, but the site visitation team and
the process was used to manipulate -- once again that
term -- a more narrow focus, a more medical focus.

So now there's a laissez faire attitude. So
some of the schools thought, wow, this sounds kind of
good. We can do whatever we want now. But first of
all, there's two major problems with that. First, the
schools that were liberal now can go all the way. They
can become unrecognizable institutions, that if went to
them -- you have a concept of chiropractic, I would
hope -- you wouldn't have a clue what you were walking
into.

A student who attends that university and
thinks they're going to a chiropractic college would
learn nothing to what they thought they were going to
attend for.

DR. FRENCH: This is what you're anticipating?

DR. HIRSH: Yes. This is once the standards
take effect in two weeks and one day. So there's now
the ability for the liberal schools to go far in one
direction. The conservative schools can kind of stay
where they are.

But what's the message to the public? What's
going to happen when you don't know what you're getting? How is the consumer going to know? Am I going to a chiropractor who's trained in chiropractic, knows how to read an X-ray, knows how to analyze the spine, and knows how to adjust the spine?

There are no core -- there's nothing in today's standards that are promulgated that measure success as a chiropractor. They measure success as a diagnostician, and I'm not saying that's not important. But they don't measure success with the core things that you and I know what a chiropractor does.

DR. FRENCH: Thank you.

CHAIR STUDLEY: Anyone else? Anne?

MS. NEAL: So are you essentially suggesting that the standards policy that has been implemented will undermine the quality of the chiropractic program that's -- since we have to look at the accreditor. Is this a reliable guarantor of educational quality?

So I'm interested in hearing how it impacts educational quality, and also how it will ultimately affect the taxpayer dollar.

DR. HIRSH: Yes. I think you should be very
concerned about that, and that's my primary concern. My son will go to a chiropractic school. He will get the knowledge. But what about all of the other students?

Now, remember that CCE stacks the deck to help their own. We have heard that time and time again. I can't tell you how many college presidents I've talked to, how many faculty members I've talked to over the years, that live in fear of CCE. It's just a fact.

So put that bias aside. Once these graduates start entering the marketplace calling themselves chiropractors or calling themselves chiropractic physicians or doctors of chiropractic medicine, they would graduate from a school that has no requirement to teach anything that you or I know as chiropractic.

But, more importantly, they have no way of measuring whether they know anything chiropractic because it's not even in their standards. That's how scary it is.

So how will the public be affected? You innocently go to a chiropractor who graduates from one of these institutions. What are you going to get? A
quasi-medical doctor who got an education, maybe a
great education, but doesn't have the tools necessary
to practice as a chiropractor.

Or, worse yet, you go to a doctor of
chiropractic who went to a school that had no core
curriculum in chiropractic, but they want to be a
chiropractor. But they had minimal training in their
school. How is the public going to be affected?

Now, let's look at student loans. That will
become something that I think everybody will become
very, very, very concerned about later on. I'm not
worried about that now, but once the standards change
and these students, with a minimal chiropractic
education in true chiropractic will enter into the
field, they will not be able to perform their
functions. And it will cause them to financially
suffer, and financially suffering doctors don't pay
their student loans back.

So I think you have a real, significant
responsibility to look long and hard at the standards
that are promulgated. I challenge each one of you to
open up three sets of standards. Read them, please.
The CCE standards that will take effect in January -- if you're proud of those, I don't understand how you could be.

Read the dental standards. I think the dental standards are brilliant. I think the osteopathic standards are brilliant. You know what you get. The people who graduate those institutions will have the core competencies, and the schools will have the ability to measure those core competencies.

And you can be confident that when you go to a doctor, a medical doctor or osteopath or a dentist, that you're getting what you paid for. You're getting what you expect to see when you enter into those doors.

So really read those standards. When is the last time you looked at the dental standards? They should be a requirement, to have standards that look like that. And I wish -- and I'm not proud of my accrediting body, CCE, that produced standards that have no means of really recognizing and measuring what a chiropractor does.

CHAIR STUDLEY: Anyone else?

(No response.)
CHAIR STUDLEY: Thank you very much, Mr. Hirsh.

DR. HIRSH: Thank you very much.

CHAIR STUDLEY: John Bomhoff.

DR. BOMHOFF: Good afternoon. In reference to what he was just saying about reading the standards, you may also want to consult Black's Law Dictionary for its definition of what chiropractic is so you can have an understanding of where the standards are supposed to be set.

My name is Dr. John Bomhoff. I have been a chiropractor licensed for over 17 years. I came here today in support of the chiropractic profession as a whole. I was not aware I'd be able to have the opportunity in front of me today to speak to you until last night or early this morning, so I'm taking the chance to speak out on my behalf and on behalf of the thousands of others who could not be here today. I'm voicing our concerns and disgust with the CCE and their abuses of power, and the multitude of violations they have committed.

Early this year that was a letter-writing
campaign by some 4,000 chiropractors voicing our disagreement and objection to the removal of the term "vertebral subluxation" and removing the statement, "without the use of drugs or surgery," from the definition of the practice of chiropractic.

These wording changes totally alter the scope and direction of chiropractic, as held for over 116 years. It's the largest natural and drugless healing art in the world. Infusing a medicalized academic curriculum into the natural, drugless healing art of chiropractic will alter the profession as we know it.

I'm here because the CCE has violated Section 602.13. The CCE directly disregarded the 4,000 written objections submitted to them by practitioners nationwide. The CCE failed to recognize and respond to the wishes of institutions, faculty, and in particular, the practitioners set forth in our letter campaign.

The facts show that the CCE did not acknowledge or even take into consideration the objections, and advanced the wording changes in the curriculum about the profession. And the fact is that CCE ignored our concerns, directly violating that code
CCE chose to ignore proper protocol in abusing its power they hold by following their own agenda and not the wishes of the greater part of the profession at large.

So while I'm here today, there are thousands of other chiropractors and people who could not be. So I'm being a voice to say what has happened is not right. The actions of the CCE will cause harm to the chiropractic profession as a whole.

It's not okay for the CCE to be abusing their position with the numerous code violations and continually ignoring the concerns and objections of the majority of chiropractic profession.

You've heard speakers here today saying that all is good and everything with the CCE is okay, that there's no problems with the CCE. Yet there are 41 violations listed and cited against them, almost 4,000 letters in opposition from practitioners in the field regarding the changes that they're putting forth into the vocabulary of what chiropractic is.

It's been alluded that there's no fear at the
chiropractic institutions speaking out against the CCE, yet you only have two institutions here today, and both of them are in support of the CCE. Where are the other colleges? They don't care? Absolutely they care. But what happens to the colleges that do voice their opinion against the CCE? Look at what happened to Life in 2000.

Thank you for your time.

CHAIR STUDLEY: Thank you very much. Are there any questions?

(No response.)

CHAIR STUDLEY: Thank you. Appreciate it, Mr. Bomhoff.

With that, we have heard from all of the third party representatives and individuals who wanted to speak to us on this issue. And we will now ask if the agency would like to respond to those presentations. And then, following that, the Department will have an opportunity to respond.

DR. WICKES: The answer to your first question is yes.

CHAIR STUDLEY: Thank you.
DR. WICKES: I think I might start by addressing some of the four core questions that were outlined as we went along, and talk about one of the fundamental issues here.

The questions revolved around whether or not there were differences in schools of thought, the so-called liberal and the conservative groups; whether or not the CCE is aligned with one of those groups or not; whether or not we've aligned with one particular organization; and have we done this through a self-serving selection process, and the like.

And another big part of that has to do with the issue revolving the concepts of vertebral subluxation and so forth. So let me start with that part.

There has been absolutely no change in the 2012 new standards in terms of the scope of practice that is either permitted or required at the chiropractic colleges. We have heard some speakers address the issue of promoting a medical agenda or something like that. But you'll find, if you do -- and I certainly agree with the last speaker on one point,
and that was, look again at the new standards.

The new standards do not require teaching of prescriptive pharmaceutical agents. They do not require the teaching of minor surgery, for example, things that you would associate with allopathic medicine. That is not a part of our standards. There's no mention of it in the current standards; there wasn't any mention of it in the past.

So, on flip side of that, have we de-emphasized chiropractic in the new standards? And I'm just going to quote a couple of sections out of the new standards because there were phrases tossed about regarding a lack of teaching of the core principles of chiropractic and so forth, things that distinguish the chiropractic profession from other health professions, and so forth.

So we find under the section on educational standards that there is a requirement that subjects have to include a section referred to as Foundations. These include the principles, the practice, the philosophy, and the history of chiropractic. So we set the stage right there, saying, your curriculum must
teach those things.

It also refers to -- if you recall from my previous comments, we have moved to an outcomes-based, evidence-based assessment process in terms of measuring whether or not our students are competent when we graduate them.

And so a considerable amount of work went into developing a so-called meta-competency section. In other words, it defines the competencies that the graduate of a doctor of chiropractic program must attain prior to graduation.

And the standards very clearly talk about the mandatory meta-competencies, their required components and outcomes, and the sources of evidence used to demonstrate student achievement of these meta-competencies.

Included in the meta-competency document are the following. And again, the meta-competency document starts off by saying the DCP, the doctor of chiropractic program, is required to demonstrate that its students have achieved the mandatory meta-competencies and their required components, as
noted below.

One of these required components is performing case-appropriate physical examinations that include evaluations of the spine and any subluxations/neuro-biomechanical dysfunction. That's one.

The second meta-competency, under management, a required component is, determining the need for chiropractic adjustment and/or manipulation procedures -- in other words, the ability to determine the presence of vertebral subluxation, or whatever the institution may decide it wants to call that entity.

Some institutions have said, we would prefer to call it, for example, a joint dysfunction rather than subluxation. We use the combined phrase of subluxation/neuro-biomechanical dysfunction.

Another outcome: Deliverance and documentation of appropriate chiropractic adjustments and manipulations. In other words, the student is required to be able to demonstrate competency in actually adjusting the spinal area for which they found the spinal subluxation.
So I don't know that I can make it any more clear that the vertebral subluxation entity and chiropractic core principles and practices are a part of the 2012 standards, just as they were part of the 2007 standards and previous standards. Nothing has been taken out in that regard. And certainly no pro-medicine agenda has been slipped into this.

Now, one of the questions came up on relating to the phrase "without the use of drugs and surgery." And that obviously was an area of considerable discussion. However, I think it's important to note that that phrase only appeared only in a prefatory part of the previous standards. It was not actually in the requirements for accreditation itself. In other words, no accreditation decision was based solely upon that entity.

But we also had to deal with the pragmatic aspects of some states -- I'll use Oregon as an example -- which allows chiropractors to perform minor surgery. And there are other states that allow them to prescribe over-the-counter medications. And there are other states that have talked about expanding the
practice act. We've seen this in other professions, such as optometry, that went through very guideline migrations as well.

So from the get-go, the task force on the standards revision decided that it would not put limitations in the standards that would prevent an educational institution from teaching certain things, and that it would encourage programs to teach what they wanted to to satisfy their particular mission and purpose statements relating to the chiropractic profession.

Craig, do you have anything you want to throw on top of that?

DR. LITTLE: No. I think that that explained it very well.

DR. WICKES: I've heard a number of -- maybe, if there's any questions on that one, I'd be happy to take them, follow up on that particular subject area.

CHAIR STUDLEY: I think that's a fine idea. Let's see if there are any questions on that particular subject.

Frank?
MR. WU: Just one question. On the "without drugs" phrasing, we've heard from all of these other witnesses, who have suggested that fundamental to their understanding of what chiropractic is— is that it doesn't include drugs, surgery, et cetera.

DR. WICKES: Right.

MR. WU: And so even opening up the possibility -- and I know that there are states that would allow that -- but their claim is that once you open up that possibility, what you are offering is no longer chiropractic training. I wonder if you might respond to that.

DR. WICKES: Sure.

MR. WU: I don't know anything about this field myself, so I'm --

DR. WICKES: Right. And I understand that thought, that rationale. Unfortunately, if we went back to the early part of the 20th century, we would find out that diagnosis was also not to be considered a part of chiropractic. And so the profession has evolved over time.

But I think, most importantly, what we have
stayed away from, is telling an institution how little
or how much they have to teach within their particular
curricula.

They have to meet our minimum requirements, yes. But if an institution wants to have a pure,
conservative agenda and they want to place a focus on
generating practitioners that are highly competent in
the detection and management of vertebral subluxation,
there's absolutely no reason that institution cannot
put forth that agenda, attract that kind of student,
graduate that type of practitioner.

Now, the other side of that is, we have to
have some cautions in there that relate to public
safety and public health. In other words, it doesn't
matter if a student goes to a college in
Oklahoma -- there aren't any right now, so I can use
that without being liberal or conservative.

If they go to the Oklahoma Chiropractic
College, that doesn't mean they're going to stay in
practice in Oklahoma. So Oklahoma may have a very
restrictive practice act that says, you can only do
manual manipulation of the spine for correction of
vertebral subluxation. But that same graduate could go
to another state that has a much broader practice act
that allows physical therapy modalities, allows active
rehabilitation, nutritional supplementation, and so
forth.

So without being able to control where those
students go, we have certain things that we have worked
with over the years with our licensing boards, with our
task analyses, the job task analysis that the national
board has performed and so forth, to help us figure out
what it is that we should include as minimum levels of
expectations in the curriculum of the chiropractic
programs.

And we have one institution that has announced
that it would like to seek prescriptive privileges for
chiropractors. That's something that they want to
advance as an institutional mission, and so forth. And
we have said, we don't have any restrictions on that.
If you want to teach prescriptive pharmacology, if you
want to teach something like that in your curriculum,
we're not going to prevent you from doing that. That
seems to be the opposite of what higher education is
That's a regulatory issue. That's a professional debate issue, and so forth. It's not an accreditation entity by itself.

MR. WU: May I followup, please, with one more quick question?

CHAIR STUDLEY: Frank, then Susan and Arthur.

MR. WU: This liberal/conservative dichotomy, did that preexist this controversy over your rule change? In other words, out there, the different schools, have they been categorized this way for some time?

DR. WICKES: It certainly existed when I went into college in 1973. So I'm guessing it existed long before that. So yes.

CHAIR STUDLEY: Susan?

DR. PHILLIPS: I'm understanding, I hope accurately, that this isn't the first time that you've heard these concerns. And I'm wondering what about the subluxation and the nature of the new standards. I'm wondering, in your process of arriving at new standards, how you incorporated the previous feedback,
the information that you had from the field.

DR. WICKES: Sure. Yes. Standard one or -- excuse me, draft one or draft two -- I can't remember which one right now -- the meta-competencies that were developed did not have specific language regarding the assessment or detection of subluxation in it. Okay? So that word didn't appear in there. What it said instead at that time, the meta-competencies said that you should deliver appropriate chiropractic adjustments.

So the think of the group at that time was, if it's appropriate, the practitioner obviously went through a process of evaluation, assessment, conclusion, and determining whether or not a manipulative procedure, the adjustment, should be rendered. But we got a lot of feedback.

We got very little feedback after draft one. We got a lot of feedback after draft two. After draft two came back in with a vocal outcry on that, we went back as a task force and said, what can we do to address this? And the meta-competencies that I read to you just a little while ago were added in there,
expanded upon. We made sure the term was in there to
to address that.

So we listened to it, and some of the vocal
outcry, I think, is based upon misconceptions based on
the previous drafts, not the final draft, not the final
version of the standards.

MR. ROTHKOPF: My question, I think, was
raised by the comments of the student and some of the
others who appeared. And that is, how does a
prospective student know whether he or she is going to
a conservative, liberal -- the student interest here, I
mean, we're training people. They're investing several
years, lots and lots of money. How do they know what
they're getting into, and is that clear at the outset
and he doesn't find out after two years that I'm in the
wrong kind of place?

DR. WICKES: Right. And that's a great
question. It's difficult in some cases for students to
make that determination because catalogues tend to kind
of all begin to look alike over time. However, I think
that there are plenty of schools that have promoted
very heavily how they approach patient care.
So those schools that -- let's say the -- what do we call them? The conservative ones right now, those schools have a large amount of information on their websites, in their view books and their catalogues and so forth, that talk about their focus, their emphasis, upon the evaluation, detection, and management of vertebral subluxation.

The schools that might be on the more liberal side will talk in terms of holistic care or -- this is where it gets difficult. I remember working with a task force member from the Clinton Administration many years ago that was confused over the straight versus mixer concept, and I finally figured out that they were confusing that with heterosexuals and homosexuals.

(Laughter.)

DR. WICKES: So the terms are horrid no matter what we come up with. We don't have a good definition in the profession of what a straight or what a conservative practitioner is versus the other, and I think what you'll find is that they're all across a spectrum.

Students can look at that language. They can
talk to other students. They can look at the -- we have required disclosure information on every website. They have to have national board performance scores on the websites. You know, that type of disclosure information is out there. But most of it happens to be how the admissions department portrays itself.

What we do when we send a site team in is to look at whether or not they are delivering the program that they portray to be actually -- in other words, are they practicing what they preach?

MR. ROTHKOPF: But you don't regard it as your function to classify schools in either one or both of these categories?

DR. WICKES: Not at all. Not at all. And you'll find that the representation on the council right now has people that are from all walks of life. We've got several members that are there from very conservative schools, and we have no members on the current council that are from the one institution that is promoting the most pro-medical model.

So it's across the board. And the same thing was true with the task force. The task force had
representatives there that were either past or present officers from the ACA, from the ICA, from the Federation, from straight schools, from mixer schools -- we had quite a blend. And all of these things we have reached a consensus opinion on.

CHAIR STUDLEY: I have Anne -- thank you for your patience -- and then Cam.

MS. NEAL: Two questions. By telling us that you have not prohibited, in fact give institutions the autonomy to teach vertebral -- I'll get it right -- subluxation --

DR. WICKES: Correct.

MS. NEAL: But am I correct in understanding you don't require it? You don't prohibit them, but you don't require it?

DR. WICKES: It is -- the standards require that the students learn how to evaluate, understand the concepts of subluxation, how to assess for the presence of subluxation, and how to perform the vertebral adjustment to correct subluxation.

That's a part of our accreditation requirement. You cannot get accredited unless you show
that your students are competent in those areas.

MS. NEAL: And one of the fellows who came through earlier suggested that there was no way to measure whether, in fact, they obtained that knowledge.

DR. WICKES: Actually, it's gotten better with the 2012 standards than it was in the past. 2012 (sic) was heavily dependent upon -- the one requirement, for example, was that you had to render 250 spinal adjustments -- 2007. That was a quantitative requirement. It didn't say on how many different patients. It didn't say what types of conditions you were treating. It was just a pure number that was out there.

The new emphasis is upon developing competency matrices that the institutions can go through and demonstrate that the students have actually achieved the skills in all different levels -- the psychomotor skills, the cognitive understanding of it, and the meta-competency, where it puts it all together.

So there's a greater emphasis. If you look at what the institutions right now are worried about, it's transitioning from just counting heads to actually
being able to prove that their graduates are competent in all of these different areas. So there's a very heavy emphasis upon the assessment programs of the institutions.

MS. NEAL: And then a final question. Looking at your policy manual, in your preface, your very first bullet point is that you are training to practice primary healthcare. A need as I understand it, this is sort of a new term.

Instead of saying practice chiropractic, now it says practice primary healthcare because there is a bill coming down the road that will go into place where primary healthcare will be potentially more lucrative than just chiropractic.

I'm just trying to figure out how much of this movement is being directed by extraneous laws --

DR. WICKES: Right.

MS. NEAL: -- that may address this as opposed to the educational quality issue.

DR. WICKES: Yes. First of all, the language regarding primary care in chiropractic is not new in the 2012 standards. It's been there for probably two years.
decades. So that has not significantly changed.

In fact, some of the input we got back -- I think it was draft two of the standards -- a couple of the words had been reversed from the previous draft, and we heard back from people on that. And we said, well, we'll go back to what we used in the 2007 standards. So that hasn't changed.

So you'll find that from -- some institutions were founded on the idea that the care -- the providers that they are graduating are very broadly trained. And other institutions were founded on a much more narrower scope. That's been the case for a hundred years.

CHAIR STUDLEY: Cam, and then Brit.

MR. STAPLES: I just want to follow up on your comment around the fact that you were not de-emphasizing subluxation in your draft. Obviously, people have a different opinion about that here.

What was the purpose of the language change, then? Was it to broaden and permit, as you said -- with elimination of the drug prohibition, was it to allow schools to expand their curriculum into a more medical arena without explicitly saying that?
DR. WICKES: No. In terms of the drugs and surgery part, much of the thinking on that had to do with not wanting an institution to feel that it could not teach those things. For example, to get licensed in Oregon, you have to show that you have been trained in principles of minor surgery.

So the institution in Oregon includes that as part of its curriculum. Other practitioners that come into Oregon have to do some sort of class that is administered through the licensing board.

But we don't want to put that institution in the position where it is in violation of the standards because they're teaching minor surgery in their curriculum so that their graduates can get licensed in the state that they're domiciled, we don't want them to feel as if they're violating the standards.

And the other part of the discussion had to do with this particular phrase that was in there was not one upon which we were routinely doing a site team evaluation and making an accreditation decision on. So it wasn't serving an evaluative purpose for the agency.

MR. STAPLES: Maybe I wasn't clear. I was
using that as an example of how you removed that to permit schools to do it. What I'm asking is why did you make the language change around subluxation if you're saying it wasn't to minimize it in the curriculum? What was the purpose of that change? Was it to broaden what schools could teach beyond that, or what was the purpose?

DR. WICKES: In terms of subluxation, there was no real change. The 2007 standards had a section on competency evaluation for assessment of spinal function, spinal subluxation, and the 2012 section has it as well.

Where the difference is is that we actually took work that was done in Scotland in terms of meta-competencies as it is approached in the health professions, and we basically made our competency document more contemporary by dividing it into meta-competencies and required components and characteristics of evidence.

So the term "subluxation" transferred over from the old standards into the new meta-competency policy. That has remained the same, so that the
expectations for students to achieve those things was there in 2007 and is in the 2012 document as well.

MR. STAPLES: It seems like quite a bit of misunderstanding occurring around that, if that's the case. But okay.

CHAIR STUDLEY: Brit?

DR. KIRWAN: Thank you. Your governing body you call the council? Is that correct?

DR. WICKES: Yes.

DR. KIRWAN: One of the points made today was that the perception is, at least on the part of some, that the council has become a clique, a group of people that just have a lifetime appointment, in effect. It doesn't turn over, and you reorganize, and they just continue to serve on the council.

Is there substantial turnover on the council? Is there opportunity for new points of view to come on? Et cetera, et cetera.

DR. WICKES: I am incredibly thrilled to be able to say that on January 15th, I will be off the council.

(Laughter.)
DR. WICKES: So I don't have to come back here again. We have a substantial turnover in the council. Our public members, for example, were appointed in -- let's see, I'm looking at 2006, and that public member, although he's eligible for another term -- members can serve for up to three three-year terms total, a nine-year duration. That's the cap on it. But we also -- he did not run for reelection and so he'll be off. So he will have only served since 2006, six years.

Another one of our members came on in 2007, a public member who's a former vice president of a major university. Let's see. We have a vice president from SACS who is serving on our council as well, and he has been serving since 2007.

DR. KIRWAN: Maybe just a way to -- in a given year, how many new people would come on the council?

DR. WICKES: Anywhere from one to three, maybe. Dr. Little is the chair of the council development committee.

DR. LITTLE: We have a process where approximately seven councilors will be elected from the
member programs. So that is something. And the remainder -- and of those in the member programs, at least two or three were termed out. I believe it's approximately three. So those will be replaced with someone new to the council.

Also, in this year the process was to try to elicit candidates with higher education experience or experience on an accrediting agency. So we sought that type of a call for public members.

We have an election going on now. So that will have at least one or two public members that will be elected from the council as a whole that will be coming on. So this year we actually will have several new faces.

DR. KIRWAN: Okay. One other real quick question. You've presumably been sitting in the audience listening to the comments. You serve a community, and there seems to be a lot of unhappiness in the community.

In just listening to the comments, do you have any take-aways or anything -- do you have any things that you think the organization needs to do to address
this concern? Or do you think --

DR. WICKES: Sure. Recently I had conversations with both the ACA and the ICA, and pointed out that although many other organizations sent out invitations to the task force to appear in front of those bodies and discuss the new standards as they were being developed, neither one of those groups actually extended an invitation to the CCE.

And that was something we just have to fix next time. We'll be more pressing on them to make sure we get our foot in that door and have an opportunity to meet with them.

We did meet in dozens of places to try and get the word out. Unfortunately, we did not anticipate much of the social media applications that were out there because a lot of what was circulated -- and we even heard some of that today.

We heard about the high student loan default rate. The student loan default rate right now, the federal cohort default rate for the profession, is about 3.2 percent. And compare that to the national average of 8.8 percent. So it's not doing bad.
But you'll hear things such as 58 percent of chiropractors have defaulted on their loans. And in actuality, that number is based on the HEAL loan program from 1998 vintage, at which time, of those doctors, of all the health professions that were in default, 58 percent of them were chiropractors. So that's a far cry from what we have seen in the public press, and it's hard to battle that type of thing.

We were behind the times on that, and we'll do a better job of getting information out and sharing it. So that's a big take-away that we have, is we just need to talk more with all of the groups. We've been pretty good at accepting invitations from those people that have extended them to us.

DR. LITTLE: The other thing we do is we annually survey our DCPs. And this is an anonymous survey, so each one of the chiropractic colleges gets a survey form and it asks questions about how the CC is performing, what improvements they want to make, and so forth. What we don't get back is anything relating to fear, trepidation, intimidation. We don't hear that.

Licensing boards are surveyed. We do a number
CHAIR STUDLEY: Can I just ask, to whom do the responses to that survey go? You mentioned that it was anonymous. I'm just wondering how it's processed and whether people are aware of the confidentiality.

DR. WICKES: It comes into the council itself. The council discusses it. And other than at the open business meeting when we announce that the council development committee has reviewed the standards -- or reviewed the surveys, and here's how many surveys we got back, here's what we heard, we don't go through and detail out all the items.

DR. LITTLE: Actually, we do.

DR. WICKES: Oh, did you last time?

DR. LITTLE: Actually, we do. Staff accumulates the data. And also, with regard to specific outcome questionnaires that we ask, we tabulate that data and we use it for board improvement. And we set out -- so really, as part of our planning for board improvement, we use the criteria -- any questions that programs have that they'd like to see certain information on.
It helps us. It helps us in planning for the next year. And we do it annually.

CHAIR STUDLEY: Susan, then Arthur, have comments.

DR. PHILLIPS: A question, actually. The student who had presented earlier described a process for the selection/election/balloting for new council members. Could you walk us through how new council members are arrived at from soup to nuts?

DR. LITTLE: Certainly. I mentioned a little earlier that approximately seven of our council membership are elected from program representatives. The council development committee sends -- actually, through staff -- sends out a call for nominations. That goes exclusively to the member programs.

Those come forward, and consistent with our policies, we have -- it's really a seat. So there may be an incumbent in a seat, and we try to match applicants with similar qualities and similar experiences for a given seat. So there may -- and typically, there will be several individuals that will be run off processes if we -- in order to obtain a
majority vote.

For the remainder of the councilors, we also send out a call for nominations. It goes forward to all 50 states' professional associations. It goes to the national chiropractic organizations. It goes to the Federation of Chiropractic Licensing Boards generally and also all 51 or -2 licensing boards in each state, a call for nominations. And also, we do note it on our website.

We take the nominations, and if it's obviously for a public member, we'll categorize and we'll have -- we have two seats for public members that are current -- they're current or practicing DC members -- and try to align candidates with similar qualities or qualifications to run in that election. Those are voted on by the board as a whole.

DR. PHILLIPS: And could you describe -- in both instances, you mentioned -- both the institutional and the larger nomination process, there's a matching, filtering process, some kind of characteristics that the nominating board is looking to match. What kind of characteristics are those, and how are they arrived at?
DR. LITTLE: Well, typically, first of all we have to match people that are applying for public. And typically we will put all of the candidates in there and the board votes them on the whole. They might not get the majority the first go-around, but eventually we'll narrow it down to two and they'll be voted on. Typically we include all people in a specific category, according to whether they're public, a practicing DC, or from an institution.

And then we have several -- for example, if we have several that are like institutional, if one particular seat has experience in higher education or administration, one might be more in quality assurance or clinic-based, we try to match candidates so that we have a broad representation eventually on the council with people with experience in finance, with people with experience in clinical practice, with people -- so we have all of those tools available to us.

DR. PHILLIPS: So you have, in effect, a finance seat, a practice seat, a quality assurance seat?

DR. LITTLE: Not in name. But we try
to -- that's what the committee tries to eventually
obtain by way of experiences. We set out a call: We
need -- frankly, especially now in present times, we
need candidates with financial experience, either CFOs
or CPAs. So we do send out a special call for that,
and if we get candidates like that, we'll tend to group
them together.

DR. WICKES: Within the council itself, there
are four categories of councilors. One category is
seven people that are employees of the chiropractic
colleges. Another category are private practitioners.
Another category are public members. And then the
fourth category is at-large, that can be any of those
others.

So those types of seats have to be filled, by
absolute bylaw definitions of what a public member is.
But within -- going beyond that, we then say, what
characteristics are we seeking to fill those particular
positions? So if a public member -- we might want to
have someone with expertise in law, or expertise within
higher education, or something like that.

DR. PHILLIPS: And one last one before I go.
Are those characteristics that you're seeking made available in the nomination process? We're looking for law; we're looking for --

DR. WICKES: Yes. They're posted on the call for nominations that goes out to all the places that Dr. Little described. So that's put in there. So we have -- the call for nominations includes not only the categories that we're seeking nominations for --

DR. PHILLIPS: Those four categories?

DR. WICKES: -- but also the characteristics within each of those categories that we're looking for, particular traits.

I'll also mention that -- part of your question, the student raised the issue. That particular student is from a program, I believe, from Life West. And that particular institution has two councilors that are currently serving on the council.

CHAIR STUDLEY: Art Keiser, and then Art Rothkopf.

MR. KEISER: Just to follow up on Susan's line of questioning, who is "we"? When you talk about the -- is it a nominating committee?
DR. LITTLE: For the election process? It goes --

MR. KEISER: You have seven school members. So you have 25 people who submit their name to be on the commission. Who whittles that down, and to how many people, and then who votes on that?

DR. LITTLE: Essentially, there will typically be two seats because how it rotates, it's typically two. And, for example, for an even number, let's say that ten come forward. We would typically put five in each and try to keep it round for each seat.

And where we would place them would perhaps be with individuals according to the characteristics.

MR. KEISER: Who's "we"?

DR. LITTLE: The council development committee. There's a development committee on the council that is currently comprised of approximately seven individuals.

MR. KEISER: So seven -- you have a total of 12 members --

DR. LITTLE: Twenty-four members.

DR. WICKES: Twenty-four.
MR. KEISER: Twenty-four members. And who appoints the council development council?

DR. WICKES: That actually goes through a process of, first, the election of the committee chairs. So, for example, in January we'll go through and the full council will decide who the new committee chairs are.

And then we will -- we're in the process right now of putting out a poll to all of our councilors to find out what interest they have in serving on different committees. And then we look at our bylaws in terms of how long they can serve on a given committee; we have to rotate people off of that.

When we get all said and done, we usually, between the council chair and the committee chair, we come up with a tentative slate. We approach these people. If they're interested, we then take that back to the full council, and we require a vote from the full council appointing these people to any of the committees.

MR. KEISER: That's a complicated process.

One of the -- and I came in late because I had another
prescheduled meeting. But one of them said that it is not fair that certain people have been on the council for over ten years.

      Does this process weed that out, or does it enhance the maintenance of certain members to the commission?

    DR. WICKES: There are very few people that have served that length of time on the council. And one of the things that we were diligent about when we formed -- in 2009, when we had the new bylaws approved in 2009 and merged the two boards together, the board of directors and the commission on accreditation, is we said we would not start the clock over on any of those people.

      So they did not get things. In fact, the first group of officers that were elected ended up with abbreviated terms because of that process. The bylaws are three three-year term cap.

    MR. KEISER: Then they have to cycle off?

    DR. WICKES: Right. Now, they're --

    MR. KEISER: Is there anybody -- has that person -- you mentioned two people -- I think one of
them was you or somebody --

DR. WICKES: Well --

MR. KEISER: That had been on for a very long time?

DR. WICKES: Yes. That was also a misstatement, or at least it was a partial statement.

At one point, I was on the board of directors, which was the non-accreditation decision-making body. That's what role I was playing at the time that the Life University situation came down. I was not on the decision-making body that reached that.

And then I was off for a couple of years from all activities relating to the CCE. And then I got reelected in 19 -- excuse me, in 2006. I got reelected to the commission. And then I'm cycling off, thankfully.

I was just looking at the roster. Maybe Mr. Bennett can help me out. There's probably four or five people that had been around at the time of the Life University decision, do you think?

MR. BENNETT: Not that many. Maybe a couple.

DR. WICKES: All right. Two or three people
that were there that are currently serving. And those people are all terming out this year as well.

MR. KEISER: Have they recycled, or have they been off completely?

MR. BENNETT: Since what period of time?


DR. WICKES: They would have -- I can't answer the question. I don't know because I wasn't there at the time.

MR. BENNETT: Dr. Keiser, let me just answer this. Before the restructure in 2009 when they moved the terms from three years, three terms, nine total, prior to that and ever since the inception, I know back into the '80s and '90s, there was only two terms for three years. It was only six years. So up until 2009, you could only be on any body for six years total.

MR. KEISER: But the current -- are any of these people who have been there for at least ten years?

MR. BENNETT: Well, like Dr. Wickes said, he was on the board in 2002. And we have one individual I see at the top of the list that was on the board as
well at that time. And then during the restructure, he
combined on the council. But he was never ever on the
commission. So he's only been in the decision-making
process for the last two years.

MR. ROTHKOPF: I'd like to address a question
that really hasn't been discussed by any of the outside
individuals, and I'd like you, if you would, respond
to. And that is, as I read the report here more than
two or three times, I was struck by 41 deficiencies.

Some of them might fit in what was described
as the picky category, but many are not. And I guess I
came away with a sense that there was a sloppiness
involved here.

Examples of a document that was supposed to be
downloaded that we couldn't get. It wasn't an exhibit.
A site visit is supposed to be made in six months, and
the institution opened a branch in 2009 and the site
visit didn't take place till 2011.

And I came away saying -- and we've only
had -- this is the third session of this newly
reconstituted NACIQI. But I'd say you've -- I think; I
don't think I'm wrong -- you've hit the jackpot in
terms of the number of deficiencies. And you've had
time to address them.

And I guess I'd ask you, why 41 deficiencies?

DR. WICKES: As I look at them, many of them
are related.

MR. ROTHKOPF: Are what?

DR. WICKES: Are related. Some of them I
would strongly contest, but we have opted not to
because it's just going to be easier for us to go ahead
and provide additional documentation as we go down the
road.

The ones that I was most sensitive to had to
do with conflict of interest. And as we drill down
into the staff analysis on that, we find that the
problem is not in terms of us having public members who
have conflicts of interest, but the fact that our
process is one that leaves it open to interpretation
that these people are not declaring all their conflicts
of interest.

For example, at the beginning of each of our
meetings, we have them fill out a form, a conflict of
interest form, which has all the different conflicts of
But at the bottom of that form is a check box that says, "My declarations have not changed since the previous time." And we include with that document a copy of the spreadsheet that shows all of the declared conflicts.

But that was cited as a noncompliance issue because there's an opportunity for someone to perhaps not read the spreadsheet. So we can fix that. That's an easy one. We'll white out the little box that says, you know, same as before, and we'll go from there.

The substantive change one had to do with a -- there's probably four or five issues relating to sub change. And that's because most of those things, as an agency, we never had to deal with and probably never will. But we blew it in terms of not having a policy to cover them all. But we'll fix that.

We went through a teach-out process this year, and you heard one of the presenters earlier today talk about an institution that went through a teach-out. That was one where the institution approached us and said, hey, we've changed our mind.

We had actually reviewed their process, looked
at them. We'd raised some areas of interest with them in terms of their total enrollment and, more importantly, in terms of their performance on national board scores. But it was not actionable at that point.

But they at some point after that meeting decided that they were going to go ahead and close the campus because they looked at their enrollment projections, they looked at their financial forecast, and said, you know what? We're going to close this operation down.

Our teach-out policy was written a decade or so ago and did not include many of the things that we wanted it to do. But instead, we worked with that program and we put the program that was going to be going through the -- that had agreed to do the teach-out itself, we put them through a substantive change process.

And we worked with both institutions to make sure it happened. And then we turned around and rewrote the brand-new policy on teach-outs that will address all four or five deficiencies that have been cited by staff. There's not a single one that we could
take disagreement with from the staff analysis. We know that it's flawed. And we've got it fixed.

The teach-out was another interesting example of the issue relating to the two camps within the profession because we had one school that was in the conservative camp that then turned around and contracted with one school that's at the other end of the philosophical spectrum to do the teach-out.

And so all of those students went over there. They're all performing very well. The educational core curriculum was the same between the two institutions, although one may have had a different philosophical emphasis, but the students are performing well, and that was our concern, is to make sure that we could guarantee the students had every chance of success in that process.

So yes, I don't like the idea that we've got these deficiencies. We're working very hard. Most of them are policy changes, and most of those will be fixed at our January meeting. And we will have them all fixed within a very short period of time.

CHAIR STUDLEY: You may not believe this, but
I am mindful of the time, but thought that this was important enough for us to be able to pursue it. Unless other Committee members have critical questions, I'd like to hear the Department's staff response at this point. And then we will have an opportunity for discussion.

If you wouldn't mind staying with us in case there are questions during the discussion period, that would be helpful.

Rachael?

Dr. SHULTZ: Throughout this process over the many years that we have worked with this agency, the Department has studiously tried to avoid taking sides in this argument, which has been ongoing. So I'm not going to comment on any of the remarks that were made today except on things that would have to do with the Department's participation in the process.

I heard one commenter describe my analysis in terms that really boggled my mind. I thought that it was very mischaracterized, and I felt that this person was putting words in my mouth that had not come out of it. And on a professional level, I resent that.
One word in particular that he used was he said that my analysis had said that the agency had turned in suspect documentation or information. I don't remember his exact wording.

I would like to go on the record as saying that I do not feel like the agency has tried to pull the wool over our eyes, that they have been very open and cooperative with us.

I particularly appreciate the fact that on their policy changes, instead of trying to bluff their way through it, which some agencies sometimes do, they just said, we see that there's a problem and we will work with you to fix it. And I really, really appreciate that.

One other thing I would like to point out. In listening to the comments this morning, I heard numerous commenters say, the last time the agency came before the Committee, they only had four findings. And this time they have so many more, and this indicates their total disrespect or disregard of the Department and the Committee.

And I would just like to remind everyone that
the last time the agency came before the Committee, we were under the old HEA, and the agency had been through that same set of regs more than one time. So it makes sense that after you've been reviewed under the same set of regs more than one time, you've cleaned up most of the problems. There's not much left to take care of.

So typically, over a period of time -- and the HEA was in effect for a number of years, longer than, I think, any of us expected it to be -- as the years go on, there are fewer findings because they've already been addressed by the agency.

So while there's no arguing that there were a number of findings this time, I would like to remind everyone that we are under a new set of regulations this time, and that it is typical for an agency to have more findings when we have a new set of regs because there are new requirements and we have a lot more requirements under the HEOA than we had under the HEA.

So that's all I have to add. Thank you.

CHAIR STUDLEY: Thank you.

I'd like to turn back to the two Committee
members who led off and were the primary readers for this agency, Frank Wu and Arthur Rothkopf, and see if you would like to add anything, whether you have any summaries or suggestions as we begin our discussion among ourselves.

MR. ROTHKOPF: We've had a pretty full discussion here. I think everything has probably been said. I think Frank, at a point either late this morning or early this afternoon, put out, I think, the four issues that are here, at least that are being discussed by those who presented. And of course, there were some, I think, four or five who came in in support of re-accreditation.

I don't know if I have anything to add other than just say again -- I take Rachael's point that agencies have had the -- these are new rules. But I think there are probably a disproportionate number of -- what do you want to call them -- failures to comply or deficiencies, however we want to characterize them.

And I find that troublesome, not going to the heart of some of the questions, but really as to
responsiveness and care with which this process has
been run. I take Rachael's points. But I do think
there's, at least in my mind, an issue there.

Frank?

MR. WU: I just wanted to observe very briefly
just two points. The first is, entirely separate from
the philosophical dispute, the liberal/conservative,
straight/mixer issues, there are the issues that
are there and that have nothing whatsoever to do with
the controversy in the field.

The second comment is just about the many
states that look to this body as part of their
licensure. And it's not just in this field; there are
many other fields where that's true, where there is
some accrediting authority that comes within our aegis
that the states look to.

I think that's important to weigh and to look
at that is meaningful. But we shouldn't just take that
as dispositive because I think the states rely on us to
be performing a safeguarding function, and if we look
to the states and assume that they're performing that
function, then each is looking to the other. And so
there is some independent check that we have to be
doing something to look at these different rules and
whether they're being met in this case.

That said, I would think that, on the whole,
they are being met.

CHAIR STUDLEY: Would you like to make a
motion at this point and then have discussion, or hear
the discussion first?

MR. WU: I'm happy to make a motion, except I
don't remember the language.

(Laughter.)

CHAIR STUDLEY: Well, perhaps we can --

MR. WU: And I think I'm not alone in not
remembering the exact language. By the time we're
done, we will all know this language.

CHAIR STUDLEY: How about if -- it's up and --

MOTION

MR. WU: Great. I adopt what's on the screen.

CHAIR STUDLEY: Are there members of the
committee who would like to speak to this subject?

Anne, Cam, George.

Let me also note, somewhat belatedly, that
Federico has joined us. He was not here this morning to introduce himself, but would you please do so now?

DR. ZARAGOZA: Federico Zaragoza. I'm from San Antonio Alamo Colleges.

CHAIR STUDLEY: Thank you very much.

So Anne, Cam, George -- let's start with that and see whether anyone is moved.

MS. NEAL: Mine is a question, really, for the staff. We've heard a number of individuals say that there should be a message sent that this is of singular concern, and it's not just like all the rest.

As I look at our various options, am I correct in understanding that essentially they are to do as is proposed, or to deny recognition? Is that correct?

Dr. SHULTZ: No. You've been given sample motion language, but you can make motions that are in accordance with what your evaluation leads you to. You might, for example, modify and say you wanted a compliance report, but you wanted to -- you found -- you believe they're in compliance with eight of the findings, and so that compliance report would not include those. You could also put it as "the sense
of the committee that" kind of language in there, I would think.

MS. NEAL: Many of them requested deferring a decision, for instance.

dr. SHULTZ: Well, that would be a decision on renewal of recognition. And a decision -- well, I'll let Sally that one.

MS. WANNER: The place of the deferral has now been taken by the continuation. So, I mean, it would just be a wording difference anyway because what you're doing, unless you want to cut off the agency, is continuing their recognition. I would say if you want to express some sort of disapproval, you can do so. You can say that in your motion.

MR. ROTHKOPF: Could I make another suggestion here? And I'm not sure I'm in favor of it, but let me put it on the table. And it was raised by some of the presenters, and that's that the language say that NACIQI recommend that CCE's recognition be provisionally continued, and then have the rest of it there, making it different from some of the others and giving at least some countenance to what's been
discussed here, and to frankly my own concern that
there are more issues presented here than should have
been.

They would be continued; you wouldn't cut
anyone off. But I think it would send some message
that something has to happen.

MR. WU: I'm fine with that.
CHAIR STUDLEY: So the order I've got was Cam,
George, and Art Keiser. You want to let him speak
to -- go ahead, since it seems to be on point.

MR. KEISER: Just on this, I'm not sure. I
think we either continue or deny. I'm not sure we have
a provisional. I would be more comfortable if, in the
motion, you brought up some of the concerns, and to
highlight the concerns that you have, whether it be
transparency or whether it be opening of their
political process.

But whatever it is, I think that would be more
appropriate than trying to move them to something that
we don't have, which is a provisional status.

CHAIR STUDLEY: Cam, and then George.

MR. STAPLES: Thank you. Just for starters,
I'd like to agree with what Art said. And whatever that list of things is, that we might just say, and in particular, or in addition to the agency's list of recommendations, we will take particular notice of how you address your conflict of interest issues raised in the report, or how you address other things.

One thing that I want to mention that I would like to add to the list of things is that -- and perhaps I should start by asking Rachael about this -- is the 602.13, the recognition criteria, the question of whether the agency represents a wide consensus of the chiropractic community. And the standard talks about every actor within that community -- educators, institutions, licensing authorities.

And I have no way of measuring that. I'm not persuaded -- let me just put it out there -- I'm not persuaded that they represent a wide consensus. And I realize a process like this is not easy when you have all the negatives who come and not the positives, and I realize that sometimes you can walk away with a misimpression.
But at least from where I sit, that ought to be something that we add to the list of things that they justify in the report back to us. I would like to see more demonstration by the agency that their standards and that their status as an accrediting authority does represent a consensus of the actors that they are required to for our recognition.

Because it's a concern of mine that they represent half of the constituency and the other half is not represented. And I think that's a valuable thing for us to know.

So I would just say, maybe -- I would ask Rachel if you had -- when you reviewed that criterion, you obviously didn't think that was --

MS. SHULTZ: We were satisfied that they met it. We did not have a finding in that area.

MR. STAPLES: And I realize that. Okay. So you have nothing more -- okay. I would just say that I'm not satisfied and I would like to see us to ask that for further amplification by the agency on that point for our next meeting or at the end of the 12 months, consistent with the rest of the motion.
DR. FRENCH: Madam Chair, I think most of my colleagues actually addressed the issues that I was concerned with. To be very honest with you, while the third party comments were compelling, I think it was almost a red herring because I think the issues are the 41 recommendations. If we had dealt with those, perhaps some of their concerns would have been more appropriately addressed.

So I'm concerned about the language. And I was wondering also, do we have other options? We're dealing with 41 basic recommendations. And I was glad to hear your question, Frank, about whether or not -- or Art -- whether or not they can deal with those 41 recommendations within the next 12 months. That's really what I'm wondering. So I'm just looking for an option or some tweaking of that motion also.

CHAIR STUDLEY: Art Keiser, did you have language or a suggestion about how to accomplish what you were describing? Because there was some agreement that that was attractive.

MR. KEISER: No. I think Cam got to the point. There are certain issues that are concerns, and
we address them in the motion, that the agency pays particular attention to in resolving and satisfying those when we get this back a year from now.

CHAIR STUDLEY: One possibility, since my colleague here is drafting away and people are thinking, it has been quite some time since we had a break. And let's see if there are comments that anybody on the Committee wants to make to enlighten us as a group, and that would give the members of the Committee, if they want to just think about what they would procedurally like to propose from here.

Let's come in ten minutes, and we will -- I believe we're close to completing this agency. I appreciate the patience of others who are waiting to appear this afternoon. We will handle all of your agencies as scheduled today.

So we will take a break for ten minutes. Ten of 4:00. Thank you very much.

(A brief recess was taken.)

CHAIR STUDLEY: When we complete this agency, I will make an announcement about the order of the agencies to follow. But let's pick up the discussion,
and I'd say back to you, Arthur and Frank, to see if you have a suggestion.

MR. ROTHKOPF: Yes. Thank you, Jamie. We have a revised motion which I would say represents a consensus of myself, Frank, and Cam. And I think Anne was also a part of it. But anyone can dissent from that once you read it.

It basically adds to the usual language a sentence that says, "In addition to the numerous issues identified in the staff report, NACIQI asks the agency to demonstrate compliance with Section 602.13 dealing with the wide acceptance of its standards, policies, procedures, and decisions, and to address how its standards advance quality in chiropractic education."

CHAIR STUDLEY: And I note that you read a helpful word that's not in the text. So if the person with the computer capacity would just add the word "to" before "address" on the last line, it would save us later having to parse the sentence.

MR. ROTHKOPF: To address.

CHAIR STUDLEY: Karen, thank you very much. Would any Committee members like to discuss
that motion?  Comment on it?  Edit it?

VOICE:  Call the question.

MR. WU:  I just have a very brief general
comment, which is, I think it's great that we're adding
more nuance.  I just think that, in general, is good,
rather than boilerplate each time.

CHAIR STUDLEY:  I heard someone ask that we
call the question.  Are you ready to vote on this?  So
that is a motion by Arthur, and who would like to be
the seconder?

DR. LEWIS:  Second.

CHAIR STUDLEY:  Earl?  Earl is seconding.

Made by Arthur Rothkopf, seconded by Earl Lewis.

All in favor please say aye.

(A chorus of ayes.)

CHAIR STUDLEY:  Opposed?

(No response.)

CHAIR STUDLEY:  The motion passes.  And we
very much appreciate the staff work on this, the
thoughtful consideration by the entire Committee, your
cooperation in this entire process, and the members of
the public who shared their thoughts with us today.
I also appreciate the indulgence of everyone who was on the schedule that we will now regroup slightly. So thank you very much. We've concluded your presentation.

So the motion has carried, and the text was here. Did you have a question, Arthur?

MR. ROTHKOPF: What is the order?

CHAIR STUDLEY: Right. I'm going to go to the order here.

The next institution up was the Kansas State Board of Nursing. Because there are no agency representatives here and some of our primary readers or others have scheduling issues, we're going to move Kansas last. Kansas has no outsiders involved.

Does that work for you, Anne, or is that a problem?

MS. NEAL: I don't think it's going to pose any problem, so (inaudible -- microphone not on).

CHAIR STUDLEY: That they had --

MS. NEAL: I had assumed they weren't sending anyone.

CHAIR STUDLEY: Right. Correct. They aren't.
So we can do that one last to accommodate some of our colleagues who need to leave for something --

MS. NEAL: Oh, I see.

(Inaudible -- microphone not on.)

CHAIR STUDLEY: -- and take them quickly, not that that's -- this does not speak to the substance or expected duration of any of these.

Just a minute before you -- Joyce, what agency are you with?

MS. JONES: Maryland Board of Nursing.

CHAIR STUDLEY: Exactly. I thought --

MS. JONES: We would change

(Inaudible -- microphone not on).

CHAIR STUDLEY: Right. What we were going to ask, because we would lose both our primary readers for CEA, the English Language Program accreditor -- so I may have to work this out here. Just wait a second while we see if this works.

In order to have Frank here -- he has to leave a little bit later this afternoon -- we were going to take them in the place of Kansas.

MS. JONES: Oh, okay.
CHAIR STUDLEY: And then we will pick back up with Maryland.

MS. JONES: (Inaudible -- microphone not on.)

CHAIR STUDLEY: Is that -- so we will do Commission on English Language Program Accreditation. The primary readers are Bruce Cole and Frank Wu. So we need to have Frank here. And Chuck Mula is the Department staff person.

So the agency representatives for CEA, I imagine, have been waiting a little bit for us, and I hope you don't mind that surprise. So we will first take CEA, and then we will go back to Maryland Board of Nursing, then JRCERT, and then Kansas Nursing. Okay?

MR. WU: Okay. I'll be brief. This is the Commission on English Language Program Accreditation. This is a little bit different. This is a national specialty agency, and what they accredit are the postsecondary non-degree English programs. This is oriented toward foreigners who want to come and learn the language.

And it's different for a number of reasons.

First of all, there is not a Title IV component here.
The federal aspect is, the people coming are foreigners. They need visas.

They get visas because the institutions they attend are a part of the Department of Homeland Security's program. And so those schools have to go through the process with CEA in order to qualify to help issue the visas under the Department of Homeland Security. So that's why there is a federal aspect.

This is a growing field. It's growing because of new standards post-9/11, especially a tremendous amount of demand. It's likely that there will be additional programs that seek to be authorized under the aegis of CEA.

Currently, they accredit 65 programs in 24 institutions in 32 states and Washington, D.C. Their first review in June of '03, they were granted initial recognition for two years, and they were last looked at in 2005, when the Secretary granted the agency continued recognition for five years.

So with that, I will turn it over to our very capable staff person, Chuck Mula.

CHAIR STUDLEY: Chuck, before you begin, just
a point of clarification. And does Homeland Security require that this entity be approved by us for accreditation so they can approve programs? Or is Chuck going to explain that?

MR. WU: Let me defer it to Chuck to answer the --

CHAIR STUDLEY: Great. Thank you.

MR. WU: -- intricacy.

CHAIR STUDLEY: Thank you.

MR. WU: I know it at the level that Homeland Security is involved, and --

CHAIR STUDLEY: Safer not to know more.

MR. WU: Yes. That's right.

CHAIR STUDLEY: Chuck, take it away.

MR. MULA: Good afternoon, Madam Chair, members of the Committee. We'll let CEA give you a really good explanation on that issue.

My name again is Chuck Mula, and I will be presenting a brief summary of the petition for continued recognition of the Commission on English Language Program Accreditation, hereafter referred to as CEA or the agency.
The staff recommendation to the Senior Department Official for CEA is that he continue the recognition of the agency, and require a compliance report in 12 months on the issues identified in the staff report. This recommendation is based on my review of the agency's petition, supporting documentation, a visit to the agency, and the observation of a decision-making meeting.

My review of CEA's petition found that the agency is substantially in compliance with the criteria for recognition. However, there are outstanding issues that the agency needs to address.

These issues fall primarily in the areas of its monitoring process of institutions, its appeal policies and procedures, and its substantive change policies and processes, all of which are results of the new requirements set forth in the Higher Education Opportunity Act that were effective in July 2010.

We believe that the agency can resolve the concerns I have identified and demonstrate compliance in a written report in a year's time. Therefore, as I stated earlier, we are recommending to the Senior
Department Official that the agency's recognition be continued, and that you require a compliance report in 12 months on the issues identified in the staff report.

This concludes my report. Representatives from the agency are here, and I am also available for any questions you may have. Thank you.

CHAIR STUDLEY: Thank you very much.

Would you like to speak to us about the report and recommendation?

MS. SMITH-MURDOCK: Yes, thank you. My name is Rebecca Smith-Murdock. I'm the current chair of the Commission on English Language Program Accreditation. The Commission on English Language Program Accreditation, CEA, appreciates this opportunity to address the Committee regarding CEA's grant of continued recognition by the Secretary.

Before proceeding, we want to thank Chuck Mula for his continual responsiveness and feedback to CEA on regulation-related issues that have arisen over the years. Also, I would like to note that responses to the three reflective questions that you ask are incorporated in some of our comments that follow.
The recognition by the Secretary of Education is very important to CEA. Over its past 11 years of existence, CEA has benefitted from and actively sought the external oversight of its policies and procedures by the Department of Education staff.

As a result of this, we have created strong policies and procedures, and CEA has grown to be an entity that the field of English language program teaching looks to for guidance in terms of best practice in language teaching and administration.

This is true not only in the United States but also internationally, where the accreditation of English language programs in the preparatory years of English-medium universities is of great and growing interest.

As stated in the staff review, CEA accredits English language programs in, one, regionally accredited colleges and universities, and two, in independent language schools. The student population, as was noted, of these entities is in general international students on F-1 visas coming to the U.S. to improve their English skills prior to pursuing
academic study at American colleges and universities, or for professional and personal purposes.

Such programs and independent language schools that admit F-1 students must be authorized by the Department of Homeland Security's student exchange and visitor program in order to issue those I-20s.

In December 2010, the President of the United States signed the Accreditation of English Language Training Programs Act, which is Public Law 111-306. And this law requires that all independent English language training institutions must seek accreditation by -- must apply, I'm sorry, to seek accreditation by today, December 14, 2011, and must be accredited by December 2013 by a recognized accrediting agency.

This means that without accreditation independent language schools will not be able to issue I-20s and admit international students in the future. Accreditation by CEA, therefore, has become a matter of sustaining business for many independent language schools.

And at this point, as a point of information, I want to state that English language programs that are
a part of regionally accredited colleges or universities are not required by this new law to seek separate programmatic accreditation because of their affiliation with a larger accredited institution.

Heretofore, until the passage of Public Law 111-306, CEA has had a steady applicant pool of around 40 programs and institutions in process seeking accreditation at any time. However, as of today, CEA has over 160 applications for eligibility, the majority of which are from independent language schools.

To meet this challenge of increased numbers, CEA has already taken steps to double full-time staff from two to four, to add a cadre of well-trained contract employees, to transaction additional site reviewers, and to add extra commission meeting time to meet accreditation needs over the next two years.

Fortunately, also, in 2010 CEA completed a comprehensive review of standards and created a new template for the self-study report, which will be electronic and, God willing, eventually on the web, which the commission believes will lead to more efficiency for both sites and staff.
Thus, in spite of extremely rapid expansion, CEA is prepared to continue to provide an accreditation experience that focuses on continuous improvement protocols and the value of the self-study process itself. As a specialized accrediting agency, CEA prides itself on its ability to respond to the needs of the field, all the while maintaining widely held standards and following policies and procedures.

Now, in terms of the reporting requirements recommended by staff, we would like to make a few general comments.

We agree with the findings of the staff, which we think fall into four areas of CEA's policies and procedures. And my colleague Teresa O'Donnell, the executive director of CEA, will briefly discuss these issues.

MS. O'DONNELL: Yes. Thank you. I will address these very briefly and quickly because I know you're all getting weary of the day and I'm sure are ready to go.

The first issue was on our appeals board membership. We have had one appeals board in the past
11 years. It was before the requirement was added that a public member serve. We have since revised our policies and procedures to require a public member and to require academics and administrators. That has been taken care of. And should we have an appeal in the future, and I imagine we will, we will make sure that we have those representatives on the appeal board.

The initial staff report on CEA's petition for recognition identified a weakness in CEA's annual report requirement. We totally agree with that, and in fact we're working on coming up with a more rigorous reporting requirement.

The new report is actually going to be sent out tomorrow, December 15th. Respondents, our accredited schools, must reply by March 15th, and after that we will have the documentation that we have used our new report.

In terms of substantive change policies, there were several areas there. First of all, a couple of years ago we changed our substantive change policy. As Rebecca mentioned, we try to be in tune with what's happening in our field.
And one of the areas that sometimes comes up as an issue for us in terms of the regulations is the substantive change policy, in that we accredit programs in universities and the independent language schools, and their administration is very different in the sense that English language programs in universities often aren't even within a department. They may be in a continuing education. And they're really often -- the upper administration may require changes over which they have no control.

Or, for example, there may be a huge influx of students right now, Saudi Arabian and Chinese students. And Saudi Arabian students tend to have very low English proficiency, and a lot of the programs have had to add a level. And they're not able to ask for CEA's blessing on that in time to actually serve the students.

So a couple years ago we changed our substantive change policy to respond to that issue, and made it such that only change of control or change of ownership would need to be reported ahead of time; and then all the other issues, which are the same as those
listed in the criteria, could be reported with the next annual report.

Seeing the staff response to that change, we have now gone back to our original policy, which exactly follows the regulation. And we hope that we can implement it satisfactorily.

Also, a couple of the other areas under substantive change we had failed to respond to in our initial report, and staff did not catch that until our later report. And this is not to say anything about that, but unfortunately, in our overlooking that, we failed to show that yes, in fact, we have a policy on when a substantive change requires a site visit.

And that is, we have a very strong policy on change of ownership and control following the sale of a school, and also when a program or a school opens a new institution, a new site. So we have all that. We could document that tomorrow, if need be.

Also, under the substantive change, there is a requirement for a teach-out policy. Because we are not a Title IV, we really thought never that we needed a teach-out policy. And a couple years ago, we actually
brought it up to the commission, and they said no.
This doesn't really make sense for us.

However, we do want you to know that in a way, there is a parallel policy that the Department of Homeland Security -- through the immigration policy for visa holders. It is that if a school closes, it must provide for transfer of those international students to another school. So we count on that policy. And I suppose when we respond to your requirements, we will state that as an overarching policy for CEA.

One of the other issues was in terms of our reporting. And again, we agree with staff on this policy. We have not reported to state licensing agencies because, in the past, we had only a few -- we only had one school in California, where there is the Bureau of -- BPPE; they've changed the name. You're probably aware of it.

And now with all the new applications we're getting from New York, New Jersey, Pennsylvania, and Illinois, we find that there are licensing requirements in those states for postsecondary English language schools. So in the future, we will be reporting to
those state agencies.

And again, as Rebecca said, we want to thank our staff analyst wholeheartedly for always being there for us when we have questions and concerns.

CHAIR STUDLEY: Do Committee members have questions for the agency?

MR. MULA: So I --

CHAIR STUDLEY: I have one. I'm sorry. This question of -- you gave us an example of adding new academic level, a new -- more basic than what was provided, as an example of something that was one of the critiques, one of the shortcomings that you would need to correct. And I sense that you seemed uncertain about whether that was, A, workable, and B, an example of substantial change.

And we take seriously the back-and-forth that you both have had, and when an agency says, we see the point and we can correct it. But I sense that you thought that might not fit.

And I personally wonder, without going back to the definition of substantial change, whether adding an academic level within the same subject that meets the
students' capacity when they present should be something that you have to notice in advance because it could be detrimental to the students if they show up and you evaluate their skills.

We do have the option of differing from the Department on a particular recommendation. And if we don't think that one is a change that you ought to be required to make, we can do that.

So I guess it's a question for Chuck. Am I correct that that example is actually part of the substantial change, and the other is --

MR. MULA: Yes, it was, Madam Chair. And we were concerned because of their increase in the institutions. Before, if that level is a newer level that's just creeping up, the regionals would -- a near-substantive change, that the English language program or the English program at the university or school would notify the regionals of the change because since it was a program attached to a regional university, it would mostly go to the regionals. And for whatever reason, regionals were not passing that information on to CEA, and they were left out of the
But we wanted to get more involved, and it's going to take some communication, I think. But it is going to be difficult for them, probably, to hear and get involved in at least the approval process of that change if it's going to the regionals first.

CHAIR STUDLEY: I didn't understand the regional loop. So do you want to speak to this?

MS. O'DONNELL: Yes. The regional accrediting bodies in some cases do include the English language programs. They become part of the institutional review. But in many cases, the English language program is not involved at all in a regional review.

So some regional accrediting agencies -- some universities, say, might include the English language program in that broader regional review, but some are not. They tell us that they don't receive a review at all.

In fact, our field, although we have -- right now, probably two-thirds of our accredited entities are in universities, they do it for professional reasons, and they don't -- they disapprove of the fact that the
other English language program gets some credit by
being under the umbrella of regional accreditation, but
they never get reviewed, if that makes sense.
So I don't think that -- I can ask
Rebecca -- I don't think that a regional -- that an
English language program would ask its higher
administration to report whatever.
CHAIR STUDLEY: I may have misunderstood. I
was asking about what I thought was a narrower concern.
MS. O'DONNELL: Oh, okay.
CHAIR STUDLEY: So let me just see if it is a
real behavior that's going on. I thought you said that
you thought that it was the better practice to allow
a -- to treat a school or a program's addition of a
lower level, more basic class as a change that they
could report to you after the fact with their next
annual report, but that the Department's expectation
was that that be treated as a substantive change that
you had to -- that they had to seek approval of before
they could do that.
MS. O'DONNELL: Yes.
CHAIR STUDLEY: I sense that you thought that
might not be -- that that might be a constraint on the programs that was not good for them. And from my perspective, I wondered whether that was in the best interests of the students.

We do not have to agree that that should be a substantive change if you think it shouldn't be. So I'm asking you to --

MS. O'DONNELL: I agree. You did hear in my voice some concern that they won't tell us anyway in that case, possibly, because they -- and so can we actually stick to a change in policy. You know, we can tell them and require it, but we don't know if there's a change until they tell us. And I think that's an example of where they just may have to make a change.

CHAIR STUDLEY: And it may not be a substantive change if all they have to do is have section A and section B of --

MS. O'DONNELL: Exactly.

CHAIR STUDLEY: -- class one, and one of them goes slower.

With that, I'll give it back to Frank and see if any others have comments.
MR. WU: I'm ready to make the standard motion.

MR. ROTHKOPF: Second.

MS. GILCHER: I was just going to point out that there is in the substantive change requirements -- it's a substantive change if there's the addition of programs of student at a degree or credential level different from that which is included in the institution's current accreditation or pre-accreditation.

I'm not sure that is what's being described here. But I did want to clarify that we do have a regulation addressing that.

CHAIR STUDLEY: If this is in fact a change in program of study.

MS. O'DONNELL: So what we did in preparing our own substantive change policies is follow the regulations and interpret that particular one the way it was appropriate for us.

CHAIR STUDLEY: Well, Frank, let me just ask. My own thought would be to ask that we take out that
one line, but I don't want to tangle things up.

MR. WU: Yes. I think what's going on is the
staff is saying, if there's a substantive change,
approval must be sought, which I think --

CHAIR STUDLEY: Is this a substantive change?

MR. WU: -- is an appropriate thing to say.

CHAIR STUDLEY: Yes.

MR. WU: But you've raised a very different
point, which is, I don't think it's for NACIQI to
decide that the addition of a remedial level
constitutes a substantive change. And the agency would
presumably have some discretion to say, that's not a
substantive change.

So we have to stick with the rule that
substantive changes you would need the approval in
advance.

CHAIR STUDLEY: Right.

MR. WU: But it would be your judgment whether
that's a substantive change.

CHAIR STUDLEY: Which could be worked out.

MR. WU: And I'm amenable to adding a
sentence.
CHAIR STUDLEY: Well, it sounds consistent with the way you've analyzed it. It sounds like the agency and the staff can work that out with this back-and-forth --

MR. WU: Exactly.

CHAIR STUDLEY: -- to guide both of you.

MR. WU: We wouldn't even need to say anything. I think this discussion being on the record would be enough guidance. So I'll stand by the motion I made. I think I heard Arthur second.

MR. ROTHKOPF: I seconded.

CHAIR STUDLEY: Any discussion of the motion?

(No response.)

CHAIR STUDLEY: All in favor, please say aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

(No response.)

CHAIR STUDLEY: Thank you very much. The motion carries, and thank you all for your participation and thoughtful comments. And thank you, Chuck.

We are now going to move to the Maryland
nursing agency. And thank you. Now we really would
look to speak with you, and thank you very much. This
is the Maryland Board of Nursing, MSBN. The action
before us for consideration is the petition for renewal
of recognition by the agency. The primary readers are
Earl Lewis and Aron Shimeles, and the Department staff
is Joyce Jones.

Earl or Aron, which of you --

MR. SHIMELES: All right. Thank you.

So the Maryland Board of Nursing is a state
agency for the approval of nurse education. The agency
currently has approved 23 registered nursing programs,
15 programs in baccalaureate degree nursing, and 14
licensed practical nursing programs, totaling 37
approved programs in Maryland.

Of the total number of approved nursing
education programs, 16 programs are not accredited by
either of the two recognized national nursing
accrediting agencies. Therefore, Secretarial
recognition of the Maryland Board of Nursing is
necessary to provide professional and financial
resources not otherwise available to some students who
pursue professional training in Maryland schools of nursing.

CHAIR STUDLEY: Joyce?

MS. JONES: Good afternoon. My name is Joyce Jones, and as a member of the Department's accreditation group, I will summarize the analysis and recommendation made after our review of the Maryland State Board of Nursing.

The staff recommendation to the Senior Department Official for this agency is to continue the recognition as a state agency for the approval of nurse education, and to require the agency to submit a compliance report in 12 months on the issues identified in the staff report.

We based our recommendation on our review of the agency's petition, its supporting documentation, and an observation of a joint site visit at the nursing programs located at the Howard Community College in Columbia, Maryland.

Our review of the agency's petition found that the agency substantially complies with the criteria for recognition. However, it needs to address a few
outstanding issues that include the following. And these are demonstrative items that it needs to handle, with the exception of one.

It needs to demonstrate, with additional documentation, that it will provide evidence of the rolling functions of its agency staff and operating procedures for the entire agency.

It would need to demonstrate that it requires programs to include tuition and refund policies in the nursing education program publications, and also in its renewal survey or its self-study and site visit reporting.

And, in addition, it would need to demonstrate that it not only collects information under Section 3(e), but that it also assesses that information regarding the comprehensiveness of its annual report. And finally, the agency needs to assure that as part of its monitoring, that it reviews a copy of the program's audited financial report at least every two years. And that's based on its own internal review, not that of the Maryland Department of Higher Education.
We believe that these issues will not place
the approved programs, students, or financial aid that
they receive at risk, and that the agency can resolve
these concerns and demonstrate compliance in a written
report in a year's time.

Therefore, as previously stated, we are
recommending to the Senior Department Official that the
agency's recognition be continued, but that he require
the agency to submit a compliance report in 12 months
on those identified areas.

The representatives from the agency are here
today.

This concludes my presentation, and I thank
you.

CHAIR STUDLEY: Thank you very much.
We'd like to hear now from the agency
representatives. Welcome.

MS. KENNEDY: My name is Patricia Kennedy.
I'm director of education and examination. We
responded to these recommendations, but we've not had a
chance to work with staff in terms of have we been
specific enough and detailed enough in terms of
responding to the recommendations.

CHAIR STUDLEY: So are you saying that you've already done what they've asked you to do, but you just haven't had a chance to close the loop with them?

MS. KENNEDY: Correct.

CHAIR STUDLEY: Okay. Is there anything -- so you agree that all of them warrant the kind of response that staff is suggesting?

MS. KENNEDY: Yes. Yes. We did not provide the detail that they expected, and realized that once we got these recommendations. But we have the information, and we were able to go back and to document this information and to provide samples of this information. But we've not yet closed the loop.

CHAIR STUDLEY: Thank you.

Are there any questions or comments from the members of the Committee on the Maryland Board of Nursing? Anne?

MS. NEAL: Am I to understand that all the problems have been solved, Joyce?

MS. JONES: You are to understand that they just reported to you that they have addressed them.
Our office has not seen --

MS. NEAL: You haven't?

MS. JONES: -- the documentation. And when I spoke with them earlier this afternoon, they sort of -- well, this morning -- they sort of indicated that they'd done everything. And perhaps they don't need 12 months. I think that they can address that.

But they pretty much put the documents together; at least, they've reported. I have not seen them. But they were fairly easy documents to put together, and I knew that they had them.

CHAIR STUDLEY: Do you have any brief comments on the two questions that we included in the letter? Entirely optional if you'd like to take that occasion.

DR. LEWIS: (Inaudible -- microphone not on.)

CHAIR STUDLEY: Oh, yes. Yes. I apologize.

DR. LEWIS: (Inaudible -- microphone not on.)

CHAIR STUDLEY: Yes. Exactly. If they -- too much truth. Is there a motion?

MOTION

DR. LEWIS: So move --

MS. WILLIAMS: Second.
DR. LEWIS: -- to accept this recommendation, to continue the agency's recognition, and require the agency to come into compliance within 12 months.

CHAIR STUDLEY: Thank you. And I heard a second from Carolyn. Thank you.

Any discussion of the motion?

MS. NEAL: I would just add I feel the same way with this one that I did earlier, that if you can come through quickly and get this behind you, I would recommend you do that.

CHAIR STUDLEY: Thank you.

All in favor, please say aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

(No response.)

CHAIR STUDLEY: Thank you very much. And now I reiterate the invitation, if you'd like.

MS. KENNEDY: Dr. Woodson, to the left of me, is deciding whether or not she's going to present the first one. So I'm going to present the first one and give her an opportunity to look ahead and decide on if she's going to do the second one, and then we'll
have -- Pamela Ambush-Burris can do the next one.

CHAIR STUDLEY: Okay. And they can be brief, but we would appreciate your thoughts if you have something to offer. Thank you.

MS. KENNEDY: Since the last review and submission, the Maryland Board of Nursing has been faced with two significant issues. The first major issue has been budgetary restraints. This has caused increased workforce issues, namely, amplified workload responsibilities with decreased staff.

The second major issue is information technology. The Board of Nursing has completely upgraded the board's database system, and this has led to incompatibility with software, and this has caused some major delays.

And by delays, we mean we tell students, or prospective applicants, that it's going to take five to ten working days to get any kind of information, the results from anything.

But because of incompatibility, sometimes we've got to find where the record is, and the record can be in one of three places. It can be with
scanning, it can be with finance, or it can be with our office.

But because of where we have to look to find it because of the incompatibility, we've now got to go to technology for them to find out where that information resides.

Those issues have been resolved, for the most part.

DR. WOODSON: Good afternoon, everyone. I'm Dr. Emmaline Woodson. I'm the deputy director of the Maryland Board of Nursing, and the director for -- I'm sorry, the supervising director for the education department.

One of the questions that was asked of us, the thorniest challenges faced by our board, the thorniest challenge relating to the criteria for recognition was the location of documents, as she just said.

And some of the other issues that were asked of us, what do we feel were the strong points of our board, and we feel that we have an excellent relationship and communication with all the schools in the state; that we have strong professional, collegial
relationships with the nursing schools and programs; and that there is an organization of -- an openness between the board and the schools so that we are able to coexist in a conducive and working relationship.

Our board meetings are open to all the schools each month, so they come whether or not they have information to present to listen to the process for the board. Students are able to come to the board meetings on a monthly basis if they have concerns or questions or just wanted to see how the board works.

So our regulations, we feel, are very clear and concise, and that they enhance the authentication required of the programs in meeting our standards and coming to -- and meeting the program outcomes that we expect.

MS. AMBUSH-BURRIS: My name is Pamela Ambush-Burris, director of education and licensure. And I just want to address the challenges that we've met.

Regarding the criteria for recognition, we had the documentation, but we didn't have the requested format that the Department of Education required. With
our submission, documentation was included that was not
well-defined by the instructions, and thus it wasn't
displayed the way you expected.

Often it was difficult to know if information
was being sought, and we felt that this led to
duplication of the written report and also submission
of insufficient details that were required by the
Department of Education. So that was some of our
challenges that we have met when writing this report.

CHAIR STUDLEY: Thank you very much.

Does anyone have any questions? Yes?

MS. NEAL: I actually have a question. I'm
trying to follow through my earlier encouragement.
Let's assume that they come back within a month. They
have the information and Joyce says, yes, they have
fulfilled the requirements.

Can we then via conference call give them four
years? Or, I mean, I'm just trying to see how, in
effect, we would actually expedite this.

MS. GILCHER: It is conceivable to have a
public meeting via teleconference, but I think that
would be a very unusual precedent to set. I will defer
to Melissa in terms of what the FACA requirements are.

EXECUTIVE DIRECTOR LEWIS: I would advise, if
you were going to have a telephonic meeting, that you
would not have it just for one agency, or even two or
three, honestly, because of the amount of effort going
into meeting the FACA requirements within the
Department so that the Committee meeting can be held.

There is a tremendous level or number of
clearances that have to be obtained, and also the
public has to be noticed for 30 days and given the
opportunity to respond.

Other than that, as soon as the agency's
report is received, the analyst would need at least two
weeks, probably 30 days, because she's got other work
in addition. I mean, I'm just speaking for the staff
here. But she'd have to balance out her workload.
We'd have to give due process to the agency with a
draft. It would take at least six months, minimum.

CHAIR STUDLEY: Anne, would this meet the very
sensible objective that I think you're trying to offer?
What if we try and deconstruct all that and think
about what we can suggest, for the statute, if
necessary, or next time the regulations that we deal
with are approved, or whether there is some process
that we can maneuver among those so that if we approved
something, either subject to completion of so that we
would already have done the approval, or so that it
could be executed without returning to us under
circumstances that we judged at this point.

We may do better than trying to use existing
and, as you can hear, cumbersome in other ways
procedures. Would that take us in that direction? And
I think we can take a look at what it would involve,
both at the state where we pass a motion and allow
ourselves to differentiate between the ones that we
would like to afford that way and more significant
ones, and whether there are changes in law that would
give us some additional options. Thank you.

Any further questions for this agency?

(No response.)

CHAIR STUDLEY: Thank you very much. You have
the vote, and we look forward to a smooth process from
here so that we can move it along. Thank you very
much.
So we did vote, and we are moving to the third of this afternoon's latter group of agencies, the Joint Review Committee on Education in Radiologic Technology. I'm guessing it's pronounced J-CERT or Junior-CERT?

JR-CERT?

MS. UTZ:  J-CERT.

CHAIR STUDLEY:  J-CERT? Okay. This is again a petition for renewal of recognition. The primary readers are Arthur Keiser and Carolyn Williams, and the Department staff member is Elizabeth Daggett. And we welcome you and the agency representatives.

Arthur or Carolyn, who will be --

MR. KEISER: Good afternoon. The Joint Review Committee on Education in Radiologic Technology is both a programmatic and institutional accrediting agency for radiography, magnetic resonance, radiation therapy, and medical dosimetry.

The agency accredits programs of higher education that are based in hospitals and medical centers, and the accreditation of those programs -- offering these programs is a required element for enabling them to establish eligibility to participate
in programs under Title IV of the Higher Education Act, as amended.

Consequently, the agency must meet the requirements under the separate and independent provisions of the Secretary's criteria, or must seek and receive waiver of those requirements.

JRCERT currently accredits 734 programs in 49 states, the District of Columbia, and Puerto Rico. Of these 734 programs, approximately 200 are housed in institutions not accredited by other national accrediting agencies recognized by the Secretary. Approximately 37 of these programs participate in the Title IV funding program.

I'll now refer to the staff to make their presentation on the concerns.

MS. DAGGETT: Thank you, Dr. Keiser.

Good afternoon, Madam Chair and members of the Committee. My name is Elizabeth Daggett, and I am a member of the accreditation division staff that completed the review of the petition for re-recognition for the agency, JRCERT.

The staff recommendation to the Senior
Department Official for the agency is to continue the agency's current recognition, and require a compliance report in 12 months on the issues identified in the staff report.

This recommendation is based on our review of the agency's petition, its supporting documentation, an e-meeting of the agency's board of directors on August 2, 2011, and a meeting in person of the agency's board of directors on October 14, 2011.

Our review of the agency's petition found that the agency is substantially in compliance with the criteria for recognition. There are some outstanding issues that the agency needs to address in the recognition issues of organizational and administrative requirements, and required operating policies and procedures.

In brief, the issues concern the agency's appeals panel membership, substantive change policy, and documentation of substantive changes, public disclosure correction, teach-out plans and agreements, and agency action in response to an adverse action by another body.
We believe that the agency can resolve these concerns we have identified and demonstrate its compliance in a written report in a year's time. Therefore, as I stated earlier, the staff is recommending to the Senior Department Official to continue the agency's current recognition and require a compliance report in 12 months on the issues identified in the staff report.

Thank you.

CHAIR STUDLEY: Thank you. I'll be interested in the agency's comments.

MS. UTZ: My name is Gay Utz, and I serve as the chairperson on the board of directors for the Joint Review Committee on Education in Radiologic Technology. I'm credentialed in radiography and have served as a radiologic technology educator since 1980. For the past 17 years, I've served as radiologic technology program director at Gadsden State Community College located in Gadsden, Alabama.

DR. WOLFMAN: I'm Darcy Wolfman. I'm a physician at Walter Reed National Military Medical Center in Bethesda, Maryland and an assistant professor
of radiology at the Uniformed Services University of
the Health Sciences, also in Bethesda, Maryland. And I
am the director member nominated by the American
College of Radiology.

MS. UTZ: Our chief executive officer is
Leslie Winter. Leslie is credentialed in radiography,
and prior to her employment at the JRCERT, she was a
radiologic technology program director.

Madam Chair and members of the Committee, we
would like to thank you for this opportunity to speak
on behalf of the JRCERT. We would also like to express
our appreciation to Elizabeth Daggett for her
assistance in developing our potential. Her knowledge
of the regulations was clearly evident, and her
guidance proved invaluable during the process.

We are extremely proud of our organization,
and committed to our vision of excellence in education.
We believe that educational quality and integrity
cannot be compromised. The JRCERT accreditation
process is designed to assure that there are
appropriate radiation safety practices in place to
safeguard our students and our patients.
An additional strength of our organization is that our board of directors, with the exception of our public member and all professional staff, are credentialed in the radiologic sciences. The board's qualification and knowledge of issues facing the radiologic sciences provides the foundation for sound accreditation decisions.

Additionally, the professional staff's credentials and accumulated years of experience in the profession enhance our organization's ability to serve as consultants to programs during the accreditation process.

The greatest challenge facing our organization is to maintain a balance between meeting recent additional requirements from USDE while continuing to provide an accreditation process that assures the highest level of educational quality in a manner that is cost-effective for both our programs and the JRCERT.

Specific examples of requirements that have added additional burden to our organization include: documenting state authorization to provide postsecondary education, providing greater oversight of
Title IV funding, evaluating distance education, and monitoring teach-out agreements associated with program closures.

The JRCERT will make every effort to meet these criteria. However, these additional requirements will require the deduction of significant additional hours of staff time, which in our opinion is detrimental to our focus on assuring educational quality. Furthermore, the expenditure of additional staff time will result in increased accreditation fees that will ultimately be absorbed by our programs.

MS. WOLFMAN: I'm going to address the compliance issues identified in the staff report. In regard to the qualifications for the appeals panel members, we are going to submit appropriate CV to document the appeals panel members are qualified for their roles, and that the panel includes both educators and practitioners.

In regard to approval procedures for substantive changes for freestanding programs, the newly revised policy requires approval by the board of directors before the substantive changes included in
the grant of accreditation for all programs, including freestanding programs.

To date, we have not had the opportunity to apply this policy with a freestanding program. Upon receipt of a substantive change from a freestanding program, we will submit the appropriate documentation. Also, we will develop a detailed step-by-step procedure for review of all substantive changes that will be submitted with our response.

It should be noted that the revised policy does identify a comprehensive onsite review for circumstances in which changes made or proposed by the program are sufficiently extensive to require the JRCERT to conduct a comprehensive onsite review.

The JRCERT standard operating procedure for this comprehensive onsite review is submission of a self-study report, onsite visit, and a new grant of accreditation. However, in order to clarify the policy, we will revise the policy to clearly define that a full, comprehensive evaluation include a self-study report, onsite visit, and an accreditation decision by the directors.
In regard to accurate disclosure of program information, the JRCERT has not in its history encountered an incidence of inappropriate disclosure of program information. If the circumstance arises, we will happily provide the document to assure enforcement of this policy.

In regard to approval of teach-out agreements and teach-out plans, it is once again noted that the JRCERT has not in its history had the opportunity to review a teach-out agreement or a teach-out plan.

The policy will be revised to include all specific events, as required under Section 602.24(c)(1), that might trigger a program's submission of a teach-out plan. Additionally, we will develop a detailed, step-by-step procedure for review of teach-out agreements and plans that will be submitted with our response.

In regard to the JRCERT being informed that a program is the subject of an adverse action by a state or other accrediting agency, we provided an example of our followup to a receipt of a notification of a pending adverse decision received from a recognized
As identified in the policy, upon receipt of a final decision of denial of institutional accreditation, we would not renew accreditation of this program.

We will revise the policy to identify that the JRCERT will initiate an immediate review of the program when it learns that the program is subject to an adverse action by another body. Furthermore, we will develop a detailed procedure for this review that will be submitted with our response.

MS. UTZ: This concludes our remarks. Once again, on behalf of the JRCERT board and staff, we would like to thank the Department and the Committee for the opportunity to present additional information in support of our petition of recognition, and we're happy to answer any questions that you might have.

CHAIR STUDLEY: Thank you very much. Appreciate it. And thank you, Elizabeth.

Any questions from the Committee members for this agency?

(No response.)
CHAIR STUDLEY: Seeing none, do you have a motion?

MOTION

DR. WILLIAMS: The same as was made (Inaudible -- microphone not on.)

CHAIR STUDLEY: Motion made by Carolyn. Did I see a second?

MR. KEISER: Second.

CHAIR STUDLEY: By Arthur. And we are adapting that language now to this agency.

Is there any discussion of that motion?

(No response.)

CHAIR STUDLEY: Standard language checks out, everybody? Okay. All in favor, please signify by saying aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

(No response.)

CHAIR STUDLEY: Thank you very much. We appreciate your thoughtful presentation.

I think we can move to the Kansas entity. And we will see if we can move through that and conclude on
This is the Kansas State Board of Nursing, and the action is, again, a petition for renewal of recognition. The primary readers are George French and Anne Neal, and the Department staff member is Chuck Mula. There are no representatives attending for the agency.

Which of the readers is going to lead off?

DR. FRENCH: Thank you, Madam Chair.

CHAIR STUDLEY: Thank you.

DR. FRENCH: The Kansas State Board of Nursing is a state agency licensed for the approval of nursing education in the state of Kansas.

Recognition by the agency enabled the professional nurse programs to seek eligibility for federal assistance pursuant to the Nurse Training Act of 1964, as amended. Recognition also allows program graduates of the agency's accredited schools to enter military service in the Nurse Officer Corps.

The agency accredits 46 pre-licensure programs that includes baccalaureate and associate degree nursing programs and practical nursing programs, and
eight graduate degree programs that include advanced professional nurse practitioner programs, registered nurse anesthetist programs, and nurse midwife programs, for a total of 54 programs approved by the Kansas State Board of Nursing.

MR. MULA: Good afternoon, Madam Chair and members of the Committee. This is a very brief summary of the Department's review of the petition for continued recognition of the Kansas State Board of Nursing, a state agency, for the approval of nurse education.

The staff recommendation to the Senior Department Official for the agency is that he continue the recognition of the agency for a period of four years, which is the maximum amount of time of recognition allowed a state agency. This recommendation is based on my review of the agency's petition for continued recognition and supporting documentation provided with it.

My review found the agency in compliance, full compliance, with the Secretary's criteria for recognition, with no issues or concerns.
This concludes my report, and I am available if you have any questions. Thank you.

MS. GILCHER: I just have one little correction. It's actually to renew their recognition, not to continue.

MR. MULA: Thank you, Kay.

CHAIR STUDLEY: Thank you. Is there any discussion among the committee members? Any questions for Chuck or the primary readers about the Kansas nursing give you?

MR. KEISER: I just have one little question. Why wasn't this put on the consent agenda?

CHAIR STUDLEY: That's a good question. It has come up since, and we will look at -- in the future look at whether there are more candidates for that.

EXECUTIVE DIRECTOR LEWIS: During our discussion about what would be on the consent agenda, the Committee agreed that compliance reports with no issues would be the items included on the agenda. We didn't consider putting petitions on there.

CHAIR STUDLEY: You're at least the second person who has suggested that for me. Why don't we act
on this agency, and then we'll come back to that
question for just a moment.

Are there any questions about the Kansas
agency recommendation?

(No response.)

CHAIR STUDLEY: In that case, is there a
motion to renew their recognition for four years? Do
we have motion language for that? Anne, thank you.

MOTION

MS. NEAL: We recommend that the Kansas State
agency’s requested renewal of recognition with its
current scope of recognition be granted for a period of
four years.

DR. FRENCH: Second.

CHAIR STUDLEY: Any discussion?

(No response.)

CHAIR STUDLEY: All in favor, please say aye.

(A chorus of ayes.)

CHAIR STUDLEY: Opposed?

CHAIR STUDLEY: The motion carries. They will
I think we should take up the question of what we will invite or consider for the consent calendar. We may need -- we'll see whether there are any authority issues. But we may be able to broaden it, and then, obviously, members can still call something forward if they would like to consider it.

DR. LEWIS: I would suggest we put all no-issue recommendations from staff on the consent agenda. We can always pull it off. It's still a vote with full approval based on the recommendation. I don't see why there would be a technicality because we're all voting on the consent agenda.

DR. FRENCH: I agree.

CHAIR STUDLEY: I think that's -- I'm comfortable with that, and we can talk about that. Does that require a vote, or is that --

EXECUTIVE DIRECTOR LEWIS: I would think that would -- yes, that would require a vote, please.

CHAIR STUDLEY: Okay. Let's consider that a motion. Do you need Art to restate the language of the motion?
EXECUTIVE DIRECTOR LEWIS: Please.

MOTION

MR. KEISER: I move that NACIQI consider all agency petitions and requests or reports that do not have any concerns or recommendations by the staff to be part of the consent agenda.

DR. FRENCH: Second.

CHAIR STUDLEY: Concerns or negative recommendations.

Okay. Moved and seconded. Any discussion?

Cam?

MR. STAPLES: Just more of a process one. And I admit, I don't recall when we got notification that these were on there. But if we're going to have a longer consent agenda, when do we anticipate being notified so we can review the items for potential removal from consent?

EXECUTIVE DIRECTOR LEWIS: Per the regulations, the Committee and the agency will receive the final draft staff analysis at least one week in advance of the meeting. Seven days.

MR. STAPLES: Okay. That works. Thank you.
EXECUTIVE DIRECTOR LEWIS: And most of the time, it's two weeks.

DR. NEAL: Would it be possible to withdraw it from the consent agenda on the day of the meeting, or would that require the people to fly out otherwise? I mean, I'm just looking at the practice.

EXECUTIVE DIRECTOR LEWIS: I didn't hear the first part of the question.

MS. NEAL: In other words, if it's on the consent agenda and you decide at the last moment you want to pull it off, the agency may not be there.

EXECUTIVE DIRECTOR LEWIS: No. If they're on the consent agenda, we tell them that if they're pulled off, they'll be reviewed immediately after the vote on the consent agenda.

MS. NEAL: So ideally, you pull them off before the day of the meeting?

EXECUTIVE DIRECTOR LEWIS: For planning purposes, yes.

CHAIR STUDLEY: We will walk through the ramifications of that and ask you to revise the motion at the next meeting if there's anything that we think
would not be workable or would be in the better
interests of the agencies. But I think that approach
is something everyone is comfortable with.
I think we were discussing. We did not vote.
All in favor, please say aye.
(A chorus of ayes.)
CHAIR STUDLEY: Opposed?
(No response.)
CHAIR STUDLEY: The motion carries. Thank
you. I can't think of a better note on which to end
the day's business. We will reconvene here tomorrow
morning at 8:30 a.m. and go through the day with an
expected close again at 5:00.
Thank you very much for your interest in this
important work. Do I hear a motion to adjourn for the
day?

MOTION

MR. KEISER: So moved.
MR. STAPLES: Second.
CHAIR STUDLEY: Okay. Moved by Mr. Keiser,
seconded by Mr. Staples.
All in favor?
(A chorus of ayes.)

(Whereupon, at 4:55 p.m., the Committee was adjourned, to reconvene the following day, Thursday, December 15, 2011, at 8:30 a.m.)

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