Members Present:
Catherine Ainora, Chairperson
Henry S. Kane
Susan Olszewski
Connie Bentley-McGhee, Esq.
Dr. Sharol A. Lewis
Ellsworth Havens (Representing Michael Baker)
Dr. Jorge L. Verea
Matthew D’Oria (Representing Commissioner Howard, Department of Health & Senior Services)
Eileen Stokley (Representing Commissioner Jennifer Velez)

Excused Absent:
Judy Donlen
Dr. Joseph A. Barone

Staff:
John Calabria
Ruth Charbonneau
Jamie Hernandez
Susan Dougherty, DAG

CALL TO ORDER

Catherine Ainora, Chairperson opened the meeting at the Department of Health and Senior Services, Market and Warren Streets, H&A Bldg., Auditorium, Trenton, New Jersey on Thursday, January 7, 2010.
MOTION SUMMARY

1. Approval of 2010 Meeting Schedule
   Motion – Mr. Kane, Second – Mr. Havens

2. Approval of September 3, 2009 minutes
   Motion – Mrs. Olszewski, Second – Dr. Lewis

3. Approval of Certificate of Need Application for the Catholic Community Services – Mount Carmel Guild for the Closure of 20 Bed Psychiatric Facility
   Motion – Mrs. Olszewski, Second – Dr. Lewis

4. Approval of Certificate of Need Application for William B. Kessler Memorial Hospital Inc. to Discontinue Operations as an Acute Care Hospital
   Motion – Mrs. Olszewski, Second – Mr. Kane
### VOTING BOARD MEMBER

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**KEY:**  
Y=YES  N=NO  A=ABSTAIN  R=RESCUE
STATE OF NEW JERSEY
DEPARTMENT OF HEALTH AND SENIOR SERVICES

IN RE: MEETING

HELD AT: Health and Agriculture Building
Market and Warren Streets 1st floor
Trenton, NJ

IN ATTENDANCE:

CATHERINE AINORA, BOARD MEMBER, CHAIR
JORGE L. VEREA, MD, BOARD MEMBER
SHAROL LEWIS, MD, BOARD MEMBER
SUSAN E. OLSZEWSKI, BOARD MEMBER
ELLSWORTH HAVENS, BOARD MEMBER
HENRY S. KANE, BOARD MEMBER
CONNIE BENTLEY-McGHEE, ESQ., BOARD MEMBER
MATT D'ORIA
SUSAN DOUGHERTY
JAMIE HERNANDEZ

HELD ON: Thursday, January 7, 2010

REPORTED BY: Justin Davis, Professional
Court Reporter

CLASS ACT REPORTING AGENCY
Registered Professional Reporters

1420 Walnut Street 133H Gaither Drive
Suite 1200 Mt. Laurel, NJ 08054
Philadelphia, PA 19103 856-235-5108
215-928-9760
(Whereupon, the proceeding commenced at 9:45 a.m.)

CHAIRWOMAN AINORA: We'll call this meeting to order, ladies and gentlemen.

MS. HERNANDEZ: This is a formal meeting of the State Health Planning Board. Adequate notice of this meeting has been published in accordance with the provisions of Chapter 231 Public Law 1975, C-10:4 of the state of New Jersey entitled Open Public Meeting Act.

Notice was sent to the Secretary of State who posted the notice in a public place. Notices were forwarded to 17 New Jersey newspapers, two New York newspapers, two wire services, two Philadelphia newspapers and the New Jersey Public Broadcasting Television Station.

Should I call role?

CHAIRWOMAN AINORA: Yes, please.

MS. HERNANDEZ: Ms. Ainora?

CHAIRWOMAN AINORA: Here.

MS. HERNANDEZ: Mr. Kane?

MR. KANE: Here.

MS. HERNANDEZ: Ms. Olszewski?

MS. OLSZEWSKI: Here.

MS. HERNANDEZ: Ms. Bentley-McGhee?
MS. BENTLEY-McGHEE: Here.

MS. HERNANDEZ: Dr. Barone is not here. Dr. Lewis?

DR. LEWIS: Here.

MS. HERNANDEZ: Mr. Havens?

MR. HAVENS: Here.

MS. HERNANDEZ: Dr. Verea?

DR. VEREA: Here.

MS. HERNANDEZ: We have seven members of the board present, which does constitute a quorum.

CHAIRWOMAN AINORA: Thank you. I'm chairing today. My name is Catherine Ainora, I'll be chairing. Dr. Donlen is the usual chair, but she is not in attendance today. We have a little housekeeping before we begin our meeting. In our packets, everyone, we have the 2010 meeting schedule.

Does everyone have a copy of that? Can we get a motion to vote on the --

MR. KANE: I'll make a motion to vote on the meeting schedule.

MR. HAVENS: Second.

CHAIRWOMAN AINORA: Roll call vote.

MS. HERNANDEZ: Ms. Ainora?

CHAIRWOMAN AINORA: Yes.
MS. HERNANDEZ: Mr. Kane?

MR. KANE: Yes.

MS. HERNANDEZ: Ms. Olszewski?

MS. OLSZEWSKI: Yes.

MS. HERNANDEZ: Ms. Bentley-McGhee?

MS. BENTLEY-McGHEE: Yes.

MS. HERNANDEZ: Dr. Lewis?

DR. LEWIS: Yes.

MS. HERNANDEZ: Mr. Havens?

MR. HAVENS: Yes.

MS. HERNANDEZ: Dr. Verea?

DR. VEREA: Yes.

MS. HERNANDEZ: We have seven yeses, motion moved.

CHAIRWOMAN AINORA: And then next in the housekeeping, we do have, and everyone should have received in their packet the September 3rd State Health Planning Board minutes.

Are there any questions or comments on the minutes, any changes? If not, may I have a motion that we accept the minutes?

MS. OLSZEWSKI: I move that we accept the minutes.

CHAIRWOMAN AINORA: Second, please.

DR. LEWIS: I second.
CHAIRWOMAN AINORA: Roll call.

MS. HERNANDEZ: Ms. Ainora?

CHAIRWOMAN AINORA: Yes.

MS. HERNANDEZ: Mr. Kane?

MR. KANE: Yes.

MS. HERNANDEZ: Ms. Olszewski?

MS. OLSZEWSKI: Yes.

MS. HERNANDEZ: Ms. Bentley-McGhee?

MS. BENTLEY-McGHEE: Abstain.

MS. HERNANDEZ: Dr. Lewis?

DR. LEWIS: Yes.

MS. HERNANDEZ: Mr. Havens?

MR. HAVENS: Abstain.

MS. HERNANDEZ: Dr. Verea?

DR. VEREA: Abstain.

MS. HERNANDEZ: We have four yeses and three abstain, motion moved.

CHAIRWOMAN AINORA: Mr. D'Oria, do you have anything further for us at this time?

MR. D'ORIA: Yes. Good morning, everyone, happy new year. The Department asked me, actually the day before Christmas, for the results of the stabilization grants for state fiscal year 2010.

If you didn't see the press release, I'm going to go through the hospitals and the amounts they got.
St. Mary's in Passaic received a 9.5 million dollar award. Jersey City Medical Center, Jersey City, received a seven million dollar award. Christ Hospital in Jersey City received a seven million dollar award. Hoboken University Medical Center received a seven million dollar award. Newark Beth Israel in Newark received a four million dollar reward. East Orange Medical Center two-and-a-half million dollar award. And the following hospitals received a one million dollar award: Saint Clare's, Trinitas and Raritan Bay Medical Center.

We believe that the stabilization grants will put off any crises that were brewing and believe that probably for the next 12 months these facilities either -- not everyone was on the edge, but there were a couple that were and without this money would have closed and been before this body for the CN process.

So we think that this money will stabilize some and facilitate some consolidation in the Hudson area because there is room for some consolidation. So I just wanted to make that known. And on a personal note, I would like to thank everyone. I don't know how long we'll be
around for the next administration, but I just want to thank everyone, it's been a privilege serving with you.

CHAIRWOMAN AINORA: Thank you for all of your work, you've been very helpful in keeping us informed about what's been going on, we appreciate that. Today, we have two certificates of need to be evaluated. And for those of you who are guests to the process, I am going to start with the certificate of need application for Catholic Community Services. Mount Carmel, you will start with the department presentation with the last thing, see if anyone is signed up for public comment, we'll take some public comment. We would then like the applicant to come up and make some comments and respond to questions from the Board, and then the Board will have some additional discussion and ultimately take a vote.

The second project is the William B. Kessler hospital closure. John, do you want to start? And, John, you have handouts for this project?

MR. CALABRIA: Yes, for Kessler. Thank you and good morning to members of the board.
Happy new year to everyone.

MS. BENTLEY-McGHEE: Happy new year.

MR. CALABRIA: Today we have the application before us from Catholic Community Services-Mount Carmel Guild to close their 20-bed psychiatric inpatient facility in Newark.

Those of you who were on the board a few years ago may remember that this application came in at that time and there was some discussion and issue between the Department of Human Service's Medicaid program and the facility and ultimately that application was stopped at that point in time because of those issues of Medicaid and some Medicaid repayment.

Those issues have been resolved, and they have sort of resolved in Condition 2 that you see here. It's not the same application from a few years ago. The application, again, is to close their 20-bed inpatient psychiatric facility in Newark. There was a public hearing on this project on Tuesday December 15th in Newark, no one attended, no members of the public attended that hearing.

On pages 5 and 6 of the staff review, this is what we've done for a number of the hospital
closures. We've looked at the average daily census of the facility that is proposing closure. I know we've looked at the surrounding facilities. In this case, it's a facility with psychiatric beds, looked at their average daily census compared to their maintained beds and determined that there are sufficient numbers of unused maintained beds in the psychiatric bed category to take the average daily census, which averages between two and four patients the last several years for that.

So we believe that there are sufficient beds available. Also, from my understanding, Newark Beth Israel did acquire some inpatient psychiatric beds from St. Mary's and can take them when they close, and will be opening some of those within the next two years.

CHAIRWOMAN AINORA: If I may make a correction, it was not Newark Beth Israel, it was Clara Maas --

MR. CALABRIA: Clara Maas, excuse me, I'm sorry. Thank you, my mistake. On page 7 are the staff recommendations. We have developed these recommendations with consultation with the Department of Human Services, both with their Division of Mental Health Services and their
Diagnosis of Medical Assistance and Health Services,

2 Medicaid.

3 The reasons for our recommendations for approval of the closure is the financial conditions at the facility precludes continued operation of the inpatient psych unit and placed the future viability of their outpatient facilities at risk, if there are, for outpatient facilities for substance abuse and mental health services if they want.

4 Reason number two, Mount Carmel's inpatient services as noted have been underutilized evidenced by the low average daily census and occupancy rate in the unit, and surrounding hospitals have sufficient inpatient psychiatric capacity to accommodate the patient census from the closure. There are a number of conditions, many of these conditions, as you see, are typical that we put on hospitals that are closing.

5 The first one is that they have to return their license to us. I'll come back to the second condition in a moment. Condition 3, the applicant has to notify us in writing specifically who is responsible for the safekeeping and accessibility of all inpatient medical records.
1 Number 4, the applicant shall provide a
detailed description in writing of the process to
obtain a copy of the complete medical record
inclusive of all electronic and hard copy
components and projected time frame from request to
receipt of the same. The applicant shall provide a
detailed plan for public notification regarding the
process of obtaining a copy of the medical record.
Public notification must occur on a weekly
basis over the course of a three-month period
commencing on the date of the approval of the
closure by the commissioner, and the applicant
shall document efforts to offer job placement or
opportunities for employment to existing staff.

On Condition Number 2, I won't read that
entire condition, but it basically is the
settlement agreement that's been reached between
the facility and Medicaid for the repayment of
Medicaid overpayments. There is a representative
of the Department of Human Services here if there
are any questions on that. It is my understanding
that the applicant has accepted this agreement.
I'd be happy to respond to any questions if anybody
has any.

CHAIRWOMAN AINORA: John, these are
voluntary beds; right?

MR. CALABRIA: Yes.

CHAIRWOMAN AINORA: Does anybody have any questions for John? Were there any public comments, anybody signed up for public comment on the application? Then would the applicant please come forward?

MS. HERNANDEZ: State your name and spell it for the court reporter.

MR. FRESE: Sure. My name is Phillip Frese, that's Phillip with two Ls, F-R-E-S-E, and I'm is chief executive officer of Mount Carmel Guild. Basically, what you heard is the situation we are in. We are asking for closure. We have been in this facility since 1974 and still take pride in serving the community; however, we are in a situation that, as you know, this is a special licensed hospital, which does not receive any benefit from the state. All, I would say, 98 percent of our clients are without insurance, so the cost for us is approximately $130,000 a month in the negative with no revenue. In order to facilitate all of the other works that we do, it is -- we just cannot go any further with this, it is just such a financial
We have taken steps and contacted St. Michael's Medical Center, and we, in our application, have a letter stating that they would easily take the overflow that would come from our hospital. Currently, our census are two patients. With that, we felt as though that this would not harm the community in any way and that we could serve the community in other ways.

CHAIRWOMAN AINORA: Any questions from the board? Any further discussion?

MS. OLSZEWSKI: I, having read the application, the follow-up questions and the staff's recommendations, staff's findings and recommendations. It appears to be a pretty compelling case here in terms of both the ability to continue to provide services in the building that Mount Carmel Guild is in just because of the change of ownership has made it extremely difficult, the low average daily census, and then the loss of funds. And I certainly would like to ensure that Mount Caramel Guild will continue to run its outpatient centers, which is very important for the community it is in. So for all of those reasons, I
would basically like to recommend that we approve
this certificate of need based on staff
recommendations, and that we include all of the
conditions that the staff has stated, they are on
pages 7 through 9 of the staff recommendations, but
I'm not going to repeat them here.

CHAIRWOMAN AINORA: Can I have a second to
that motion?

DR. LEWIS: Second.

CHAIRWOMAN AINORA: Any further discussion
on the motion? Can I have a vote, please?

MS. HERNANDEZ: Ms. Ainora?

CHAIRWOMAN AINORA: Yes.

MS. HERNANDEZ: Mr. Kane?

MR. KANE: Yes.

MS. HERNANDEZ: Ms. Olszewski?

MS. OLSZEWSKI: Yes.

MS. HERNANDEZ: Ms. Bentley-McGhee?

MS. BENTLEY-McGHEE: Yes.

MS. HERNANDEZ: Dr. Lewis?

DR. LEWIS: Yes.

MS. HERNANDEZ: Mr. Havens?

MR. HAVENS: Yes.

MS. HERNANDEZ: Dr. Verea?

DR. VEREA: Yes.
MS. HERNANDEZ: We have seven yeses, motion moved.

MR. FRESE: Thank you very much.

CHAIRWOMAN AINORA: Thank you. Our second application will be for the certificate of need for the closure of William B. Kessler Memorial Hospital, an acute care hospital.

MR. CALABRIA: Thank you again. Today, we are looking at the actual formal certificate of need approval for the closure of Kessler. As has happened once or twice in the past, as you can see, Kessler actually closed last March, submitted their application for closure in June, and it is here before us for this.

This is a general acute care hospital in Hammonton in Atlantic County. There was a public hearing held in Hammonton on December 17th. There were 10 people who attended the public hearing, only three spoke expressing some concerns about the management of the facility and distance to other facilities.

The staff recommendations, again, we did this as the terms of an average daily census. As I explained to you before, we looked at the average daily census in the bed categories that Kessler had
before it closed, checking the average daily census
in the surrounding hospitals in those bed
categories and have determined that there is
sufficient capacity to handle that average daily
census.

When we did this, we were looking at the
surrounding hospitals. There are Virtua-Marlton
and Virtua-Berlin, and Virtua has some other
divisions. And unfortunately when we, and I do
apologize for this, when we were putting the data
for Virtua-Marlton, we used the data for
Virtua-Voorhees in the appendices, which is why I
distributed an additional appendices that has the
corrected data.

On page 5 of the staff recommendations, I
do want to go -- because of that, some of the
numbers on page 5 will change. And if you will go
to page 5, the very first paragraph right about in
the middle where you see the number 229, that
number is actually 277. So the actual number of
maintained beds in the unoccupied maintained beds
based on average daily census is 227, not 229
because of the data for the other Virtua division.

If you go down a little further, the
number 192 becomes 240. And at the very end, the
number 242 becomes 269. In the second paragraph on
the left toward the -- just up from the bottom, the
number 44 becomes 33. And in the next sentence
over on the right, number 44 becomes 33. And at
the last very end of that paragraph, the number 39
becomes 29.
And the next paragraph, the number 35 in
the third line becomes 44. Just below that two
lines, the number 28 becomes number 37. And at the
end, the number 33 becomes 42. And at the very
bottom, since the occupancy change, in paren, where
it says Virtua-Marlton, it should be South Jersey
Vineland at an occupancy rate of 86 percent instead
of 90 while six hospitals in the region had
occupancies below 80 percent with four of these
below 56 percent.
So it just changed the occupancy a little
bit. As you see what it did for the med-surg
capacity, it actually showed that there is a larger
number of medical surgical beds, maintained medical
surgical beds based on average daily census using
the new data. As you can see, Kessler closed
because of severe financial problems. These
problems, again, forced its closure in March of
last year.
Again, using the average daily census method that we use, we believe it is sufficient unused capacity in the area to handle the medical, surgery, pediatric and ICU needs of the population that have been served by this facility. We're aware that Atlantic Care provided job fares for Kessler staff at -- the Atlantic County Department Unemployment Office came to Kessler to provide job placement information immediately after the closure, and that the New Jersey Career Center came to the hospital to help employees with that. As you also know, Atlantic City Medical Center took over the emergency department at the former Kessler Hospital and it is converted and now licensed as a satellite emergency department of Atlantic City. On the staff recommendations, the staff do believe that this application does comply with the regulatory and statutory criteria for closure and we recommend approving the closure of Kessler with the following conditions: Again, these are relatively typical conditions. The license shall be returned within 10 days of CN approval. A detailed description must be provided to the Department in writing with an established process to obtain a copy of the
complete medical records inclusive of electronic and hard copy components, and the projected time frame from request to receipt of the records. This may include any activities that occurred immediately after the cessation of operations.

Condition 3, a detailed description must be provided for public notification regarding the process to obtain these medical records. Public notification must occur on a weekly basis over the course of a three-month period in English and Spanish commencing on the date of CN approval.

Condition 4, the name of individual -- now, when we use the name, individual, it could be a company or another institution -- responsible for the safekeeping and accessibility of all components of the medical records from Kessler must be provided.

Condition 5, a detailed description of Kessler's process in notifying employees of the termination of employment and available benefits must be sent to the Department. There has been some communication between the Department and Kessler because in Kessler's financial situation of it being closed, about how, in fact, to implement the process of obtaining medical records, and the
applicant may have something to say about that when they make their presentation.

CHAIRWOMAN AINORA: A couple of questions, and then I'll open it up to the Board. Just for the record, could we have, for the record, I think that page 5 and the new corrected addendum needs to be put into the formal record. And I'll ask Jaimie to make sure she does that to the formal record, the changes John made to page 5 and the new appendix.

MS. HERNANDEZ: Yes.

CHAIRWOMAN AINORA: John, you said that currently there is a satellite there in Atlantic City?

MR. CALABRIA: It's in the old emergency department.

CHAIRWOMAN AINORA: How does one keep that set up? Is it just as a favor for Atlantic City that they are doing that or was there a condition?

MR. D'ORIA: If you don't mind. There was a lot of interest actually from the neighboring hospital systems to take it over. It was actually more competitive than we thought, and Atlantic City said not only will they continue to operate, they plan on rebuilding it in another part of the city.
CHAIRWOMAN AINORA: Do you have any idea what the volume has been?

MR. D'ORIA: Off the top of my head --

MR. CALABRIA: They do have a little bit of volume.

MR. D'ORIA: The hospital said it was more than it's been under Kessler.

CHAIRWOMAN AINORA: Then my only question is, have you gotten any issues on access, since it's been closed for the last six months?

MR. CALABRIA: We haven't heard any. And, as I said, only three people spoke at the public hearing. The second quarter of 2009, the total patient volume was 3,862 visits. The second quarter of 2009 is 3,862 visits, that's fairly good.

CHAIRWOMAN AINORA: That's good business, thank you.

Any board members have any questions of John?

MS. OLSZEWSKI: I have a question for John. I know that the applicant will speak about the medical records, but when we make the request for retention of medical records and for ensuring the public having access to them, that request goes
to the organization that owns the medical center?

MR. CALABRIA: That's correct.

MS. OLSZEWSKI: Is that organization still in existence?

MR. CALABRIA: That is part of the issue that you will hear from the applicant, I believe, when other hospitals have closed and they are not part of the system that takes the medical records, for example, with Barnert, someone took their medical records, they told us who that was, so we know who that is.

So if someone calls us and says, I was at Barnert at whatever year, we can tell them, this is where to get your medical records, and that's what we would expect in this case, too.

MS. OLSZEWSKI: Do you feel confident at this point that the medical records are going to be appropriately handled?

MR. CALABRIA: Yes, I do. I think that they are going to make every effort to do what is both morally correct as well as what the law requires, regulations.

MR. KANE: John, is there any process for Atlantic Care as far as the CN or anything like that, the --
MR. CALABRIA: You know, the CNs are not required for the satellite emergency department, so they are licensed. They've been doing this for a year.

MR. KANE: They went through the normal process?

MR. CALABRIA: They went through the normal licensure process, yes. I think when the hospital closed, this opened, so there was a seamless transition from emergency department to satellite emergency department.

CHAIRWOMAN AINORA: Yes, Dr. Verea.

DR. VEREA: Yes, I do want to raise concern about the medical records, also, John, because in that section 4, it had said that since August '09 the medical records director left the institution. And then at says, we anticipate the assumption of providing medical records routinely. Again, the word anticipate doesn't mean that it will be done. And then also the concern about it is currently unknown when the transfer will occur to an organization that will be responsible for the medical records. As a clinician, this is such a valuable piece of information to have continuity of care. So I just
wanted to raise that concern as well.

MR. CALABRIA: And, again, they have maintained some part-time staff to do these kinds of things at the facility since its closure. And, again, I believe this will be addressed by the applicant.

CHAIRWOMAN AINORA: Any other questions for John? Any public signed up for comment? Could the applicant come forward?

MR. FOGG: My name is Robert Fogg, F-O-G-G. I'm a partner with Archer and Greiner, G-R-E-I-N-E-R, in Princeton, New Jersey. I'm here to represent the board of William B. Kessler. I also have with me Peter Yecco who is the chief financial officer of the hospital corporation.

As John indicated, Kessler ceased its operations in March of 2009. So the certificate of need is; therefore, somewhat moot, I guess, because the hospital is closed. There is no viable way in which Kessler, I think, could open as an independent general acute care hospital given the realities of the marketplace, its financial condition and the need as John had discussed in his presentation.

So we are happy to answer questions and
certainly address any concerns you have. I'll give you a little bit of background. Hammonton, as you may know, is a pretty geographically isolated area as Jersey goes. In South Jersey, it's about 25 to 30 minutes to the next closest acute care hospital.

We were very fortunate to have Atlantic Care take over the emergency department and services. We have a lease, which we are operating under with Atlantic Care and they made a commitment to stay. And as John also indicated, they are in the processes of constructing a new urgicare SED facility down the road from Kessler.

Prior to closure, just a little history, Kessler had entertained, over the course of several years, some potential bidders to acquire the hospital to continue as an acute care hospital. The board did everything in its power to try to keep it open.

Perhaps in hindsight, it took too long to make the decision to close, but its financial situation is definitely significantly in the red and there are just, at this point, very little in the way of assets to apply to the debts that the hospital owes.
We did try to come to -- there was a couple of last minute, if you will, offers. Those bidders could not bring sufficient financing to the table, so we worked with Matt, John and the commissioner to bring effective closure and put that process into place. And all of the patients were transferred as of March 12th.

So there are still now about two FTEs. I think there are 4 individuals working for the hospital corporation, Pete and then several people who are handling wind down and physical planning and those issues. At the time, as we said, that the arrangement was reached with Atlantic Care with its lease, we appreciated their efforts and we think that that's at least providing a safety net for the hospital's service area for emergent care.

We are still continuing to seek buyers with a physical plan. There are some discussions that are ongoing. There is nothing formal on the table at this point. The hospital has not filed for bankruptcy. At this stage, we are trying to work out all of the debts owed to its creditors individually and we were hoping that would work out sometime over the next six months to a year.

The ongoing issue that you've mentioned
about medical records has been one that we have been trying to work with the Department on since the hospital closed in March. The medical records for the hospital are stored in its physical plant. There is security, there is no issue of potential loss of those records.

We do have a part-time medical record's person who comes in on a weekly basis to handle the requests that do come in for medical records. To my knowledge, they are all being handled in a timely manner within the regulations. The volume and request has obviously diminished over time, and we expect it to continue to diminish, but obviously if people need a record from some period of time ago for ongoing medical care, the hospital makes that a priority to get that record out.

We had asked the Department for assistance in handling this issue. As John mentioned, this is an unusual hospital closure where there is no system there to take the medical records. We asked Atlantic Care to take over that responsibility, it was not able financially to handle that responsibility, so they declined.

We have some bids on the table from commercial medical record's companies; however,
there is just insufficient resources left at the hospital to fund that. We asked the Department for assistance from the stabilization fund and that was not approved.

We suggested other alternatives, perhaps going to other state departments like the human services to try to get one of the state's institutions in the area to take over, but nothing has been moved forward in that area. So our plan is to make this a part of the closure and sale, the sale process, to address this in the best way that the hospital can.

The Board is committed to making, you know, medical records available to any resident or former patient who needs them. It is just at this point in time we can't tell the Department how that, in fact, will take place given that the sale has not been -- there is no imminent sale of the hospital and we don't know what the situation will be, whether this will be a bankruptcy or this will be a direct sale.

At that point, we'll be able to make some assurance and give the Department some direction.

At this point, we cannot make any guarantees or give you specific names of -- once the hospital is
sold where the medical records storage will be. We just can make a commitment that we'll address it, that's all we can say.

So with that, I think we believe the certificate of need should be approved and we understand that the conditions in general are relatively limited in scope. Kessler does not have a license as a hospital right now, so enforcement of conditions obviously is a question mark legally, but it's something the Board remains committed to working with the Department and its community.

CHAIRWOMAN AINORA: Bob, so the disposition of the building is a real estate deal, there is no --

MR. FOGG: Correct, there is no license services left in the hospital.

CHAIRWOMAN AINORA: Does that answer your question, Jorge?

DR. VEREA: Yes. I know the same paragraph that I quoted from, Mr. Fogg, the radiology is part of the medical records.

MR. FOGG: Correct.

DR. VEREA: Because those are all so vital for follow up.

MR. FOGG: Yes. One of the radiology
groups has taken a large set of those records
mostly from their own practice, but they were
stored at the hospital, so there are some
arrangements already for radiology records.

DR. LEWIS: I have a question. I'm just
trying to understand, I'm trying to follow the
doctor here that it's the ultimate responsibility
of any clinical entity to protect and transfer
records when they close. So when you knew you were
closing, you were trying to transfer these records
somewhere, but not, so now you are in a position
that the facility is closed, you are still storing
these records, you have a part-time person who is
facilitating some sort of access to consumers for
the records and the master plan is when the
hospital is sold it's hopefully going to be part of
the deal that the records get transferred to a new
entity. So are there any offers right now for
someone to purchase this hospital?

MR. FOGG: There is no formal offer. I
can tell you there have been discussions as late as
last week with what we think is going to be a
viabile buyer.

DR. LEWIS: Because if you don't have any
offers on the table now, and it may take some time
for that process to happen, then you will have to rely on having adequate resources to maintain this part-time person with whatever is being done there.

So what happens if someone enters bankruptcy and has no funds, how can you anticipate how long you will maintain those records? How can we give you conditions when everything is so amorphous right now?

MR. FOGG: I understand. The hospital does receive income with its lease through Atlantic Care on a monthly basis, so those are sufficient to maintain basic operations, heat, utilities, et cetera, to the building. And that's how the medical record's person is paid, through that source of revenue. So we expect that to continue for at least a year if not longer.

CHAIRWOMAN AINORA: Are there any other questions?

MS. OLSZEWSKI: Yes. Does the -- if the Board and the commissioner approves this application as stated in the staff recommendations, does that put a legally binding obligation on whoever would purchase this building to maintain those records?
MR. FOGG: I don't believe so. I think it's only a condition on Kessler Memorial Hospital and its board, not the buyer. The buyer will, if they convert it to a health care use, obviously will have to apply for licenses. The Department has some leverage, I guess, at that point to make that a condition of obtaining a license, but as far as a buyer, no, it's only the obligation of the board to see something happen.

MS. OLSZEWSKI: So I guess my question for Susan is if there is anything we can guarantee the ongoing safety and availability of these records in this situation?

MS. DOUGHERTY: I'd have to defer to the Department in terms of -- the Department doesn't have the ability.

MS. OLSZEWSKI: So the very best effort we can make --

MS. DOUGHERTY: There is the nonprofit entity itself and the dissolution of that will go through the CHAPA process where the Attorney General approves the dissolution of it. That will be addressed in that as well.

MS. OLSZEWSKI: Are you saying that the conditions as stated will require the disposal or
the ongoing preservation of the medical records be
taken care of by the dissolution of a not for
profit?

MS. DOUGHERTY: I'm saying that will
certainly be one of the issues that will be
addressed by the CHAPA review and the nonprofit
will have to indicate to CHAPA what steps they are
going to do. It is an issue that will be part of
the CHAPA review.

MR. FOGG: I mean we felt this was a --

excuse me. We felt that this was a unique
circumstance that may be the type of circumstance
evisioned by the stabilization fund. I mean, this
is a hospital closure, there is no other way to
handle this, at this point, until we have assets to
apply to this if and when we have assets.

MS. OLSZEWSKI: Is the staff really
satisfied that we've done everything we can to get
these recommendations to safeguard --

MR. D'ORIA: Yes, and the CHAPA process
provides us with a second bite at the apple,
certainly with the estate left over.

MS. OLSZEWSKI: Does the existence of the
CHAPA process -- would it be in our best interest
to put something about that in the
MR. D'ORIA: I would like to see the -- you would like to see as far as of the CHAPA processes, the record retention maintained?

MS. OLSZEWSKI: So we need to make a proposal to include that as part of the recommendations. And, John, could you scribble something down while the rest of the questions are being asked, so we could put it in?

CHAIRWOMAN AINORA: Other questions of the Committee?

MR. KANE: The part about if it goes into a bankruptcy proceeding, in what order would the monies from that asset be applied as far as record retention, in other words, as far as the receivers that are coming into that process?

MR. D'ORIA: There is a priority status in the record retention. I would refer to CHAPA. There are other statements of claims, I'm sure --

MR. FOGG: There are statement of claims, tax issues and so forth.

MR. KANE: And those would be --

MR. FOGG: I'm not a bankruptcy specialist, so I can't tell you what priority order, but employee costs are certainly a priority,
taxes are a priority. So I think a bankruptcy judge would have to specifically identify this in order that a certain part of the proceeds go to this function.

MS. DOUGHERTY: I can tell you, the bankruptcy courts are very sensitive to the public's interest as far as record retention. So I can't guarantee that the court would take that properly, but it certainly is an issue that the courts in the past have dealt with very seriously when it comes to bankruptcy of hospitals.

CHAIRWOMAN AINORA: Any additional questions? John, do you have any -- if someone could make a real slow motion, so when he gets to the condition part, we have --

MS. BENTLEY-MCGHEE: Just a question. Maybe it's from watching too many, I don't know, Avatar, Star Wars, but you have all of these records. Are we talking about hard copy records or are we talking about electronic files or on disk or what?

MR. FOGG: That's a good question. The hospital went to electronic records as of 2006, so those records are pretty much easily accessible and can be handled very quickly, the rest are paper
records going back. Just to give you a magnitude,
so you know what the medical records companies are
looking for, it's somewhere in the 250, $300,000
range. So to take all of the records physically
out, categorize them and then take care of medical
requests going forward. So it's a significant
number, especially when the bank account gets down
to several digits.

MS. BENTLEY-MCGHEE: Help me visualize
what significant is. I mean, are you talking
about -- I just need a number.

When you talk about hard copy, are you
talking a room full of boxes or are you talking
about --

MR. YECCO: We have about 11,000 boxes
plus the electric records.

MS. BENTLEY-MCGHEE: 11,000. So storage
and retrieval and sending it out. Thank you.

MR. FOGG: So if anyone knows a hospital
that would like to take this on, we can talk and
get a dollar a page.

MS. STOKLEY: How far back are the record
retention, how old are these records?

MR. CALABRIA: By law, 10 years or a minor
until they are 21.
CHAIRWOMAN AINORA: May I have a motion?

MR. CALABRIA: We have a little --

CHAIRWOMAN AINORA: She is going to add it.

MR. CALABRIA: I don't know if you can read my writing or not.

MS. OLSZEWSKI: I move that we accept the closure of William B. Kessler Memorial Hospital in Hammonton, New Jersey. They are now in compliance with regulatory and statutory criteria and the closure will include the staff recommendations for conditions. These conditions are stated with the staff recommendations, Conditions 1 through 5. And in addition, I would like to add a sixth condition, that Kessler shall document its plan for retention and accessibility of medical records during its CHAPA nonprofit dissolution process. So moved.

MR. KANE: Second.

CHAIRWOMAN AINORA: Any further discussion? May I have a vote, please?

MS. HERNANDEZ: Ms. Ainora?

CHAIRWOMAN AINORA: Yes.

MS. HERNANDEZ: Mr. Kane?

MR. KANE: Yes.

MS. HERNANDEZ: Ms. Olszewski?
MS. OLSZEWSKI: Yes.

MS. HERNANDEZ: Ms. Bentley-McGhee?

MS. BENTLEY-McGHEE: Yes.

MS. HERNANDEZ: Dr. Lewis?

DR. LEWIS: Yes.

MS. HERNANDEZ: Mr. Havens?

MR. HAVENS: Yes.

MS. HERNANDEZ: Dr. Verea?

DR. Verea: Yes.

MS. HERNANDEZ: We have seven yeses, motion moved.

CHAIRWOMAN AINORA: Is there any other business?

MS. OLSZEWSKI: Yes, I wanted to say something. Every meeting in the last year or so, we have had representatives, people from the Plainfield community come to our meetings and I know that they have concerns about what's happening at JFK. The people from the Plainfield community have had to seek medical assistance there, and they bring up to me certainly some of the issues that they are finding.

And although I know there is a community action group that is supposed to be taking place and resolving these issues, things don't seem to be
getting resolved, and I wonder what is the appropriate course of action for citizens in Plainfield who are actively involved with the ongoing community and its health care needs and whether they are being met by this. Given that the community advisory group isn't playing the role we would like it to play, what is the appropriate way for them to take their concerns to get some attention for things that are going on?

MR. D'ORIA: To the extent that those concerns are about patient care, certainly our complaint function, our complaint process and function is the appropriate means to alert us and have us resolve those complaints that they have. As far as the community advisory group not fulfilling its legal obligation of its establishment process, that's a tough one because, as you know, we've gone back and forth with this. It started basically as Solaris was responsible for the community advisory group. In that situation, the local officials in that municipality came to us and Solaris and said could we please, given the closure and the way it happened, we don't have a lot of confidence. Solaris said we would like to be in charge of this. So to the extent that they
are not filling their role, it creates an awkward
situation for us. How do we enforce statutorily
something on a municipality that function?

MS. CHARBONNEAU: Bill Conroy has been our
representative on that board. Some would say there
should be a formal discussion with the community
advisory group to give them an opportunity to
address what concerns there are in that group and
how they are not meeting what needs the complaints
are. And I don't know that that has been
addressed.

MR. CONROY: This is Bill Conroy. I would
respectfully disagree with the individuals from the
community who think that the community advisory
group is not meeting or functioning. It is, in
fact, meeting, it is, in fact, reviewing the
conditions. There is, in fact, discussions about
the status of compliance, so they are working it
through. They are planning a quarterly calendar
for calendar year 2010 with the intent to have
public meetings, I believe, in February with
citizens of Plainfield. In terms of if any
individual has a concern about compliance, the 800
number is (800) 792-9770. And I urge any
individual who finds there is a provider who is not
complying or if there is a public safety issue, to
contact the compliance number, so we can
investigate it. I don't know what else I can share
with you.

MS. OLSZEWSKI: That helps, thank you.

CHAIRWOMAN AINORA: Susan or Matt, is it
appropriate, since this Board obviously where it
appears there is -- there has been at least from a
community prospective, whether it's true or not
true, I have no idea, access issues at least
vocalized. I don't know if it's true or not, but
would it be appropriate for a report to be begin
back to this Board on what the advisory board is
doing, on the status of the condition?

MR. D'ORIA: Yes.

CHAIRWOMAN AINORA: Can we recommend it on
our next agenda? Not a special meeting, but on our
next meeting under old business we have a
discussion on that?

MR. D'ORIA: I'm asking, too, particularly
over the last year, since the community advisory
group started, Bill has reported back to us the
status, so the documentation what has happened so
far is available and can be easily produced for
this Board.
MR. CONROY: Right now, there would be at
the moment a compendium of minutes of the meetings
that occurred. The community advisory group has
not commissioned any independent reports so far.
CHAIRWOMAN AINORA: Well, I don't really
think we really need to read minutes, but I wonder
if you would be willing to, Bill, maybe come up
with a summary and give us a status report of this
is the conditions, this is where they are and how
many formal patient complaints have there actually
been as opposed to what one hears.
MR. CONROY: Just anecdotally, there have
been very few direct complaints lodged with the
Department in terms of that 800 number or direct
complaints.
DR. LEWIS: I have a question. Is any of
this information right now available in public
domain at all, any of the reports or summaries of
any of the meetings in public form?
MR. CONROY: Yes.
DR. LEWIS: So anyone can access this on
the Internet?
MR. CONROY: Yes. Through the Open Public
Records Act, the minutes are obtainable. They can
be directly obtained from the City of Plainfield or
from the state because I received a copy, so it becomes part of the record.

DR. LEWIS: So it is a process you have to seek out and go into the office?

MR. CONROY: Right.

DR. LEWIS: It's not something you can just download on the Internet?

MR. CONROY: We are not publishing the minutes and I don't believe the City is either.

CHAIRWOMAN AINORA: Well, I'll throw it to the Board, are you guys interested in seeing minutes or would you rather have a summary of what's happening?

MS. OLSZEWSKI: I would much rather have a summary.

DR. LEWIS: Summary.

CHAIRWOMAN AINORA: Any other additional -- yes.

DR. VEREA: Yes, I just want to raise awareness about individuals like the ones in question here that have really taken of their time as we do ourselves to be part of a board that represents our community. I think that it is important that individuals take time out of their own time, because their time is just as valuable as
our time, to care for the community and to really
want answers and want a voice. Because I think
that the role at the end of the day, you know, our
decisions whether we have to go through protocol
and there are things that can be and cannot be
done, I feel that at the end of the day, it is
because we care about communities and people's
lives and the under served and all of these issues,
that's why we sit here. And I think it is
important to keep ourselves grounded by that
community that is actually facing the challenges
that often being privileged maybe we don't have to
face, but, yet, we cannot forget. And I think it
does bring a closure that the community can make us
sensitive and remind us why we are here. Almost a
political line, but I would like to think that we
are here because we care about our community. So I
do want to applaud citizens in the community that
want to follow this on their own time to make sure
we become more sensitive and raise awareness at
this important level that we care about their
opinions.

CHAIRWOMAN AINORA: I just have a very
general question, and I don't know if you can
answer it or not, but are we, one, is there a
timeline of if there will be a new commissioner,

and number two, there are more political people on
the Board than I am, are we getting any handle if
there is going to be any serious health policy
changes?

MR. D'ORIA: To the first question, no, we
don't have, at this point. And on the second
point, we have met in transition I would say in the
meetings, no, I think the goals are pretty much the
same. Reasonable people can agree certain
hospitals need to be there and need money and the
policies that we have in place to keep them going
are good.

On the other hand there are other things
like health insurance for all that are broader than
the Health Department scope, that I think may be
addressed, but that goes beyond the Health
Department. The Health Department is not to try to
make sure everybody gets insurance, but rather make
sure they get care. So in that essence, I think it
will be a different perspective, but it will be
pretty consistent.

CHAIRWOMAN AINORA: Are there any other
comments or questions from anyone?

MS. OLSZEWSKI: I'd like to take this
opportunity because we don't know there may be some

changes, I would like to thank all of the staff for

all of the work you've done. And I had mentioned

earlier, I was telling Ellsworth I received this

thin little envelope of staff recommendations and

it just seemed so tiny.

And I know that the hundreds and hundreds

of hours of work that went into that by all members

of the staff, and I really appreciate all of the

work that you did and have done for us. And I

really do think this Board functions a lot better

now than we did a few years ago because you've

taken the time to better train and inform us. And

the documentation that you provide us especially

the appendices, I mean, you've really helped to

bring massive amounts of information down to a

smaller set of documents that we can get our arms

around to make an informed decision, so thank you

all for your wonderful work.

MR. D'ORIA: I want to say with some

confidence that staff will probably be

here the next time you meet, so they do all of work

for which we all owe our gratitude to, so I want to

say thank you.

CHAIRWOMAN AINORA: Motion to adjourn?
DR. LEWIS: Motion.

MS. OLSZEWSKI: Second.

CHAIRWOMAN AINORA: Adjourned.

(Whereupon, the proceeding was adjourned at 10:42 a.m.)
CERTIFICATE

I, JUSTIN DAVIS, certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date herein before set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Justin Davis