

HEALTH CARE ADMINISTRATION BOARD

THURSDAY, FEBRUARY 15, 2024

9:15 A.M.

NJ DEPARTMENT OF HEALTH

- - -

February 15, 2024

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Meeting was taken via Teams before Cindy Pineiro, RPR, CSR #30XI00181500, and Notary Public of the State of New Jersey, on the above date, commencing at 9:15 a.m., there being present:

MICHAEL BAKER - Chairman

MARY KAY ROBERTS - Vice Chair

KIMBERLY JENKINS (NJ Dept. of Health) - Board Member

MANUEL PAULINO (NJ Dept. of Banking and Insurance) -
Board Member

ELLSWORTH HAVENS - Board Member

PATRICK BARNHART (Presenter, Regulatory Officer, NJ
Dept. of Health)

JACQUELINE CHADWICK (Presenter, Regulatory Officer, NJ
Dept. of Health)

NOAH GLYN (Presenter, Executive Director, NJ Dept. of
Health)

LISSETTE SANTIAGO (Attorney Assistant, NJ Dept. of
Health) - Board Staff

1 MR. BAKER: I will call the meeting to
2 order. This is the February 15th Health Care
3 Administration Board meeting.

4 Lissette, could you read the Notice and
5 then take roll?

6 MS. SANTIAGO-RIVERA: Yes.

7 Good morning. This is a formal meeting
8 of the Health Care Administration Board. Adequate
9 notice of this meeting has been published in
10 accordance with the provisions of the New Jersey Open
11 Public Meetings Act, including, but not limited to,
12 N.J.S.A. 10:4-9.1, 10:4-9.3, and 10:4-10.

13 Notice was sent to the Secretary of State
14 who posted the notice in a public place. Notice was
15 also provided electronically on the Department's
16 website and forwarded to two New Jersey newspapers.

17 I will now call the roll.

18 Ms. Jenkins?

19 MS. JENKINS: Here.

20 MS. SANTIAGO-RIVERA: Mr. Paulino?

21 MR. PAULINO: Here.

22 MS. SANTIAGO-RIVERA: Mr. Havens?

23 MR. HAVENS: Here.

24 MS. SANTIAGO-RIVERA: Ms. Roberts?

25 MS. ROBERTS: Here.

1 MS. SANTIAGO-RIVERA: And Mr. Baker?

2 MR. BAKER: Here. Thank you very much.

3 MS. SANTIAGO-RIVERA: We have five
4 members of the Board, which does constitute a quorum.

5 MR. BAKER: The next item of business is
6 approval of the December 21, 2023 minutes.

7 Did anyone have any corrections for the
8 minutes?

9 MS. JENKINS: No.

10 MR. BAKER: I would like to move approval
11 of the December 21st minutes.

12 MS. ROBERTS: Mary Kay Roberts. I will
13 move approval of the December 21, 2023 minutes.

14 MR. BAKER: Thank you.

15 Is there a second?

16 MR. HAVENS: Second.

17 MR. BAKER: I'm sorry. Ellsworth, thank
18 you.

19 Please call the roll.

20 MS. SANTIAGO-RIVERA: Ms. Jenkins?

21 MS. JENKINS: Yes.

22 MS. SANTIAGO-RIVERA: Mr. Paulino?

23 MR. PAULINO: Yes.

24 MS. SANTIAGO-RIVERA: Mr. Havens?

25 MR. HAVENS: Yes.

1 MS. SANTIAGO-RIVERA: Ms. Roberts?

2 MS. ROBERTS: Yes.

3 MS. SANTIAGO-RIVERA: And Mr. Baker?

4 MR. BAKER: Yes.

5 MS. SANTIAGO-RIVERA: We have five yeses.

6 Motion carries.

7 MR. BAKER: Commissioner's report is up.

8 That's Ms. Jenkins.

9 MS. JENKINS: Thank you. I apologize for
10 my voice. It's going in and out. So sorry about
11 that.

12 The Department of Health recently
13 released a new overdose mortality data explorer
14 dashboard. And as part of our ongoing efforts to end
15 the opioid epidemic in the state, the dashboard
16 displays drug overdose data which allows the public to
17 explore demographic disparities by county, and
18 continues the Department's efforts to bring data into
19 the hands of the community stakeholders who can take
20 action to prevent and respond to the overdoses. So
21 that's a helpful dashboard for folks.

22 We also have one more release in
23 conjunction with the First Lady's office. We released
24 the New Jersey report card on hospital maternity care.
25 The report card's the first of its kind in the nation,

1 and it outlines key metrics on maternal healthcare.
2 It includes metrics that include the interactive data
3 on hospital-specific and statewide births, including
4 complication rates and severe maternal morbidity.

5 The information is designed to be useful
6 -- user friendly to help birthing people make informed
7 decisions about their care and which hospitals they
8 would like to deliver at.

9 And that's the update from me. And for
10 rules coming down the road, we expect 8:43H, the
11 rehabilitation hospital rules, to be coming to the
12 HCAB in the spring.

13 That's all I have for today.

14 MR. BAKER: Thank you very much.

15 Do any of the Board members have
16 questions for Ms. Jenkins?

17 Hearing none, we'll move on to item four
18 on the agenda.

19 Mr. Barnhart, you are up.

20 MR. BARNHART: Good morning. I am
21 Patrick Barnhart. I'm the new regulatory officer in
22 the Division of Certificate of Need and Licensing
23 Division. Excuse me.

24 I'm joining you to present the Notice of
25 Readoption with no changes for New Jersey

1 Administrative Code 8:33H, which is the Certificate of
2 Need: Policy Manual for Long-Term Care Services.

3 Without adoption these rules would expire
4 in two months on April 20, 2024. This chapter sets
5 standards for determining if pediatric long-term care
6 beds are necessary, and also standards for specialized
7 long-term care beds, such as for severe behavioral
8 management problems and ventilator care.

9 This chapter has not been substantially
10 changed since 20 -- 2004. So the Department will be
11 proposing substantive changes in the near future.

12 Does anyone have any questions?

13 MR. BAKER: Is there any --

14 MR. HAVENS: I'm sorry. Just a quick
15 question. When do you anticipate the additional
16 amendments coming up?

17 MR. BARNHART: I know that the Department
18 is working on those changes. There are some related
19 chapters that -- that it's also working with, and we
20 will be putting them up as soon as possible, I
21 believe.

22 MR. HAVENS: Okay. Thank you.

23 MR. BAKER: Any other questions from
24 Board members?

25 MS. JENKINS: Mike, can I just interrupt

1 one second? Just a reminder that we do have a court
2 reporter, so it may be helpful just to announce your
3 name if you're on the phone so she can properly
4 document who's speaking. Thank you.

5 MR. BAKER: Thanks, Kim.

6 Sorry, Cindy.

7 Is there anyone from the public who would
8 like to be heard on this?

9 Hearing no one, I'll close the public
10 portion.

11 Would someone like to make a Motion?

12 MS. ROBERTS: Mary Kay Roberts. I'll
13 make a Motion.

14 Ellsworth, we do this all the time. Go
15 ahead.

16 MR. HAVENS: Go ahead. I'll second.

17 MS. ROBERTS: Okay. I will make a Motion
18 to approve the Notice of Readoption for Certificate of
19 Need: Policy Manual for Long-Term Care Services
20 codified at N.J.A.C. 8:33 -- 33H. Excuse me.

21 MR. BAKER: Ellsworth, you want to
22 second?

23 MR. HAVENS: Second.

24 MR. BAKER: Thank you.

25 Any further comments?

1 Hearing none, Lissette, please call the
2 roll.

3 MS. SANTIAGO-RIVERA: Ms. Jenkins?

4 MS. JENKINS: Yes.

5 MS. SANTIAGO-RIVERA: Mr. Paulino?

6 MR. PAULINO: Yes.

7 MS. SANTIAGO-RIVERA: Mr. Havens?

8 MR. HAVENS: Yes.

9 MS. SANTIAGO-RIVERA: Ms. Roberts?

10 MS. ROBERTS: Yes.

11 MS. SANTIAGO-RIVERA: And Mr. Baker?

12 MR. BAKER: Yes.

13 MS. SANTIAGO-RIVERA: We have five yeses.

14 The Motion carries.

15 MR. BAKER: Thank you.

16 Item five, Ms. Chadwick.

17 MS. CHADWICK: Good morning. Good
18 morning, Mr. Baker and members of the Board. My
19 name's Jackie Chadwick. I'm a regulatory officer at
20 the Division of Health Certificate of Need and
21 Licensing, and I'm here to request your approval of
22 the proposed amendments to N.J.A.C. 8:36-1.3 and 2.4,
23 with regard to Standards for Licensure of Assisted
24 Living Residences, Comprehensive Personal Care Homes,
25 and Assisted Living Facilities. And these proposed

1 changes would be in the definition section and the
2 survey section.

3 In a nutshell, the Department plans to
4 replace the advanced standing program with the deemed
5 status program. And participation in the deemed
6 status program would be voluntary for assisted living
7 residences. If an assisted living residence elects to
8 apply for deemed status, it must submit a request in
9 writing to the Department, accompanied by an
10 accrediting body report that was issued within two
11 years preceding this request, and a plan of
12 correction, if one exists.

13 The request for deemed status would be
14 granted or denied by the Department, and also may be
15 revoked or modified.

16 If the assisted living residence seeks
17 continued participation in the deemed status program,
18 it would be required to supply updated documents every
19 two years.

20 And in anticipation of this change, on
21 April 26th of 2023 the Department issued a guidance
22 memo regarding the replacement of advanced standing
23 with this deemed status program, and, as such, all
24 facilities are aware of this proposed change.

25 MR. BAKER: Thank you.

1 Any questions?

2 MS. CHADWICK: Any questions? I was just
3 making sure I didn't have anything else.

4 MR. BAKER: Thank you. I had one.

5 Are there multiple accrediting bodies or
6 are there some that we will accept or won't?

7 MS. CHADWICK: Currently there is one
8 accrediting body. The Department will look into the
9 accrediting bodies, and they'll be approved on the
10 basis of their demonstrated ability to perform an
11 operational survey using standards substantially
12 equivalent or exceeding the federal conditions for
13 coverage at 42 CFR Part 416. So right now there's
14 one.

15 MR. BAKER: Thank you. That makes it
16 easy.

17 MS. CHADWICK: Yeah.

18 MR. BAKER: Any other questions from
19 Board members?

20 Let's open this up to the public. Is
21 there anyone in the public who would like to be heard
22 on this proposal?

23 JOHN INDYK: Yes. John Indyk with the
24 Health Care Association of New Jersey.

25 MR. BAKER: Thank you. Could you spell

1 your last name, John, for the court reporter?

2 JOHN INDYK: Sure. It's I-N, as in
3 Nancy, D, as in David, Y-K. And I'm vice-president of
4 the Health Care Association of New Jersey.

5 MR. BAKER: Thank you. Please go ahead.

6 JOHN INDYK: Sure.

7 We are New Jersey's largest trade
8 association representing approximately 200 of our
9 state's nursing homes, 150 assisted living providers.
10 I thank you for this opportunity to testify in the
11 proposed amendments at N.J.A.C. 8:36-1.3 and 2.4.

12 As the summaries of the notice of
13 proposal indicate, the objective was a proposed
14 amendment which would establish deemed status program
15 for assisted living residences using a departmental
16 recognized accreditation organization instead of
17 continuing to allow these residences to obtain
18 advanced standing status.

19 The DOH is well within its right to
20 terminate the advanced standing program and rely
21 instead on accreditation. Therefore, we are not
22 objecting to the proposal.

23 What HCANJ does object to, however, is
24 the mischaracterization of the advanced standing
25 program as described in this rule proposal notice.

1 The tone of this summary in the proposal notice is
2 antagonistic and suggests that the DOH no longer feels
3 the need to work with the provider community in a more
4 collaborative way, which is unfortunate.

5 It's important to stress the advanced
6 standing program was established back in 2012 with the
7 very spirit of collaboration. In fact, it was HCANJ
8 that suggested this program to the DOH because the
9 assisted living residence license inspections were not
10 being conducted in a timely manner. They were
11 significantly behind because of insufficient survey
12 team resources.

13 We, along with our (indiscernible)
14 association, wanted to avoid the possibility of
15 providers becoming complacent, resulting in a decline
16 in quality.

17 Advanced standing was more than just a
18 "survey" performed by HCANJ. It was a joint effort by
19 the DOH and the regulating community to make quality
20 advances in a more collaborative and less adversarial
21 process. The program included enhanced transparency
22 from providers, data measures prepared by independent
23 experts, extensive reporting to the DOH, regular
24 meetings, monitoring visits, critical support, and
25 even DOH-led surveys.

1 To say that the advanced standing was
2 merely oversight by the HCANJ is a distortion of the
3 program.

4 Not every community chose to participate
5 or was accepted into the program. These communities
6 remained under the DOH routine survey schedule. This
7 collaborative effort, known as advanced standing,
8 enabled DOH staff to inspect communities not in the
9 program. It also provided -- it also proved to
10 elevate the quality of those communities accepted into
11 the program.

12 Assisted living facilities that received
13 advanced standing status were required to comply with
14 more rigorous quality measures than counterpart
15 facilities not participating in the program.

16 For example, there were nine quality
17 measures that each community participating in the
18 advanced standing program was required to meet and
19 subsequently report on. And participants
20 (indiscernible) low-quality measures, they were
21 provided with clinical support to help with them
22 improve. These measures were compared to national
23 data, with advanced standing participants performed
24 better on the measures than did their peers
25 nationally.

1 It is imperative that the DOH put
2 provisions in place for deemed status to ensure that
3 quality improvements continue. We certainly do not
4 want to see a slip -- quality slip backwards.

5 Under the advanced standing program
6 licensure compliance to this were performed yearly by
7 the former -- by former DOH surveys who conducted the
8 visits -- those were DOH surveys.

9 For example, medication passes were
10 observed and water temperatures were monitored for
11 compliance with regulatory requirements. Under deemed
12 status annual inspections will not happen.

13 Instead accreditation visits will be
14 performed only every three years, during which deemed
15 status facilities will be exempt from required DOH
16 site inspections other than complaint investigations.

17 Therefore, accreditation does not
18 necessarily imply compliance with N.J.A.C. 8:36.

19 Finally, the proposal summary notice
20 indicates that advanced standing status exempts an
21 assisted living residence from required DOH licensing
22 inspections. That was not entirely true. Under the
23 program a random 10 percent of the participating
24 communities were subject to follow-up DOH-led
25 inspections to ensure the integrity of the advanced

1 standing inspections. If uncomfortable with the
2 findings, the DOH could have increased that
3 percentage.

4 It should also be noticed that the
5 comprehensive personal care homes also participated in
6 the advanced standing program. Perhaps it was an
7 oversight, but I do not see them mentioned as eligible
8 to seek deemed status in the proposed rule.

9 I thank you for your consideration of
10 HCANJ's concern, and with the (indiscernible) notice
11 of proposed (indiscernible), we certainly hope that
12 this is not the very stark illustration it appears to
13 be about how DOH has chosen to regulate moving
14 forward.

15 We firmly believe that the collaborative
16 approach between the DOH and the regulating community
17 during advanced standing program enhanced quality and
18 served assisted living residents as well.

19 HCANJ also hopes that, as the DOH moves
20 forward with this proposal, it will affirmatively
21 execute some of the requirement and protocols
22 mentioned above that appear now as being abandoned by
23 the termination of advanced standing.

24 HCANJ fears that, to do otherwise, would
25 diminish the quality of the (indiscernible).

1 So I thank you for listening to these
2 comments and concerns. Again, no objections to moving
3 forward with the proposal. Just wanted to convey our
4 concerns.

5 MR. BAKER: Thank you very much.

6 Is there anyone else from the public who
7 would like to be heard?

8 For what it's worth, I did not read the
9 notices as antagonistic, but I understand the
10 sensitivities of the industry to the comment about not
11 having an industry group supervise itself.

12 Ms. Jenkins, any comments or anyone else?
13 Ms. Chadwick?

14 Any Board members?

15 MS. CHADWICK: No. No.

16 MR. BAKER: Would someone like to make a
17 Motion?

18 MR. PAULINO: I'll make the Motion, Manny
19 Paulino.

20 MR. BAKER: Thank you, Mr. Paulino.

21 Is there a second?

22 MR. HAVENS: I'll second. I'm sorry.

23 Mr. Havens. I'll second.

24 MR. BAKER: Any other comments?

25 No?

1 Lisette, you may call the roll.

2 MS. SANTIAGO-RIVERA: Ms. Jenkins?

3 MS. JENKINS: Yes.

4 MS. SANTIAGO-RIVERA: Mr. Paulino?

5 MR. PAULINO: Yes.

6 MS. SANTIAGO-RIVERA: Mr. Havens?

7 MR. HAVENS: Yes.

8 MS. SANTIAGO-RIVERA: Ms. Roberts?

9 MS. ROBERTS: Yes.

10 MS. SANTIAGO-RIVERA: And Mr. Baker?

11 MR. BAKER: Yes.

12 MS. SANTIAGO-RIVERA: Five yeses. It
13 carries.

14 MR. BAKER: Thank you. And, Lisette,
15 your voice is coming in very softly. I don't know if
16 something changed with the connection.

17 MS. SANTIAGO-RIVERA: Okay.

18 MR. BAKER: Okay. Next up is item number
19 six. Gene? Mr. President?

20 MS. CHADWICK: That would be me subbing
21 for Gene.

22 Good morning again. It's Jackie
23 Chadwick. I'm here to present to you a Notice of
24 Readoption with technical changes to N.J.A.C. 8:42C,
25 which is hospice licensing standards.

1 I would note that we are currently
2 working with and received proposed edits from
3 stakeholders, and are planning to present a Notice of
4 Proposal to amend this chapter in the very near
5 future.

6 Basically, we just ran out of time, and
7 we're just doing it this way for right now.

8 There are two -- the technical changes
9 are updating addresses and websites, and then there
10 are two minor changes removing dates which go back to
11 1999.

12 Any questions?

13 MR. BAKER: Any questions from the Board?

14 MR. HAVENS: This is Mr. Havens again.
15 Just -- I'm sorry. Just from a timing point of view,
16 do you expect the changes to come within the next
17 three months? Six months? Nine months? This year?

18 MS. CHADWICK: By the end of the year.

19 MR. HAVENS: By the end of the year?
20 Okay.

21 MS. CHADWICK: Yes.

22 MR. HAVENS: That's what a couple of
23 people have asked me. Thank you.

24 MS. CHADWICK: You're welcome.

25 MR. BAKER: Thanks, Ellsworth.

1 Anyone else? If not, would someone like
2 to make a Motion?

3 MS. ROBERTS: Mary Kay Roberts. I'll
4 make the Motion to approve the Notice of Readoption
5 for Hospice Licensing Standards codified at N.J.A.C.
6 8: 42C.

7 MR. HAVENS: I second.

8 MR. BAKER: Thank you.

9 Ellsworth, was that you seconding?

10 MR. HAVENS: Yes, sir.

11 MR. BAKER: Thank you.

12 Please call the roll.

13 MS. SANTIAGO-RIVERA: Ms. Jenkins?

14 MS. JENKINS: Yes.

15 MS. SANTIAGO-RIVERA: Mr. Paulino?

16 MR. PAULINO: Yes.

17 MS. SANTIAGO-RIVERA: Mr. Havens?

18 MR. HAVENS: Yes.

19 MS. SANTIAGO-RIVERA: Ms. Roberts?

20 MS. ROBERTS: Yes.

21 MS. SANTIAGO-RIVERA: And Mr. Baker?

22 MR. BAKER: Yes.

23 MS. SANTIAGO-RIVERA: We have five yeses.

24 The Motion carries.

25 MR. BAKER: Thank you.

1 Next is item seven.

2 MS. SANTIAGO-RIVERA: Did you hear me any
3 better during this time, Mr. Baker?

4 MR. BAKER: You're still -- you're still
5 soft with a little background echo, but it's better.
6 The background noise is gone.

7 Okay. Is Mr. Glyn on? I'm trying to
8 find --

9 MR. GLYN: So I would just like to start
10 just by introducing myself. My name is Noah Glyn.
11 I'm the fairly new executive director of the Office of
12 Healthcare Financing Department. I'm meeting with you
13 today to discuss regulations 8:97, Special Adoption
14 and Concurrently Proposed Readoption of New Rules.

15 These new regulations are pertaining to
16 public --

17 MR. BAKER: Mr. Glyn, can you hold up a
18 second? We just had a tap from a member of the
19 public, a couple of members, saying that they cannot
20 hear you, and now you appear to be frozen.

21 MR. GLYN: Can you give me one second,
22 please?

23 MR. BAKER: Sure.

24 MR. GLYN: Thank you.

25 (Short recess was held.)

1 MR. GLYN: All right. I apologize.

2 So just to restart, my name is Noah Glyn.

3 I'm the new executive director of the Office of
4 Healthcare Financing for the Department. I'm here to
5 speak about the new regulations, 8:97, that are in
6 response to Public Law 2021, Chapter 457.

7 So if you just bear with me for a minute,
8 I'd like to just kind of go through this all piecemeal
9 step-by-step. Hopefully it all makes sense at the
10 end.

11 So the Public Law 2021, Chapter 457,
12 tried to accomplish three main points. First was to
13 order the Department to create a long-term care
14 dashboard.

15 The second was to promulgate regulations
16 to require the nursing homes to submit financial
17 statements.

18 And the third piece is to require nursing
19 homes to participate in the National Healthcare Safety
20 Network Long-Term Care Facility annual survey and
21 monthly reporting plan.

22 So these regulations are intended to and
23 achieve these goals. So going through the regulations
24 for each subchapter, I'll be brief. And I'll be happy
25 to talk about anything in more detail.

1 So the first subchapter are just general
2 provisions to define the terms that are laid out in
3 the -- in the regulations.

4 The subchapter two, financial
5 transparency, is the focus. So the statute requires
6 nursing homes to publish on their website
7 owner-certified financial statements. These
8 regulations describe what exactly is required of them
9 to meet this -- to meet these financial statement
10 requirements. It also requires them to post --
11 publicly post CMS cost reports.

12 Subchapter three focuses on the
13 disclosure of operational clinical data. So as
14 mentioned before, the National Healthcare Safety
15 Network long-term care facility annual survey, this is
16 the most widely used healthcare-associated tracking
17 system. It is required for -- for -- so within
18 chapter three also. So it requires the nursing homes
19 to participate in this -- in the NHSN. It also
20 requires the nursing homes to post a link to their
21 dashboards -- to the Department's dashboard, which
22 we've already created, so the -- their website will
23 link to the dashboard.

24 In addition, it requires that the nursing
25 homes publish a contact person for the public to reach

1 out to with any questions.

2 Finally, subchapter four lays out the
3 enforcement penalties for any nursing homes that fail
4 to comply with these requirements.

5 If it's helpful, we can -- I can share
6 our screen and I can kind of demonstrate how the
7 financial statements tie in with the dashboard and --
8 and with the various facilities.

9 So if that's something you would find
10 helpful, I would be happy to demonstrate that.

11 MR. BAKER: Please do so. Thank you.

12 MR. GLYN: All right. Let me just share
13 my screen. Actually, Christina -- okay. My
14 colleague, Christina Carzono (phonetic), will share
15 her screen and we'll walk through it.

16 So this is the Department of Health
17 website which, obviously, you can find. Just a quick
18 Google search. So if you go to "Office and Programs"
19 and you scroll down, you'll see the "Office of
20 Long-Term Care Resiliency." And on the left side
21 which says, "Nursing Home Facility Data," if you click
22 that link, this takes you to the dashboard.

23 So we're going to -- once it loads we're
24 going to present one facility that has actually posted
25 their financial data. That would be Seashore. Right

1 here click "Search," it pulls it up. And there it
2 goes.

3 Okay. So you can see here there's
4 various pieces of information on this site, including
5 a star rating. And on the left side where it says
6 "Financial Statements," if you click on there, so this
7 takes you to the facility's website where there's a
8 public disclosure. It's IRS filing 990, as well as a
9 CMS cost report from 2021.

10 So, ultimately, the facilities will also
11 have to post their contact person on this website or
12 some similar website. In addition, they'll have to
13 post a link to the data dashboard, so that way it will
14 almost be kind of, you know, self referential in that
15 the facility will refer back to the dashboard, and the
16 dashboard will refer back to the facility. So it will
17 be easy for the public to find both data sources.

18 MR. BAKER: Hold on for a second.

19 So right now they're already required and
20 have to expend funds to have the form 990, which is a
21 nonprofit tax return, and also the CMS filing done.

22 And I gather you're suggesting that, as a
23 result of these regs, if adopted, the audited
24 financial statements will be another item on that
25 dashboard to click on?

1 MR. GLYN: Right.

2 To be clear, though, the IRS 990 will
3 fulfill the requirement of the audited financial
4 statements. So a facility that has posted its IRS 990
5 filings will not need to publish something separate.

6 MR. BAKER: Thank you.

7 MR. GLYN: And that is all for our
8 presentation and demonstration.

9 If there are any further questions, and
10 you open that cost report -- somebody asked us to open
11 the cost report.

12 Christina, can you share screen? It's
13 not our intention to pick on this facility in any way.
14 It's just that this was a facility that we found that
15 did have its financial information on there, so --

16 MR. BAKER: Understood. It's a public
17 document.

18 MR. GLYN: Yeah.

19 MR. BAKER: It's an example. Thank you.

20 MR. GLYN: Thank you.

21 MR. BAKER: And the member of the public,
22 thank you as well.

23 Any other comments, Mr. Glyn?

24 MR. GLYN: None from me.

25 MR. BAKER: I have a question. So 990's

1 are formed for not-for-profits. I'm assuming a large
2 number of nursing homes are not-for-profit. I don't
3 know if there are also a large number that are for
4 profit.

5 If you're a for profit, you're not filing
6 a form 990. You would then be required by these regs
7 to get an audited financial; is that how we should
8 read it?

9 MR. GLYN: That is correct, yeah. And as
10 one of the commenters, or one of the people in the
11 chat, just said, most are for profit. And I would
12 agree with that. I don't have the exact breakdown,
13 but, yes, the majority are for profit and they will be
14 required to post an audited financial statement, as
15 defined by these regulations.

16 MR. BAKER: And their tax return as a for
17 profit would not satisfy the Department's
18 requirements?

19 MR. GLYN: No. That is correct.

20 MR. BAKER: Okay. Okay. Any Board
21 members have questions?

22 MS. ROBERTS: So I guess I did have a
23 question. And, you know, I think it's been a concern
24 of the industry that the underlying statute that's the
25 basis for these regs didn't talk about audited

1 financials. That that was removed by an amendment.
2 You know, I think we're going to hear from the
3 industry, but I just had a question in terms of, did
4 the Department feel that it has the authority to ask
5 for audited financials?

6 MR. GLYN: Yeah. I appreciate the
7 question. So the statute uses the term
8 "owner-certified financial statement." Now, that is
9 not a defined term in the accounting, financial, CDA
10 world. That's kind of, I guess, a term of art, you
11 might say.

12 So we do feel that we have the authority
13 to interpret that to require audited financial
14 statements. We feel that's important for the
15 financial viability of the industry to require
16 professional oversight that guarantees accurate
17 information.

18 We all know how important it is to have a
19 financially viable nursing home industry. We feel
20 that these requirements are in line with the statute,
21 and they're also in line with the requirements of
22 other healthcare facilities, including acute care
23 hospitals, which are required to submit audited
24 financial statements every year.

25 So given the language of the law, given

1 our oversight responsibilities and the general desire
2 of the public to have a financially viable nursing
3 home industry, we feel that these -- that this
4 requirement to have audited financial statements is
5 warranted.

6 MS. ROBERTS: Just from a compliance
7 standpoint, so this is a special adoption, so it will
8 be immediately effective when it goes in the register.

9 Is there a time period that you'll be
10 looking for an audited financial statement or --

11 MR. GLYN: The regulations -- I'm sorry.
12 The regulations do stipulate that they're due back by
13 the 15th day of the sixth month after the close of the
14 nursing home's fiscal year.

15 Now, you know, most nursing homes, I
16 imagine, are on a calendar year basis for their fiscal
17 year, so that would be June 15th.

18 The regulations also do give us -- the
19 Department has the authority to, you know, have some
20 leeway, especially in this first year, I would say,
21 given that this is a new requirement.

22 Obviously it would be unreasonable to
23 expect the nursing homes to have audited financial
24 statements, you know, a week from now or something
25 like that. So, you know, we are certainly mindful of

1 the fact that this is a new requirement, and we will
2 be mindful of specific requests in that regard.

3 MS. ROBERTS: Thank you.

4 MS. JENKINS: If I could just -- just
5 from a regulatory standpoint, it is a special
6 adoption, but we're doing -- the Department is doing a
7 concurrent proposal as well. So there's a comment
8 period on this. So while the rules, yes, will be
9 effective upon filing with the OAL, they're good for
10 -- with the concurrent proposal they'll be good for
11 two years. But we are doing that proposal. Otherwise
12 then they will expire at that 24-month mark.

13 But the proposal will allow for the
14 comment period, just like you do any other proposal,
15 and that will then go through and respond to any
16 comments the Department gets.

17 MR. BAKER: Thank you.

18 Any other members have questions or
19 comments?

20 No?

21 We will now open it up to the public
22 portion. I don't know how many folks we have wanting
23 to speak, but please limit your comments to five
24 minutes, if you can.

25 Who's the first person up, Lissette?

1 JOHN INDYK: John Indyk, Healthcare
2 Associ ation.

3 MR. BAKER: Okay. John, and you spoke
4 earlier, so the court reporter has your name.

5 Please proceed.

6 JOHN INDYK: Thank you. Thank you for
7 this opportunity to convey our objections to the
8 Special Adoption and Concurrently Proposed Readoption
9 of New Rules.

10 As a proposed readoption of the rules, it
11 prompted (indiscernible) indicated by the enactment of
12 P.L. 2021, Chapter 457, which passed the Legislature
13 Assembly Bill 4478.

14 HCANJ request that you not approve the
15 proposed (indiscernible) by the Department because it
16 contains a requirement that owner-certified financial
17 statements be audited by a Certified Public
18 Accountant. This requirement is contrary to both the
19 wording of the law and the legislative intent. It
20 imposes an administrative burden that is excessively
21 costly and will divert money away from patient care
22 for no clear regulatory purpose.

23 And Assembly Bill 4478 and counterpart
24 Senate Bill 2759, if they were advancing in the
25 Legislature, HCANJ and our partnered trade

1 associations engaged in extensive discussions with
2 bill sponsors and staff and other legislators --
3 legislative leaders about this legislation.

4 Paramount among our many objections to
5 the provision requiring annual audited financial
6 statements. We did not object to the idea of
7 financial (indiscernible) through the posting of
8 financial disclosures.

9 However, we did object to the
10 requirements that they be audited because of the cost
11 of these audits. And we also objected to the burden
12 of requiring providers to prepare reports that were
13 different than reports that were submitted to the
14 Department of Human Services.

15 As a result of these discussions, various
16 changes were made to the proposal. In fact, the
17 legislation was amended four times as it made its way
18 through the legislative process. Included in the
19 first round of amendments was removal of the
20 requirement for audited financial statements. That
21 provision could have been placed back into the
22 legislation the next three times it was amended.
23 However, it was not.

24 Legislators appreciated the concerns we
25 had raised about requiring audited financial

1 statements, and instead passed a compromised bill
2 negotiated in good faith, and with which HCANJ did not
3 oppose.

4 To be clear, HCANJ was not happy with
5 many of the provisions of the final bill, but we
6 understood that there had to be compromise, and we
7 agreed not to oppose the final bill.

8 The Governor signed the compromised bills
9 into law without sending it back to the legislature,
10 passing that ordered financial statements be placed
11 back in.

12 For the DOH now to ignore both the
13 wording of the law and the clear intent of the
14 legislature by not -- by including a requirement in
15 the proposed new rule that nursing homes' financial
16 statements be audited, is a reversal of the good faith
17 for which this legislation became law.

18 Further, the Department is seeking to
19 impose requirements for audits without conducting any
20 financial analysis about the impact of this
21 requirement upon the nursing homes and the residents.

22 We do not object to including financial
23 audited statements. Why do we object to the DOH
24 including audited financial statements in the
25 proposal? There's several reasons.

1 First, nursing homes would incur
2 significant costs to have financial statements audited
3 by a CPA. Approximately \$100,000 annually for each
4 nursing home. There is no funding for this cost, and
5 there's been no analysis to determine whether nursing
6 homes have the resources to comply. The DOH
7 apparently just presumes, without any data to support
8 the presumption, that these nursing homes have excess
9 cash available to pay this cost. This presumption is
10 absolutely wrong.

11 Second, unlike (indiscernible) reports
12 which are collected by DHS, financial statements are
13 complex, vary from one nursing home to the next, and
14 cannot be used to compare facilities. They certainly
15 cannot be used to accept Medicaid payment rates. And
16 we are unaware of any regulatory purpose for these
17 reports.

18 Neither the law nor the proposed
19 regulations contain any requirement or indication how
20 these reports would be used. In fact, the law does
21 not even require that these reports be submitted to
22 DOH. The law only requires that they be posted on the
23 nursing home's website.

24 I'll continue. Third, the DOH does not
25 permit a single dollar of funding to nursing homes in

1 New Jersey. There's already ample financial
2 transparency reports that nursing homes already are
3 required to submit, including annual direct care ratio
4 reports mandated by law in 2020 requiring nursing
5 homes to report to DOH both total revenues collected,
6 along with reports of revenues that are expended on
7 direct care staff, other wages, taxes, administrative
8 costs, investments and improvements to the facility's
9 equipment and physical plant, profits, et cetera, and
10 any other factor that the Commission shall require.

11 There's also quarterly NF-1 reports
12 submitted by the DOAS to allow for the assessment of
13 financial stability (indiscernible). There are also
14 now Medicaid (indiscernible) reports most recently
15 collected last October in a form and format dictated
16 by the DHS to uniformly convey the full array of
17 operating expenditures made by each nursing home,
18 along with ownership data, revenue streams, and other
19 information DHS deems necessary to require, which
20 amounts to full disclosure -- full financial
21 disclosure of nursing operations. There are also now
22 Medicaid (indiscernible) reports most recently
23 collected last October in a form and format dictated
24 by the DHS to uniformly convey the full array of
25 operating expenditures made by each nursing home along

1 with ownership data, resident experience, and other
2 information DHS deems necessary to require. Which
3 amounts to full disclosure -- full financial
4 disclosure from nursing home operators. And there's
5 also Medicare (indiscernible) reports submitted
6 annually to (indiscernible).

7 (Indiscernible) and finally the burden of
8 the State requiring providers to submit multiple
9 reports to multiple agencies is a type of
10 ill-conceived regulation that makes it more difficult
11 for providers to focus on the care of their residents.
12 The law contains language that calls for DOH to
13 streamline reporting requirements, and this regulatory
14 proposal does the exact opposite.

15 Providers could be required to submit one
16 annual financial disclosure to one state agency that
17 can be (indiscernible) to state agencies and posted
18 for the public. That report should be thorough,
19 accurate, meaningful, and transparent.

20 The hodgepodge reporting that these
21 proposed regulations add do not benefit anyone.

22 And one final point must be made.
23 Traditionally, Medicaid (indiscernible) reports in New
24 Jersey were audited by the State with an auditor's
25 program operator of DHS. The (indiscernible) reports

1 were accurate, the audits rarely resulted in
2 significant findings. HCANJ understands that the
3 State has explored instituting the audited program
4 now. The cost for that program is \$18 million
5 annually.

6 However, the State does not want to
7 budget funds for this purpose. Why then does the DOH
8 think it appropriate for nursing homes that could take
9 the hit of more than \$30 million annually to submit
10 audited financial statements when the State refuses to
11 spend \$12 million less for the same purpose?

12 For these reasons, HCANJ respectfully
13 requests that the HCAB reject the Department's rule
14 proposal before you, unless requirements in nursing
15 home financial statements be audited is removed.

16 I thank you for your consideration of
17 these objections.

18 MR. BAKER: Thank you, Mr. Indyk.

19 Is there anyone else from the public who
20 would like to be heard on this matter?

21 MEAGAN GLASER: Meagan Glaser, LeadingAge
22 New Jersey & Delaware.

23 MR. BAKER: Please go ahead, Ms. Glaser.

24 MEAGAN GLASER: Good morning. Thank you
25 for the opportunity to comment before the Health Care

1 Administration Board on the proposed special adoption
2 of rules concerning nursing home financial
3 transparency reporting and National Healthcare Safety
4 Network participation at N.J.A.C. 8:97.

5 LeadingAge New Jersey & Delaware, which
6 represents 150 primarily nonprofit mission-driven
7 senior care organizations, including nursing homes,
8 strongly supports financial transparency. Our goal,
9 however, is to accomplish this transparency in a
10 manner that is useful for the public, and that it
11 minimizes administrative burden and cost.

12 Our comments today are confined to only
13 one component of the proposal: The proposal to
14 require nursing home financial statements to be
15 audited by an independent Certified Public Accountant.
16 N.J.S.A. 26:2H-46.3, Subsection B, requires the New
17 Jersey Department of Health to require a nursing home
18 to post on its internet site annual owner certified
19 financial statements, among other requirements.

20 LANJDE is concerned about the duplication
21 of efforts and costs associated with the Department's
22 proposal to require these statements to be
23 independently audited by a CPA, when cost reports
24 required by Medicare and Medicaid contain the same
25 information and are prepared by reimbursement experts,

1 many of whom are CPAs.

2 In addition, we want to confirm --
3 although I know Mr. Glyn said earlier, we originally
4 wanted to confirm that the Department intends for the
5 IRS form 990 to completely satisfy all the
6 requirements for the annual owner certified financial
7 statements for nonprofit nursing homes.

8 LeadingAge New Jersey & Delaware believes
9 the proposed language at N.J.A.C. 8:997-2.3B should
10 clearly state this. Therefore, rather than using the
11 language to satisfy all or part of the requirements of
12 posting an annual owner certified financial statement,
13 the provision should state, to satisfy all of the
14 requirements of posting an annual owner certified
15 statement.

16 We hope to be able to work with the
17 Department as this proposal goes through the comment
18 period to arrive at a resolution that addresses the
19 need for transparency, and also reduces duplicative
20 and potentially confusing reporting that could result
21 in multiple financial reports that present information
22 in slightly different ways.

23 The statute itself calls for the
24 Department of Health to review reporting requirements
25 for nursing homes, and take steps to standardize and

1 consolidate the reporting requirements for the purpose
2 of reducing the administrative bonanza on nursing
3 homes in complying with reporting requirements,
4 developing updated standardized data reporting
5 requirements and improving the utility of the reported
6 data and the ability to share the data across systems,
7 including, as appropriate, systems maintained by other
8 state departments and agencies, county and local
9 agencies, and federal authorities.

10 Thank you for your time today.

11 MR. BAKER: Thank you very much.

12 Is there anyone else from the public who
13 would like to be heard?

14 LAURIE FACCIAROSSA BREWER: Yes. Laurie
15 Facciarossa Brewer, State long-term care ombudsman.

16 MR. BAKER: Laurie, please spell your
17 last name for the court reporter.

18 LAURIE FACCIAROSSA BREWER: Do you want
19 me to put it in the chat? Laurie, L-A-U-R-I-E,
20 B-R-E-W-E-R.

21 Oh, okay. Just put it in the chat? I
22 don't know if she can grab it there. It's Laurie,
23 L-A-U-R-I-E, Facciarossa, F-A-C-C-I-A-R-O-S-S-A,
24 Brewer, B-R-E-W-E-R.

25 MR. BAKER: You're cutting out for others

1 in that we can't hear you.

2 LAURIE FACCIAROSSA BREWER: Can you hear
3 me now?

4 MR. BAKER: Yes.

5 LAURIE FACCIAROSSA BREWER: Okay. I
6 turned my camera off. Is this better?

7 MR. BAKER: Yes. Thank you.

8 LAURIE FACCIAROSSA BREWER: Okay.

9 Thanks. Good morning, Chairman Baker, and members of
10 the Board. My name is Laurie Facciarossa Brewer. I'm
11 the State long-term care ombudsman. I don't represent
12 the nursing home industry. I represent the people who
13 live in nursing homes.

14 Thank you for giving me the opportunity
15 to offer comments on the rule proposal before you
16 today with the financial transparency for reporting
17 for nursing homes.

18 MR. BAKER: You're going in and out.

19 LAURIE FACCIAROSSA BREWER: I don't know
20 why. Okay. Is anybody else going to speak? I'll go
21 to another computer.

22 MR. BAKER: Okay. Why don't we give Ms.
23 Brewer a chance to go to a different computer? Is
24 there anyone else who would like to speak? We'll give
25 Ms. Brewer a few minutes to get to a new computer, or

1 even an iPhone sometime works better.

2 (Short recess was held.)

3 MR. BAKER: For the Department staff,
4 after Ms. Brewer speaks, I'll ask you to address the
5 comments raised by the members of the public.

6 MR. GLYN: Certainly.

7 LAURIE FACCIAROSSA BREWER: Laurie Brewer
8 here.

9 MR. BAKER: Okay. Ms. Brewer, start from
10 the beginning, and if you wouldn't mind, speak a
11 little slower so the court reporter can catch
12 everything.

13 LAURIE FACCIAROSSA BREWER: Of course.
14 Good morning, Chairman Baker, and members of the
15 Board. My name is Laurie Facciarossa Brewer, and I'm
16 the New Jersey long-term care ombudsman. I don't
17 represent the nursing home industry. I represent
18 people who live in nursing homes.

19 Thank you for the opportunity to offer
20 comments on the rule proposal before you today related
21 to financial transparency reporting for nursing homes.

22 I firmly support the proposed requirement
23 for nursing home financial statements to be audited by
24 independent CPAs in accordance with generally-accepted
25 auditing standards and not self reported.

1 Independent audits will add significant
2 value for both regulators and resident advocates in
3 three important ways. One, helping to ensure that
4 public funds are spent primarily on resident care.

5 Two, enabling the State to more
6 accurately calculate the true cost of nursing home
7 care and set rates accordingly.

8 Three, allowing us to assess and monitor
9 the fiscal health of each nursing home.

10 That final point can be crucial in
11 averting sudden closures. I think we all recall what
12 happened at the Princeton Care Center last year and
13 the difficulty it presented and continues to present
14 for residents and their loved ones.

15 My staff and I have advocated for
16 financial reporting rules that go beyond those on
17 today's agenda. Specifically we support a requirement
18 that all nursing homes submit financial statements,
19 not only for their own -- themselves or their own
20 facility, but also for any related entities that are
21 paid through their nursing home operations. But we
22 recognize that new legislation is needed to support
23 such a requirement.

24 For today we urge you to approve the
25 proposed rules which have the potential to provide a

1 pass forward in fiscal -- financial transparency in
2 nursing homes.

3 I want to add also that a number of the
4 legislative wrangling around transparency that
5 occurred last year related to a bill that did not even
6 pass last year and was re-introduced this year, and
7 that is a financial transparency bill which has been
8 introduced by Senator Vitale that would require just
9 what I'm talking about, which is audited financial
10 statements, not just of the facility itself, but for
11 related parties. Related meaning that they're part of
12 the same ownership group. And national experts have
13 shown that these type of related parties provide a
14 good vehicle for owners who are so inclined to funnel
15 off money to themselves or to the corporation.

16 So I also want to note that nursing homes
17 in New Jersey, in the State fiscal year budget that we
18 are currently in, received a \$120 million rate
19 increase across the board. \$50 million in state funds
20 and \$50 million in Medicaid funds.

21 So the argument that they don't have the
22 money to do this, when they just received \$120 million
23 in additional funding, (indiscernible) to me.

24 Thank you again for the opportunity to
25 offer my perspective.

1 MR. BAKER: Thank you very much.

2 Is there anyone else in the public who
3 would like to be heard?

4 Hearing no one, I'll close the public
5 portion and give the Department, either Mr. Glyn or
6 Ms. Jenkins, the opportunity to respond to the
7 questions as I see the two big questions were
8 regulatory authority to impose a condition that might
9 have been at least vague in the statute, and then,
10 secondarily, addressing the cost issue.

11 I imagine that they already have
12 significant accounting costs. I don't know that
13 there's a lot of additional cost to go into an audit
14 or not, but I'll let the Department respond. Thank
15 you.

16 MR. GLYN: Sure. And, in addition to
17 those points, I'd like to address a few other points
18 that were made as well. So I just wanted to -- I just
19 want to point out that these financial statements that
20 we are proposing are not duplicative of the Medicaid
21 or Medicare cost reports. For example, there is no
22 balance sheet requirement in the -- in the Medicaid
23 cost reports. It's -- there's no way to know what the
24 current assets or liabilities are at the facility.
25 That's just one example.

1 I believe somebody mentioned that we have
2 no -- the Department has no plans to use this data and
3 select the requirement for its own sake. That's not
4 accurate. We do have plans to complete market
5 analysis and to start beginning to study what
6 constitutes a healthy facility.

7 So we do have plans to use the audited
8 financial data. And that also is part of the reason
9 why it is so important that it be audited to ensure
10 the accuracy to ensure that when we are analyzing what
11 constitutes an unhealthy or -- a healthy or unhealthy
12 facility, that we are looking at accurate audited
13 data.

14 There was also a point that if the
15 Department really felt that this was so important, why
16 don't we just audit it ourselves? Well, the fact is
17 that the law requires that the nursing home is
18 supposed to supply owner-certified financial
19 statements. It doesn't create a mandate for the
20 Department to do that.

21 And the question is: What is an
22 owner-certified financial statement? And we feel that
23 the Department has -- has latitude to interpret that
24 in a way to promote the broader goals of the law. And
25 the broader goals of the law are to promote financial

1 -- financial stability of the overall industry.

2 So the audit requirement is part and
3 parcel of the overall purpose of the law.

4 I also just want to point out that we are
5 not -- we are not going to be the only state to have
6 such a requirement. For example, Pennsylvania has
7 recently instituted a similar requirement that nursing
8 homes publish their audited financial statements as
9 well. So we're certainly not an outlier in that
10 regard.

11 So I'm hoping I responded to whoever made
12 points. If there's something that you feel that I've
13 missed, you can address it, and I'll try to address
14 it.

15 MR. BAKER: Thank you.

16 Did any Board members need follow-ups or
17 additional information from the Department?

18 Ellsworth, you're muted. Still can't
19 hear you. Still mute. Turn off your earbuds maybe.
20 Still can't hear you. You want -- you want -- we'll
21 give you 30 seconds to log out and come back in, El?
22 Maybe that will do it.

23 Lisette, keep an eye out for him.

24 MS. SANTIAGO-RIVERA: Yes.

25 MR. BAKER: We're getting nothing.

1 MS. ROBERTS: You know, I could fill in
2 the space, giving Ellsworth a chance to get live.

3 You know, I seem to recall a few years
4 back, and this is in connection, really, with the
5 Medicaid budget dealing with the nursing homes,
6 whether they were supposed to put in place kind of an
7 early warning system or something to deal with the
8 nursing homes who were in financial trouble.

9 So my question was: Have you worked with
10 Medicaid at all in terms of this financial disclosure
11 pieces? Will that help with an early warning
12 system --

13 MR. GLYN: So we do --

14 MS. ROBERTS: -- concerning the
15 financials? Sorry.

16 MR. GLYN: I'm sorry. We do receive the
17 early warning system data. That data is not audited.
18 And we do have questions about the complete accuracy
19 of all the information that we receive. It's also on
20 a -- you know, a quarterly basis, so it's not like
21 it's necessarily the -- it's not up-to-the-minute data
22 necessarily.

23 So understanding that, you know, when we
24 receive the audited data that won't be up to the
25 minute either, but at least it will be -- we can be

1 sure that it's an accurate reflection of where they
2 were for their previous fiscal year.

3 MS. ROBERTS: Thank you.

4 MR. BAKER: Ellsworth will try to get
5 back in. We'll give him a minute.

6 (Short recess was held.)

7 MR. HAVENS: Okay. I apologize. I don't
8 know what the issue is.

9 My question was: Has -- since there
10 seems to be a question that the -- from the original
11 legislation to final legislation that there's either
12 reinterpretation or changes by the Department, has the
13 Department gotten any feedback from any of the
14 sponsoring legislators on changes and why the changes
15 were made, if changes have been made?

16 MR. GLYN: I have not received any of
17 that information. I can't speak for everybody in the
18 Department. Our focus on the law that actually passed
19 and was -- or the bill that was actually passed and
20 signed in to law. So -- but, no, I have not received
21 any feedback from the -- you know, the sponsoring
22 legislators.

23 MR. HAVENS: Okay. So on the final -- I
24 apologize. I didn't follow the legislation,
25 obviously, that closely.

1 So in the final legislation that was
2 passed, you believe that the Department's -- these
3 regulations are in concert with the final legislation?

4 MR. GLYN: Correct.

5 MR. HAVENS: Is that correct?

6 MR. GLYN: Yes.

7 MR. HAVENS: Okay. That was my question.

8 Thank you.

9 JOHN INDYK: How can you say that it was
10 taken out? Audited financials were taken out of the
11 comments?

12 MR. BAKER: Mr. Indyk, the public portion
13 is closed. Please mute yourself. This is a portion
14 for Board members.

15 Any other Board members?

16 MK, I know you had something.

17 MS. ROBERTS: Well, the long-term care
18 ombudsman talked about there's new legislation that
19 would require audited financials. So, I mean, it kind
20 of goes to Ellsworth's point. If they have dropped
21 new legislation to require audited financials, doesn't
22 this --

23 MS. SANTIAGO-RIVERA: No. The difference
24 is that it's for related parties.

25 JOHN INDYK: I can't --

1 MR. BAKER: One at a time. Let Mary Kay
2 finish her question, and then -- and then we'll allow
3 an answer. Thank you.

4 MS. ROBERTS: Okay. I hear what you
5 said. I just -- I wanted clarification because if the
6 legislature has new legislation or legislation that
7 didn't pass last session, that would require the
8 audited financials. I thought that that would be
9 clear legislative intent that they didn't require in
10 the last statute that had passed and was signed into
11 law audited financials. But if it's unrelated parties
12 that -- I think that's what you were just saying.

13 MR. BAKER: Okay. So I'm just trying to
14 keep everything organized for the court reporter.

15 So, Madam Ombudsman, would you please
16 respond? Thank you.

17 MR. BAKER: Laurie, you're still muted.

18 MS. FACCIAROSSA BREWER: Okay. Can you
19 hear me?

20 MR. BAKER: Yes.

21 MS. FACCIAROSSA BREWER: I put it in the
22 chat, the new legislation. My answer is in the chat.

23 MS. SANTIAGO-RIVERA: This is Lisette.
24 Her chat reads, "The new legislation speaks to audited
25 financial statements for related parties. This one

1 does not."

2 MR. BAKER: Thank you, Lisette. I was
3 just going to ask how we got that into the record.
4 You took care of it. Thank you.

5 MS. SANTIAGO-RIVERA: You're welcome.

6 MR. BAKER: Are there any other Board
7 members who have questions? I have just one more for
8 staff. Remind me what the comment period is and the
9 process for the comment period.

10 MR. GLYN: There is a 60-day comment
11 period. It is --

12 MS. JENKINS: Mike, this is a special
13 adoption with a concurrent proposal. So the special
14 adoption will go into effect -- so the rules will go
15 into effect when they're filed with the OAL.

16 But with the current proposal -- because
17 the special adoption will only be good for two years.
18 So to keep, you know, any rule going past that, you
19 would have to do the proposal, which the Department is
20 doing now. So at the same time we're doing the
21 proposal, which will have a 60-day comment period.

22 Does that answer your question?

23 MR. BAKER: Yes, it does. Thank you.

24 Are there any other questions or comments
25 from the Board members?

1 Hearing none, would someone like to make
2 a Motion?

3 I'll make a Motion for approval of the
4 Notice of Special Adoption and Concurrently Proposed
5 Readoption of New Rules for Nursing Home Financial
6 Transparency Reporting and the National Healthcare
7 Safety Network Participation codified at N.J.A.C.
8 8: 97.

9 Is there a second?

10 MR. HAVENS: This is Ellsworth. I'll
11 second.

12 MR. BAKER: Thank you.

13 Any last comments from the Board members?
14 Hearing none, Lissette, please call the
15 roll.

16 MS. SANTIAGO-RIVERA: Ms. Jenkins?

17 MS. JENKINS: Yes.

18 MS. SANTIAGO-RIVERA: Mr. Paulino?

19 MR. PAULINO: Yes.

20 MS. SANTIAGO-RIVERA: Mr. Havens?

21 MR. HAVENS: Yes.

22 MS. SANTIAGO-RIVERA: Ms. Roberts?

23 MS. ROBERTS: No.

24 SPEAKER: Somebody with knowledge of this
25 issue that can be --

1 MR. BAKER: Please mute yourself
2 whoever's speaking.

3 Lisette, please continue.

4 MS. SANTIAGO-RIVERA: And Mr. Baker?

5 MR. BAKER: Yes.

6 MS. SANTIAGO-RIVERA: We have five yeses.

7 Motion carries.

8 MR. BAKER: Thank you.

9 MS. JENKINS: I'm sorry. Mary Kay, did
10 you say yes or no? I'm sorry. Just to clarify for
11 the record.

12 MS. ROBERTS: My vote is a no. I have an
13 issue with the audited financials. I think we may be
14 going too far in terms of owner's certified financial
15 statement. But, you know, I certainly appreciate the
16 intent behind the regulations themselves, and I look
17 forward to the comment period.

18 MR. BAKER: Thanks, Mary Kay.

19 MS. SANTIAGO-RIVERA: My apologies. We
20 have four yeses. Motion carries.

21 MR. BAKER: Are there any other comments
22 from members or from the Department?

23 Hearing none, I'll make a Motion to
24 adjourn.

25 Is there a second?

1 MR. HAVENS: Second. Mr. Havens second.

2 MR. BAKER: All in favor say aye.

3 MS. JENKINS: Aye.

4 MR. PAULINO: Aye.

5 MR. HAVENS: Aye.

6 MS. ROBERTS: Aye.

7 MR. BAKER: Thanks, everyone. I also
8 want to thank those from the industry who came out and
9 spoke today, also our ombudsman, and to encourage you
10 all to participate in the -- what will be on the
11 additionally filed item, the 60-day comment period.

12 I thank you all, and we will see you next
13 month.

14 MS. SANTIAGO-RIVERA: Thank you.

15 (Meeting was concluded at 10:30 a.m.)

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C E R T I F I C A T I O N

STATE OF NEW JERSEY

COUNTY OF CAMDEN

I, Cindy Pineiro, a Certified Shorthand Reporter and Notary public of the State of New Jersey, do hereby certify that I reported the meeting in the above-captioned matter; that the foregoing is a true and correct transcript of the stenographic notes of testimony taken by me in the above-captioned matter.

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.



Cindy Pineiro, CSR #30XI00181500

Notary Public #50010742 Exp. 2/24/25

Dated: February 15, 2024

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