

UNITED STATES OF AMERICA

+ + + + +

DEPARTMENT OF HEALTH AND HUMAN SERVICES

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

+ + + + +

CITIZEN'S HEALTHCARE WORKING GROUP

PUBLIC MEETING

+ + + + +

Tuesday, April 12, 2005

+ + + + +

Agency for Healthcare Research and Quality

540 Gaither Road

Rockville, Maryland

+ + + + +

8:00 a.m. - 3:00 p.m.

MEMBERS PRESENT:

- RANDALL L. JOHNSON, Chair
- CATHERINE G. McLAUGHLIN, Vice Chair
- FRANK J. BAUMEISTER, JR., Member
- DOROTHY A. BAZOS, Member
- MONTYE S. CONLAN, Member
- RICHARD G. FRANK, Member
- JOSEPH T. HANSEN, Member
- THERESE A. HUGHES, Member
- BRENT C. JAMES, Member (present telephonically)
- PATRICIA A. MARYLAND, Member
- ROSARIO PEREZ, Member
- AARON SHIRLEY, Member
- DEBORAH R. STEHR, Member
- CHRISTINE L. WRIGHT, Member

STAFF PRESENT:

MICHAEL O'GRADY, Assistant Secretary for Planning and
Evaluation, Department of Health and Human
Services

LARRY PATTON, Senior Adviser to the Administrator,
Agency for Healthcare Research and Quality

ANDY ROCK, Department of Health and Human Services

CAROLINE TAPLIN, Department of Health and Human
Services

KENNETH COHEN, Department of Health and Human Services

I-N-D-E-X

Approach to Our Task	4
Hearings	
Reports	
Break	125
Approach to Our Task (cont.)	128
Lunch	204
Legal Requirements and Logistics	206
Other Working Group Matters	237
Adjourn	

P-R-O-C-E-E-D-I-N-G-S

8:09 a.m.

CHAIRMAN JOHNSON: Good morning,
everybody. Thank you for being here on time.

We've been waiting to see if Brent James would join us at 8:00 o'clock our time which is 6:00 o'clock his. But he hasn't called in yet. So we will begin, and proceed without Brent until he gets here. It would be our hope that we would be able to ask him to introduce himself, like we did yesterday, hear some of his thoughts on issues and so forth, and maybe even hear some of his thoughts on ideas that have been raised.

And then what we would do is get into the agenda items for our discussion today.

At the end of the day one of the things we'll talk about is to what extent would we want to use electronic communication such as this for our meetings. In other words, I suppose there are a variety of ways you could do this.

You could have television where you have the slides up on the screen and the conference call.

Another is to have what I'll call

1 videocasting, but that's the wrong term. But it's the
2 idea of the picture that's on the screen. The camera
3 is there. The camera takes a picture of us. He's got
4 a camera at the other end, or she has a camera at the
5 other end that takes a picture of the other folks.
6 And it's kind of like a live TV program back and
7 forth.

8 But we'd like you to give some thought to
9 the advantages and disadvantages of that, and hear
10 some of your thoughts at the end of the day regarding
11 that.

12 And then what Catherine and I would like
13 to do is go back with some of those who are going to
14 serve as staff members to evaluate your comments along
15 with cost items, and maybe some experience with other
16 similar commissions to see whether or not we would
17 want to do that.

18 If we were all dispersed -- let's say we
19 had three or four of you who were dispersed and call
20 in by conference call, that's going to have a
21 significantly different impact on our group discussion
22 than with all 14 of us, 15 of us, around the table.

23 So let's think about the advantages; let's

1 think about the disadvantages. We'll come back and
2 talk about that later.

3 I would just like to thank you, to start
4 the day, I'd like to thank you for your participation
5 yesterday. I thought everybody contributed and had
6 good content for all of us to hear.

7 So we encourage and invite you to continue
8 to participate in the same respect.

9 This is a personal thing that I am going
10 to share with you, and it's a request of you. We know
11 that we are coming from different backgrounds □
12 geographically, vocationally, and many other ways as
13 well. So there is a likelihood that we won't
14 communicate as effectively as would be desirable.

15 And I'll be used to a certain kind of
16 communications strategy and methodology of operation,
17 and you'll be used to maybe a different one.

18 So here is my request of you: when I
19 irritate you as the chair, and that's probably going
20 to happen, not intentionally, but when it does or if
21 it does, come and talk to me, okay? Don't hold it in.

22 Confront me. Really. I'm very serious about that.

23 I have found with others, including my

1 kids, that when I hear their perspective it changes my
2 mindset a little bit. So oftentimes we won't have a
3 chance in all of these meetings to communicate as
4 fully as might be desirable.

5 So I'm looking at Aaron, and I'm going to
6 say, Aaron, if I irritate you, you come back and you
7 confront me and share with me your perspective.

8 And Chris, the same thing.

9 MR. O'GRADY: But doesn't that leave us
10 open, that you'll come to us and confront us?

11 CHAIRMAN JOHNSON: I will. I will. And
12 that's not a threat, that's a promise.

13 VICE CHAIR McLAUGHLIN: In fact, Mike,
14 there's something I've been wanting to tell you.

15 MR. O'GRADY: I'm getting the message loud
16 and clear.

17 (Laughter.)

18 CHAIRMAN JOHNSON: Approach me in private.

19 And most often I will at least understand the other
20 person's perspective.

21 And I'd really like to just lay it out on
22 the table, and set the record straight. How you work
23 with others, I'm not suggesting how you do that,

1 although I would encourage your consideration of that
2 approach as well.

3 I picked on Aaron not because we have a
4 difference, because I think we have a good dialogue,
5 but just because I was looking at him at the time.

6 DR. SHIRLEY: We've had a confrontation
7 already.

8 CHAIRMAN JOHNSON: Okay. Before we
9 proceed into the discussion, Ken, Caroline and
10 Catherine spent some time last night while we were
11 eating putting some consolidation slides. Was Andy
12 eating or was he with you?

13 VICE CHAIR McLAUGHLIN: Andy? No, he just
14 ate.

15 (Laughter.)

16 CHAIRMAN JOHNSON: Okay. Well, thank you,
17 Caroline and Ken and Catherine.

18 What we're going to do is, we'll just
19 review that and make sure that we have heard what you
20 said. And maybe, Catherine, you can kind of guide
21 some of our discussion.

22 VICE CHAIR McLAUGHLIN: Sure. Yes.

23 Actually, Caroline and Ken did most of

1 this, and what they were trying to do was group the
2 issues. And partly it's because, as we went, as you
3 can see up on the wall, there was some reoccurrence of
4 some themes that kept coming up, just phrased slightly
5 differently. And we decided we needed to have some
6 better way to group them.

7 In addition we wanted to look at what the
8 mandate was--

9 CHAIRMAN JOHNSON: Hang on. Let me
10 interrupt. Some of you are starting to take some
11 notes.

12 This will be available to you. So we're
13 going to provide this to you so you don't need to take
14 notes. But if you want to take notes you're welcome
15 to.

16 I'm sorry.

17 VICE CHAIR McLAUGHLIN: That's all right.

18 We also wanted to check the list that was
19 raised yesterday with the lists that were in the
20 mandate which we went over yesterday morning for both
21 the hearings, the subjects that we're required to
22 raise at the hearings, and the items that we're
23 required to include in the report, and say, okay, is

1 there something missing? Is there a mismatch?

2 In the statute itself there is a division
3 between roughly cost, quality and access. So we
4 thought, all right, let's see how that fits. And
5 that's

6 where Caroline and Ken went through all of the issues
7 and put most of them within that category.

8 Now as you already know from my comment
9 yesterday afternoon -- and I suspect many of you agree
10 with me -- many of these issues and particularly the
11 initiatives actually cross-cut all of those. So in
12 some ways this is an artificial separation, but it was
13 used to just get a first start on how to group it.

14 So what follows is their grouping of
15 issues under cost, quality and access. And then there
16 were the leftovers, sort of those overarching big
17 ideas that people brought up that are going to be
18 included.

19 So the first one is the cost issues. And
20 it's a long list, there are a lot of problems, but
21 these are the different issues that the group brought
22 up under what we said was cost, that cost is a barrier
23 to getting it as well as cost is a problem for the

1 payer and state budgets, et cetera. So these were the
2 different things about the cost issues and how money
3 matters in the health care problem.

4 Were we going to go over individual ones,
5 Randy?

6 CHAIRMAN JOHNSON: No, but just take a
7 look at that. And I can see that we've missed a
8 couple already, in my mind at least. Or I'm just not
9 recognizing them.

10 One of the issues that we have is doctors
11 not being paid sufficiently under Medicare, at least
12 that's a perception, and they're leaving the system.

13 MR. O'GRADY: I don't think the data necessarily
14 backs that up.

15 MS. TAPLIN: We had that issue under
16 "Access."

17 VICE CHAIR McLAUGHLIN: That's a good
18 example. We had that as "Access" because of
19 physicians potentially not being there for a
20 particular group. Why don't we go through those three
21 slides?

22 CHAIRMAN JOHNSON: And my other point
23 would be, as you look at this when you go home, if you

1 see some things, or you think when you get home, we
2 didn't include this, shoot that back to Ken. And
3 he'll consolidate your input and share with Catherine
4 and myself initially, and then we'll share with the
5 rest of the group.

6 MR. O'GRADY: But, Catherine, when we
7 think about these, it shouldn't be because it appears
8 on one list, that means that it's -- it's just got to
9 appear at least one.

10 VICE CHAIR McLAUGHLIN: Exactly. Because
11 we have to start this mapping strategy. And so if
12 you go to "Access" you'll see, that's a long list.
13 It's crowded on that slide. That's where you see,
14 Randy, we said payment issues, for example, are
15 inadequate. Or it's also the paperwork that was
16 talked about yesterday, that different payers are
17 having problems with their providers.

18 Were you going to say something?

19 CHAIRMAN JOHNSON: I was when you're done.

20 VICE CHAIR McLAUGHLIN: I was going to go
21 to the quality side.

22 CHAIRMAN JOHNSON: We've added one line
23 here that wasn't mentioned yesterday, and that's the

1 very bottom one where it says availability of risk-
2 bearing organizations. We can provide all sorts of
3 preferential tax treatment, but if there is no place
4 from which an individual or a small company can buy
5 coverage, it doesn't make much difference.

6 And so maybe that was captured some place
7 else, but in terms of access we added that one as
8 well.

9 Just an example of something that came to
10 mind following our meeting that we hadn't included
11 yesterday.

12 MS. HUGHES: Randy, under "Availability of
13 Providers" you have physicians and nurses. Well, what
14 about mental health providers?

15 CHAIRMAN JOHNSON: Mental health
16 providers?

17 MS. HUGHES: Yes, because they fall under
18 a different category than nurses and physicians, and
19 we all spoke about that lack of mental health access.

20 CHAIRMAN JOHNSON: Okay. Is that the
21 availability of the providers themselves? We don't
22 have enough of them, or we don't have access to them?

23 MS. HUGHES: Well, I know in Los Angeles--

1 CHAIRMAN JOHNSON: Or coverage for them?

2 MR. FRANK: Well, it's geography, too.

3 MS. HUGHES: I think that it's probably
4 all of those. I know that there is a lack of mental
5 health providers where my clinic is. It's 97,486 to
6 one psychiatrist. So it is an access issue, but it
7 also is an issue of language, culture. So there is
8 also a lack of appropriate --

9 VICE CHAIR McLAUGHLIN: Oh, good, now we
10 have the printouts. Now we don't have to toggle back
11 and forth from slides, because we have the printouts.

12 CHAIRMAN JOHNSON: And, Ken, do you have
13 that? Thank you.

14 Yes.

15 DR. SHIRLEY: There is also the
16 classifications of providers such as physician
17 assistants and nurse practitioners. When you say
18 "physician," you've missed another group of primary
19 care providers.

20 MR. FRANK: Why don't you just say "other
21 providers"?

22 VICE CHAIR McLAUGHLIN: Exactly.
23 Remember, this was the list from things that were

1 raised yesterday as opposed to what we know should be.

2 So absolutely. Actually, in my mind it should be
3 institutional as well as individual providers.

4 MS. STEHR: Yes. I was going to add the
5 homecare workers. Because you can give you all the
6 services you want, but if you can't find a provider
7 you're totally out of it anyway.

8 VICE CHAIR McLAUGHLIN: You'll see later
9 when we talk about the hearings and stuff, we say
10 institutional, individual providers. And we say "paid
11 and non-paid caregivers," and you know, so absolutely.

12 And what this means is that the
13 availability of providers has to also be broadly
14 defined here.

15 MR. O'GRADY: Well, can any of us think of
16 an area where there is an oversupply of providers?

17 VICE CHAIR McLAUGHLIN: Oh, yes, of
18 course.

19 MR. O'GRADY: What, specialists in certain
20 metro areas?

21 VICE CHAIR McLAUGHLIN: Absolutely.

22 MR. O'GRADY: Psychoanalysts in Boston.

23 VICE CHAIR McLAUGHLIN: Or New York City.

1 MR. O'GRADY: Or in Washington, actually.
2 Okay. Get that big bus, they're going to LA; right?
3 I mean there certainly is a big question here about
4 how much money is going into the system, how you do
5 see this sort of lack of providers, across a spectrum
6 of a number of different areas.

7 And there may no be an economic answer. I
8 used to study the lack of nurses in rural areas. You
9 know, somebody's husband gets transferred and all of a
10 sudden that county has a lack of nurses.

11 I mean there are all kinds of other things
12 going on. But I also think it's a very broad base --
13 institutional, individual across the base, physicians,
14 other sorts of service workers. It's really across
15 the base.

16 VICE CHAIR McLAUGHLIN: Right.

17 MR. HANSEN: I had a question for Mike,
18 and it goes to this, whether doctors are leaving
19 Medicare. My sense was that that's happening. You
20 made reference yesterday to the data, and I was just
21 kind of curious how current that data is.

22 MR. O'GRADY: It was the last time that we
23 had a national cut in physician payment, which would

1 have been '02 maybe, where it actually went down.

2 Congress at that point had MedPAC, the
3 Medicare Payment Advisory Commission, do a fairly good
4 systematic, scientific survey of providers. The basic
5 question was: Given Medicare's payment rates, are you
6 no longer taking Medicare patients?

7 What changed was that there was a number
8 of physicians in the survey who said, I'm not going to
9 just default to say I'll take them. I'm going to
10 think about it a little bit. So it certainly will
11 encourage me to take them more.

12 They had options like, definitely take
13 them, no question; take them but after some
14 consideration; neutral; and then less likely to take
15 them; no I'm not taking any more.

16 So they found between those two top
17 categories, is it just a slam dunk, definitely, if
18 they walk in the door and I've got room I'll take
19 them, versus I want to think about it a little bit.
20 Are they the parents of some of my patients or some of
21 those other things.

22 So more docs definitely wanted to think
23 about it, but in terms of the bottom line of did

1 people not get taken, they didn't really find
2 anything significant, that I remember, out of that
3 data.

4 CHAIRMAN JOHNSON: I don't think we have
5 the time today to discuss whether or not there is a
6 shortage of Medicare docs. But the fact that we have
7 a question here just invites two things.

8 Number one, we should look at the data.

9 And also, look at this subject not only
10 today but for the future. My understanding, based on
11 what I've read, is that there are a lot of nurses who
12 are in the 50 to 65 age range, and if those all are
13 thinking about, or most of them are thinking about
14 retirement over the next 5 to 10 years, that might
15 have an impact on us as well.

16 So we need to look at probably current and
17 future, if the data shows that for a variety of
18 physicians.

19 And, Caroline, as you're listening to some
20 of this, as you're beginning to think of data matters
21 and so forth, if you would kind of join us all in
22 thinking creatively about what we can get at and so
23 forth.

1 Okay. Aaron and then Rosie.

2 DR. SHIRLEY: The question doesn't capture
3 those providers who are no longer taking new Medicare.

4 The way the question is phrased doesn't capture those
5 providers who say, all of my current Medicare patients
6 I'll continue to serve, but I will serve no new ones.

7 Then that question doesn't capture that.

8 CHAIRMAN JOHNSON: Okay. That's a
9 distinction. And, Ken, I'm sure you've captured that;
10 right?

11 MR. O'GRADY: Actually, that was exactly
12 the questioned they asked. It was new people. It
13 wasn't anybody in their current list. It was all,
14 will you take new ones.

15 CHAIRMAN JOHNSON: Okay. Rosie and then
16 Joe and then Montye.

17 MS. PEREZ: Mine is just a little
18 different as far as the availability of providers,
19 linking them to the academic institutions' capacity
20 to, you know, accept nurses. I know in Houston
21 they're turning them away because the university
22 systems don't have the capacity.

23 You know, there are a thousand people that

1 want to be nurses but only a hundred slots because of
2 a lack of faculty, maybe money. So I'm wondering, we
3 didn't bring it up yesterday, so I'm wondering as far
4 as access issues or cost, if that is a consideration.

5 If we're not training people to fill the gap as
6 nurses are retiring, then our nursing shortage is
7 going to get even worse.

8 CHAIRMAN JOHNSON: Okay. We've heard your
9 comments. We're not going to answer your questions
10 because of time constraints. But what you're doing
11 is, you're telling us, we need to try to get at some
12 of that.

13 Okay, Joe.

14 MR. HANSEN: Well, this just goes to the
15 private sector. I think this is just so tiny, but
16 doctors, some doctors are out of the insurance system
17 too, and just doing an annual fee, and then they don't
18 do any paperwork. But I assume that's just a very
19 tiny piece right now. But it does limit access.

20 MS. CONLAN: For me in my county there are
21 lots of providers. Many of them are not accessible to
22 me because I have to have them accept both Medicare
23 and Medicaid. And so while the majority of them,

1 because they primarily serve seniors accept Medicare,
2 they don't accept Medicaid, and then that 20 percent
3 makes it difficult for me.

4 But then there is the issue, too, of
5 providers now not accepting Medicare assignment. So
6 they want the patient to pay out of pocket in advance
7 for this additional fee.

8 Still it's set; there is a cap by
9 Medicare. But, you know, it's just more cost for
10 someone like me.

11 CHAIRMAN JOHNSON: What I'm hearing you
12 say is that when we did the Medicare Modernization Act
13 there was a lot of play on seamless coverage, of
14 people covered by both programs.

15 And what you're saying is it's not as seamless as it
16 was intended to be.

17 MS. CONLAN: Exactly. There are very few
18 Medicaid providers in my country. Those that are
19 serving Medicaid patients supposedly do it out of the
20 goodness of their heart.

21 And I was telling Dr. Shirley about the
22 treatment that's received, and it makes it so it's,
23 you know, given begrudgingly. And then Medicaid

1 patients feel very uncomfortable in seeking that
2 coverage.

3 CHAIRMAN JOHNSON: Okay. Do you want to
4 move on?

5 VICE CHAIR McLAUGHLIN: The quality
6 issues. This is what we talked about yesterday,
7 although I know that there are a lot more. And I
8 think it was reflective of how the conversation
9 proceeded yesterday, and talking about personal
10 reasons for being involved, that we didn't get into
11 the quality issues beyond comments about the need for
12 the patient to be better educated about choices, and
13 the need for communication, and the fact that
14 sometimes the system doesn't always work.

15 Richard.

16 MR. FRANK: I think Randy made the point
17 that we don't pay people for doing a good job. So it
18 seems to me that at least we can say "absence of
19 incentives to promote quality."

20 MR. O'GRADY: I assume that order doesn't
21 imply -- because we talked a lot about prevention.

22 VICE CHAIR McLAUGHLIN: No. And it
23 doesn't mean they're equal either. That tended to be

1 the real focus yesterday.

2 MR. O'GRADY: There are some other things
3 like personal responsibility and some of that stuff
4 that we talked about. Okay, coming up.

5 VICE CHAIR McLAUGHLIN: You have your
6 little handout there in case you want to have a
7 preview.

8 MR. O'GRADY: Well, I like to stick with
9 what you're --

10 VICE CHAIR McLAUGHLIN: You don't like to
11 read the last page of a book?

12 MS. TAPLIN: One of the things embedded in
13 holistic health care is the idea that mental health
14 and physical health aren't separate, but they're one
15 and the same thing.

16 VICE CHAIR McLAUGHLIN: Yes. We need to
17 add something about the incentive structure.

18 And then the overarching data, all right,
19 this whole issue of, it was brought up, not only for
20 communities, if you're going to have a community level
21 you can't get the data at that level. But also Randy
22 brought this up about data on performance. So it's a
23 very overarching theme that kept coming up about data

1 needs.

2 And then there is personal responsibility,
3 Mike, right there for you. And there were two sides
4 of it. One was financial, but also was taking charge
5 of personal health care, and Montye's comment about
6 dieting and nutrition and exercising, and Pat's about
7 her mother.

8 Caroline and Ken put both of those in
9 there for personal responsibility.

10 And then the link between economic cycle
11 and Medicaid spending was our focus, but it can go
12 much beyond that. It's for any kind of spending.

13 In Michigan, we talked about the stress on
14 the state budget. But Randy brought up too the auto
15 industry as so dominant in Michigan.

16 So they're also having to back out on
17 retiree health benefits and other kinds of costs
18 because of the private economy problems.

19 So I think we may want to make it that
20 broader. And then just the lack of an integrated
21 health care system, that was brought up.

22 So this is what we did with the
23 contributions that were made yesterday. And we're

1 welcoming further. Richard and Dotty?

2 MR. FRANK: You want to go first?

3 MS. BAZOS: Sure. All right. Fine. I
4 would just expand the first one, "need data for
5 decision-making with policymakers." But also
6 providers. I mean I just don't want to limit it to
7 policymakers. So if we could make that a little
8 broader.

9 MR. O'GRADY: Can we add consumers, too?
10 Because part of that is personal responsibility --

11 MS. BAZOS: Sure. So that's just a point.
12 Thank you.

13 MR. FRANK: My comment is really about a
14 way of starting to organize ourselves. I think the
15 cost, quality and access certainly is a reasonable
16 traditional way of doing it. What I was pondering as
17 we left here yesterday was, in a sense, in order to
18 make progress on solving the problem since you guys
19 pushed us very quickly to start thinking that way, it
20 seems to me there is coverage issues. There is the
21 problem of how do we cover people who aren't covered
22 no matter what the system looks like.

23 And then what do we want the system to

1 look like? And those seem to be like two different
2 directions. And I was just wondering whether we ought
3 to perhaps start organizing our thinking, perhaps
4 along those lines, perhaps along others.

5 But I was trying to figure out how we
6 going to organize it. Cost, quality and access
7 doesn't help us that much on starting to organize
8 ourselves for a solution.

9 So the second comment is well, it's
10 actually a suggestion is, it sounds like we could
11 probably use sort of some reading as a group. Because
12 there is just a lot of basic questions of fact that
13 are on the table that keep coming out on the table
14 that we could probably dispense with at home in the
15 privacy of our own dens rather than here in public.

16 And I was thinking things like the MedPAC
17 report, you know the annual reports.

18 MR. O'GRADY: You're that guy in class who
19 always asks for homework; right?

20 MR. FRANK: If it would shorten class,
21 absolutely. But a few of those. The CBO reports,
22 some of the Kaiser Family Foundation fact sheets.

23 CHAIRMAN JOHNSON: We agree with you. And

1 that's one of the things we contemplated sending out
2 for this meeting even. In fact, we have sent a couple
3 of things to you.

4 One is --

5 MR. FRANK: The GAO thing.

6 CHAIRMAN JOHNSON: -- the GAO thing. And
7 that's got a lot of very important information in it.

8 These two reports that we've provided for
9 you to take home today are two more.

10 But we will provide more information to
11 you, and oftentimes, you're provided a big binder
12 three days before the meeting. Come, and bring it
13 with you and have read it all.

14 I don't know if the commissions do that,
15 but I get a lot of that kind of stuff in my job. And
16 maybe what we can do is help you by providing you
17 information more sporadically, as opposed to
18 everything at one time.

19 But I think your suggestion is a good one
20 and we'll try to live with that and respond to it.

21 MS. CONLAN: I brought this. I don't know
22 if it's appropriate to mention it now. I'm a member
23 of a patient registry for MS patients. And quarterly

1 we get these really long surveys that we're asked to
2 fill out, all different kinds of data that we provide
3 on an ongoing basis.

4 It kind of provides, like, a longitudinal
5 study of our MS, but then other things can be included
6 in the survey.

7 And then in return we get this quarterly
8 publication. So the reason I brought this particular
9 one is, they pulled out of that database information
10 about coverage or I guess care for veterans using the
11 VA system, veterans not using the VA system, and other
12 MS patients.

13 And in terms of integrated health care, I
14 was quite envious. I wanted to sign up and go off to
15 Iraq or something so I could be a veteran. Because
16 the array of services that are available according to
17 this article if in fact it proves to be true, I was
18 envious of it in terms of the range of health care
19 providers.

20 So I don't know if you wanted to make a
21 copy of this.

22 CHAIRMAN JOHNSON: Okay. Would you leave
23 a copy with Ken?

1 MS. CONLAN: They are collecting
2 information on MS patients and spinal cord injury
3 patients. And it also includes the collaboration with
4 the paralyzed veterans.

5 MR. O'GRADY: This brings up an
6 interesting point, and Richard touched on it a little
7 bit.

8 In terms of at least our first rounds of
9 expanding our knowledge in this area, I would stay
10 with very neutral. I wouldn't go to interest groups.

11 I wouldn't go to foundations that are particularly
12 associated with one side or another.

13 I'm thinking that we can ask collegially.

14 I mean there are people who do this as their job. I
15 mean this is what, having spent way too much of my
16 career at the Congressional Research Service, that's
17 really what they do. You get your primer on Medicaid,
18 Medicare, and you get the nuts and bolts, how they
19 pay, who's eligible.

20 And it doesn't waste your time and gets
21 right to the point and gives you the stuff.

22 Now they only work for Congress. But we
23 could gently ask, as colleague to colleague, could we

1 get some access to some of that sort of stuff. That
2 would be more than enough reading, I think, to keep
3 people busy. But make sure you're dealing with people
4 whose balance and fact checking and all that sort of
5 stuff is their bread and butter.

6 CHAIRMAN JOHNSON: I have two additional
7 thoughts I'd like to share with you on this slide.
8 And then I'll get to the second one in just a second.

9 I'm going to ask Joe to think about my comments and
10 build on them if you would.

11 But the first one is related to how we
12 might think for the future. And as I was thinking
13 when I woke up about 2:30 this morning thinking about
14 all of this stuff. And that's an hour earlier than
15 normally I do. So I'm not sure what that says.

16 But I got to thinking. I think that when
17 we look at this, and this isn't a statement, this is
18 how we have to do it, but I'm just thinking about it,
19 maybe what we need to do is look at these ideas that
20 we have that will deal with the medical system *in*
21 *toto*, such things as IT, and such things as
22 information, and so forth, quality initiatives, what
23 brings about improved quality.

1 And then we're going to have to maybe be a
2 little bit more targeted to specific populations. And
3 I'll just the population that just doesn't have enough
4 money to buy health care insurance. That will be a
5 targeted, I think, group of folks that we might have
6 to think about in a different way than overall
7 population.

8 And you might want to give some thought to
9 how we might do that as well. That's not to say this
10 is what we have to do, but just an idea for your
11 consideration.

12 An issue that is not here -- and I'm going
13 to start and if you'd build on my comments or
14 disagree, I'd appreciate it. One of the issues I'm
15 hearing among some of my colleagues is something
16 that's called "legacy costs."

17 And what's meant by that is, we have some
18 industries that have long-term workers, very
19 significant numbers in the retirement community,
20 compared with others their benefits are richer.

21 In many cases, there are negotiated
22 benefits. And when those organizations are ones
23 competing with others it's been a real challenge for

1 them.

2 And, number two, there seems to be a
3 desire by some of those industries to take their
4 benefits obligations and shift those, to the extent
5 they can, to the public.

6 And so the question is: How do we respond
7 to that? And how will the United States respond to
8 that?

9 And it's not my intent to answer that
10 question now. It's just to throw that out as an issue
11 that at least a number of us have been facing.

12 And, Joe, if you would comment on your
13 perspective on that since you're working with
14 represented people.

15 MR. HANSEN: I could go on for a long
16 time, but I'll be very brief.

17 Randy absolutely raises a key issue here,
18 and I think one of the main reasons I'm here is two
19 concerns: concern about access and the quality, and
20 keeping the health care system, which I agree with
21 Frank has a lot of great strengths. And for the most
22 part it does very well.

23 But the economic impact of what's going on

1 in health care is, I also agree with Senator Hatch and
2 Wyden. I think we're going to tip over the edge.

3 And the legacy costs are having a
4 tremendous impact on companies like General Motors and
5 smaller companies. And they're going to dump them,
6 one way or the other, and that's going to add costs to
7 us as taxpayers.

8 And what we do about that, and how we do
9 it, and try to do it without having a lot of strife,
10 is going to be a problem.

11 I don't have an answer. I agree, though,
12 that it is a significant part of the problem. People
13 are living longer, and they're getting more care, and
14 everything that we all know.

15 So it's something that we have to talk
16 about.

17 CHAIRMAN JOHNSON: Thank you. First,
18 Therese, thank you, and then Mike.

19 MS. HUGHES: Two things.

20 One, I wanted to ask up front is, if
21 you're giving us materials to read, to have them
22 longer than three days ahead of time.

23 The second thing is I wanted to go back to

1 something that Richard just said. All of the items
2 that have just been raised fit under the umbrella of
3 system design in my mind, as well as coverage.

4 And if we look those two overarching
5 umbrellas with those ideas in it, then I think that
6 the issues would flow a little easier than not.

7 Because what I see in the future -- and
8 this is just my opinion -- is that we might get lost
9 on IT, we might get lost on providers, we might get
10 lost on access. And I don't think any of us here
11 wants to do that.

12 And if we had the umbrella with the dots
13 or the check marks down of ideas, then I think that we
14 might be able to actually come up creating a new
15 system, or changing parts of a system that aren't
16 working, and I think they certainly, you know, support
17 all of the issues raised.

18 CHAIRMAN JOHNSON: Can we talk with you
19 offline and get some more of your thoughts on that?

20 MS. HUGHES: Sure.

21 CHAIRMAN JOHNSON: I don't want to cut
22 short the conversation, but I think we have a time
23 issue today.

1 VICE CHAIR McLAUGHLIN: I think Senator
2 Wyden said it took them three months to come up with
3 the title, Health Care that Works for All Americans.

4 And I know from conversations with him earlier that
5 they very deliberately chose that title to reflect the
6 fact that they want it for all Americans.

7 And that means this is not just about
8 coverage, but it is also not just about costs of the
9 people who already have coverage.

10 And so they very much want this focus to
11 be this dual one that Richard has pointed out and now
12 Theresa has followed up on.

13 And I think all of us have been thinking
14 about it along those lines, and some of us come to the
15 table with a primary interest in the coverage and the
16 45 million uninsured, and some come with a primary
17 interest in the system that exists and making it more
18 efficient and reducing costs and at the same time
19 guaranteeing high quality.

20 So it is a tension that is going to occur,
21 and there are different ways to cut this. And we'll
22 come across this again when we talk about how to
23 structure the hearings and how to structure the

1 report.

2 So that's where we're moving for the rest
3 of the day. Now in some degree we're limited in
4 structure by how the statute is written, but we don't
5 have to blindly follow that structure. We can group
6 them in a different way.

7 And I think the system-wide changes versus
8 coverage is certainly a logical grouping, and we'll
9 work on that.

10 CHAIRMAN JOHNSON: One more comment to
11 build on hers before we go to you, Pat, and that is,
12 if we're able -- did we forget you, Mike?

13 MR. O'GRADY: Yes.

14 CHAIRMAN JOHNSON: Okay, I apologize.

15 MR. O'GRADY: I'm so quiet.

16 CHAIRMAN JOHNSON: If in fact we do the
17 measurement and disclosure and the consumerism and the
18 pay-for-performance, at least some pretty bright
19 people say that we can take 30 percent of our wasted
20 health care dollars out of the system.

21 And therefore that would help us fund
22 coverage for those who don't have coverage today. And
23 I don't want to lose track of that, because that's

1 where a lot of us are focused.

2 MS. HUGHES: I understand.

3 CHAIRMAN JOHNSON: Okay. Pat and then
4 Mike.

5 MS. MARYLAND: Actually my comment
6 dovetails into what you just stated, a not so subtle
7 hint from Senator Wyden is that we should look at
8 taking the current expenditures in health care, the
9 \$1.8 trillion, and figure out whether or not those
10 dollars can be reapportioned in another column such
11 that we can increase coverage and really improve
12 quality.

13 Are we going to at some point in time
14 really follow through with that? I think that's an
15 excellent suggestion to take a look at.

16 VICE CHAIR McLAUGHLIN: Yes.

17 MS. MARYLAND: I think it's very easy to
18 get lost in some of the specific details associated
19 with the cost, access, quality. And we really don't
20 want to do that.

21 And I would like to see us take one item,
22 significant in itself, and create a solution. It just
23 makes a lot of sense. It's simple and easy to

1 administer.

2 And this may be one way to come up with
3 what that idea might be.

4 MR. O'GRADY: I just wanted to get back to
5 the conversation about legacy and whatnot. I think
6 there are a number of things that we've seen, kind of
7 new developments in that whole area that I think
8 highlight one of the dangers that we have on this
9 group.

10 I mean to a certain degree the tradeoff
11 that Randy talked about was very true and sort of came
12 down. Now what we saw in the last couple of years was
13 Bethlehem Steel go bankrupt. So all of a sudden now
14 you have folks who had on paper beautiful benefits,
15 and what was that worth to them when the company goes
16 bankrupt, and that was about 10 cents on the dollar.

17 So you have this thing happening in terms
18 of that area that may parallel what happened in
19 pensions 10 to 15 years ago. Do you want to be really
20 tied to that one company. Do you want more portable
21 401(k)s, some of that sort of stuff.

22 But it highlights for me in terms of, as
23 we move through these problems, to a certain degree

1 there are other people that are working on the next
2 six months or the next year. We need to be what's
3 breaking, what's ahead 10, 15 years out, so that you
4 look at this dynamic you've got.

5 These costs are going to be here.
6 Whatever the economy is, the demographics, which is
7 what we had on the Fed side, in terms of we look at
8 the demographics of Medicare and Social Security and
9 whatnot, it's coming, there is no doubt about it.

10 Let's keep that other perspective on that
11 issue as well as a number of others.

12 CHAIRMAN JOHNSON: We need to move on.
13 One last comment, and then we'll go to the next slide.

14 MS. BAZOS: I'll just be quick. I just
15 want to participate in the conversation about how we
16 frame our work going forward. Looking in the long
17 term, which I hope that we would do, I think we really
18 have to at least look at the ideal system first,
19 knowing we're not going to be able to change the whole
20 system, knowing we're not going to throw the baby out
21 with the bathwater.

22 But if we don't at least agree on a vision
23 for a system, my concern is, we'll just be putting

1 Band-Aids on what doesn't work very well now.

2 So I just want to have confidence that's
3 not what we're going to do for two years.

4 CHAIRMAN JOHNSON: Thank you for your
5 comments. We will certainly take that into
6 consideration and listen more to your comments on it.

7 VICE CHAIR McLAUGHLIN: The next four
8 slides really are, you can take home and have them.
9 It was really just our organization of saying, all
10 right, what is the mapping?

11 And we felt as though the list that was
12 put into our mandate was worded in such a way that
13 virtually every issue that was brought up yesterday
14 Ken fit into something on there.

15 And so we didn't feel as though we were
16 going to be left with, oh my gosh, the group is really
17 interested in all these issues that we're not asked to
18 talk about.

19 So how can we justify additional hearings,
20 et cetera, et cetera? Most of them could fit in.

21 There were some issues that we were asked
22 to address in the hearings and the report that we did
23 not really talk about very much yesterday, and that's

1 something that we have to be cognizant of as we
2 prepare for the hearings and as we put together the
3 report.

4 The order of the issues doesn't say
5 anything in terms of how important we think they are,
6 nor does the fact that the list created by either us
7 by the mandate suggests that every item is of equal
8 importance.

9 So neither the ordering nor relative
10 weights should be inferred by this list. But we did
11 just try to do this mapping for you so that you could
12 see, and we could see, where the focus of the
13 conversation was yesterday versus the focus today
14 where we move forward of, okay, how shall we structure
15 the hearings? Who should come to testify? How should
16 we go about doing the report?

17 I don't see the purpose of spending a lot
18 of time on this right now, but if anyone has
19 questions, comments.

20 CHAIRMAN JOHNSON: That's a summary of
21 what we discussed yesterday. So now do we have the
22 slide for today in here, too?

23 What our intent for the rest of this

1 morning is to go through the hearings first, and just
2 have some initial dialogue on the hearing that we
3 would be thinking of, and then to talk about the
4 report, and some initial thoughts on that.

5 We'll be discussing some of the logistics
6 that are related to hearings, and some of the topics
7 that we might discuss within the hearings. But we
8 won't get into all of our recommendations. And this
9 is the data, and so forth.

10 It's more structure that we're going to
11 focus on today, and the same thing for the report.

12 (Off record voices.)

13 VICE CHAIR McLAUGHLIN: While we're
14 responding to our technical difficulties -- I guess
15 Brent James hasn't called in yet -- I did want to just
16 remind you a little bit, because this is something
17 that Randy and I and Larry and Ken and Caroline and
18 Andy now have been bouncing back and forth, is that we
19 keep getting confused between the hearings and the
20 community meetings.

21 And they are different, and they are set
22 up to be different. The hearings really are set up to
23 feed into the report, and the report is to educate the

1 public and to start the dialogue for the community
2 meetings.

3 So the first things we need to talk about
4 are the hearings and the report. Richard, I know
5 yesterday, last night at dinner, you started asking me
6 a little bit about the community meetings.

7 Do you want to --

8 MR. FRANK: I was asking you about the
9 hearings.

10 VICE CHAIR McLAUGHLIN: Oh, about the
11 hearings.

12 MR. O'GRADY: So hearings are first?

13 VICE CHAIR McLAUGHLIN: Hearings are
14 first.

15 MR. FRANK: My question was: What is the
16 definition of the hearing?

17 VICE CHAIR McLAUGHLIN: Right.

18 MR. FRANK: And what do we mean by that?

19 Because the hearings that I've participated in have
20 been ones where you have one congressman and 14 staff
21 behind them --

22 VICE CHAIR McLAUGHLIN: Right.

23 MR. FRANK: -- and a lot of advocates in

1 the room, and people presenting positions that anybody
2 in the room could have written.

3 And then there are other things you could
4 do in a hearing. And I was trying to figure out what
5 we really were--

6 MR. O'GRADY: And is the hearing the one
7 where there was this business about at least one
8 person has to be --

9 VICE CHAIR McLAUGHLIN: No. That's the
10 community meetings.

11 MR. O'GRADY: That's the community
12 meetings, okay.

13 VICE CHAIR McLAUGHLIN: The hearings are
14 supposed to give us information we need to develop the
15 report, all right?

16 And we can have only one hearing and
17 fulfill the statute. If we feel that one hearing
18 gives us all the information we need to develop the
19 report then the community meetings are the ones where
20 at least one member of the working group has to be at
21 the community meeting and be the leader of the
22 community meeting.

23 And that is the one where we're supposed

1 to do a lot of these community meetings for diverse
2 populations in terms of urban/rural, West Coast/East
3 Coast, minorities, cultural, rich people, poor people,
4 old people, young people. You know, really have
5 diverse populations at these community meetings all
6 over the country.

7 And they have to start no later than
8 February 28, 2006. But they could start earlier if we
9 wanted to.

10 So they really are different.

11 Yes, Richard.

12 MR. FRANK: I still want to go back and --

13 VICE CHAIR McLAUGHLIN: Oh, it's not
14 clearly defined about the hearings.

15 MR. FRANK: Hearings mean different
16 things. I just want to get on the table what we think
17 we want to try to accomplish in this hearing, and what
18 structure would get us to that end.

19 VICE CHAIR McLAUGHLIN: Right.

20 MR. FRANK: That was what I was sort of
21 raising.

22 VICE CHAIR McLAUGHLIN: Well, partly it's
23 looking at the elements of the report is how I started

1 thinking about it since I was the person asked to take
2 the lead on the reports.

3 I was thinking, well, given what has to be
4 in the reports, what do I feel is already known out
5 there?

6 You know the IOM reports, and the Kaiser
7 reports, and the GAO reports, the CRS reports. We
8 have lots of reports out there, and how much of it is
9 just getting staffers to organize all this, synthesize
10 it, record it, versus looking up the items that we're
11 supposed to include that we really don't know very
12 much about, either because it's not published, or
13 what's published is old and hasn't been updated, or it
14 was published but there are a lot of very talented
15 people out there who are saying, you have to
16 understand that the data they used were quite limited,
17 or the methods that they used weren't very good.

18 In order for the staff to do that, do they
19 need some help from people out in the field? And so
20 that's how I was thinking about the hearings, what I
21 thought we needed to get out of the hearings to
22 facilitate doing the report.

23 All right? That's different, Richard,

1 than just trying to get on the record testimony from
2 experts, which is what you're thinking about, the one
3 senator with the staff, and coming and having 15
4 minutes for prepared remarks to get on the record.

5 MR. FRANK: I threw that out as an
6 example.

7 VICE CHAIR McLAUGHLIN: As the classic
8 case, right.

9 MR. FRANK: Well, as the classic case, as
10 one that I think may not be very productive for our
11 particular ends.

12 VICE CHAIR McLAUGHLIN: I think that, too.

13 MR. FRANK: So then the question is, once
14 you're away from the tradition, where do you go?

15 VICE CHAIR McLAUGHLIN: Exactly. That's
16 where we're headed now.

17 MR. O'GRADY: You've got a structure that
18 says if the report is going to have five different
19 items, at least as a starting point let's start
20 talking about five different hearings, one on each of
21 the items.

22 CHAIRMAN JOHNSON: I'm not sure. We've
23 had some preliminary discussions on that.

1 MR. O'GRADY: You can go two per hearing.

2 Panel one, panel two.

3 CHAIRMAN JOHNSON: This is just a starting
4 slide for today. We're going to use hearings, we're
5 going to use our discussions, we're going to use staff
6 summaries, analyses and so forth to develop the
7 report, to go to the national public dialogue, and
8 then to have some recommendations.

9 And what we're talking about today is the
10 hearings in particular.

11 DR. BAUMEISTER: We'll have hard copies of
12 this, too?

13 VICE CHAIR McLAUGHLIN: It's your book
14 already.

15 CHAIRMAN JOHNSON: And so one of the
16 things that we're going to be considering is: What is
17 the scope of our recommendations? And we got into
18 this a little bit yesterday with Senator Wyden,
19 Senator Hatch.

20 And Mike asked the question of Senator
21 Hatch or Senator Wyden, that I thought was a good one,
22 and we've heard his thoughts. But we also have heard
23 I think Dotty I think with some additional thoughts

1 this morning that may or may not have concurred with
2 Senator Wyden's input yesterday.

3 And that's not to say that Senator Wyden
4 is right or that Dotty is right. It's just a little
5 bit different approach.

6 Or maybe we've combined the two. But one
7 of the questions that we'll want to consider is at
8 what level are we going to approach this?

9 If we approach it at the 30,000 foot-
10 level, of course some of the questions might be:
11 Should we have good quality health care? And should
12 health care be available for all? And we then end up
13 with probably apple pie and motherhood kinds of
14 statements.

15 On the other hand, if we look at things
16 from the 500-foot level, we'll get bogged down in so
17 many details that we may not have the impact we could
18 otherwise have.

19 It was interesting to me when we did the
20 press announcement on this, one of the reporters in
21 the audience asked Senator Hatch, he said, What are
22 your thoughts about herbal supplements as an item to
23 be covered under health care?

1 Well, that wasn't the intent of that press
2 announcement, and probably we're not going to be able
3 to get into herbal supplements as a major feature of
4 our health care delivery system.

5 So we'd like to contrast the 30,000 versus
6 the 500-foot level, and figure out what are the big-
7 picture items that we can really make a difference on?

8 And we mentioned yesterday the MedPAC
9 commission recommendation. We mentioned the Clinton
10 administration health care advisory commission's
11 recommendation to use the NQF, and hopefully we'll
12 come up with some meaty recommendations that, whether
13 it's impacted or implemented by legislation or by
14 market forces, we'll be able to have a very positive
15 impact.

16 Okay? So, and we need to be looking at
17 both short term, what are some of the short-term
18 fixes, and longer term. Mike's comment on looking to
19 the future is very important. We've got to figure out
20 how do we do this, and fix our system as effectively
21 as we can.

22 And maybe we will have different
23 timetables for those.

1 Another question is: What lessons can be
2 learned from other commissions, and we touched on that
3 a little bit yesterday, where we might look to some of
4 the other commissions for some of their input, and
5 read some of their reports, and take some nuggets from
6 some of the other reports and bring into our own
7 thinking for your review and consideration, and then
8 recommendations later on.

9 The organization of our recommendations,
10 we're going to talk a little bit about that to day.
11 And some of the agents for action might be both the
12 private system as well as the government.

13 We've heard Mark McClellan recently, who
14 is the administrator of CMS. He's talked on a number
15 of occasions about having collaboration between the
16 public and the private sector, where it's not the
17 public sector that leads, it's not the private sector
18 that leads, but it's collaboration, together.

19 So on the hearings, what we'd like to talk about
20 today is: who, what, where and when. Who, what --
21 why, what, who, where and when, okay?

22 VICE CHAIR McLAUGHLIN: We've been having
23 fun with this slide.

1 CHAIRMAN JOHNSON: That's right. The
2 "Why" is to provide input to the report. That's why
3 we want to conduct these hearings, just to provide
4 input to the report.

5 And the "what" is a subject we'll talk
6 about.

7 "Who" is who are we going to hear from?

8 "Where". As Catherine suggested already,
9 we're not talking about town hall meetings here.
10 We're talking about hearings, but one of the hallmarks
11 of this group as opposed to others is that it's
12 intended to be a group that gets information from a
13 variety of settings.

14 So at least some of us believe that it
15 might be helpful to go to practitioners in the field
16 as well as those who typically traditionally testify
17 in Washington, D.C., to get some of their input. And
18 we'll talk about that as well.

19 And then we'll talk about the "when".

20 Well, these are the "Whys". And if you
21 have any other suggestions as to why we want to do
22 this, you know we'll hear that.

23 But I think what we'll do is we'll proceed

1 as well to the next subject, which is what?

2 MR. O'GRADY: Can I just bring up one
3 quick one on that one?

4 CHAIRMAN JOHNSON: Yes.

5 MR. O'GRADY: There's a notion, despite
6 Richard's disparaging remarks, about traditional
7 congressional hearings, that they serve in terms of
8 kind of giving people their say.

9 And it's known that, especially if
10 Congress is going to move in and start to legislate,
11 even if they pretty much know the direction they want
12 to go, there's been enough studies and whatnot, there
13 is that notion of people having their day in court,
14 their chance to stand up and even if they totally
15 oppose it to say, I totally oppose it.

16 And that helps Congress in terms of back,
17 in terms of, we heard you, we listened to you. We
18 disagreed with you, but we decided to move forward.

19 And to a certain degree you're looking at
20 the deadline and there is a parallel goal here that
21 would say, no, we went out and we talked to people.

22 Because if there is something, we're going
23 to come in and say, especially if we get back to

1 Senator Wyden, sort of how do you move the money
2 around?

3 And it's not like any of this money is
4 just buying pools for people behind their houses. But
5 we're going to say there's a disproportionate amount
6 of money going to getting the last ounce of HIV-
7 tainted blood out of the blood supply, and that's not
8 really the priority anymore. We should put it towards
9 rehabilitation services.

10 Boy, you better have talked to somebody
11 from the HIV or blood communities. You know what I
12 mean?

13 VICE CHAIR McLAUGHLIN: Two things.
14 Remember, the community meetings -- the report is not
15 the recommendations. The report is educational.

16 The report is to start the dialogue. I
17 think that we were thinking the community meetings are
18 when we really have to be very conscious of getting
19 all these interest groups to participate.

20 Not only that, because that will feed into
21 then the recommendations that we make; right?

22 The Congress then has hearings after our
23 recommendations. So I'm just saying that these

1 hearings. I'm sure that Congress will have the kinds
2 of hearings that Richard talks about. We, I think,
3 have to be very, very detailed in the list of interest
4 groups, advocacy groups like you just mentioned, who
5 participate in the community meetings.

6 It's not as clear that we need to do it
7 for these hearings. I'm just making that distinction.

8 MR. O'GRADY: Right. And I'm also
9 thinking about, as this group moves forward, how its
10 recommendations and how the whole process is viewed.

11 Let's take this example. Before, you
12 asked about MedPAC's survey about access, when
13 Medicare payments were cut, physician payments dipped.

14 Now we could include that in this report. And we
15 say, it looks like data, sample size was good, methods
16 were fine, science was good. To a certain degree I
17 would recommend that we have someone from the American
18 Medical Association speak at one of these hearings,
19 assert their side of the story if they have certain
20 problems with that study, it's on the record that
21 we've listened to everybody.

22 VICE CHAIR McLAUGHLIN: Right. And that's
23 actually a perfect example of what I was saying that

1 when I look at the report, what I think we need for
2 the report is, in fact, some commentary from people in
3 the field about the evidence.

4 CHAIRMAN JOHNSON: Let me add or build on
5 or say in different words what we've been discussing.

6 Yesterday we talked about the issues, and
7 we talked about initiatives that are existing. And
8 one of the things that Catherine and I have had some
9 discussions about is in addition to these two, talking
10 about potential solutions, one of the advantages of
11 this group is that we will have a chance to go out and
12 hear from the American people. And there's a thought
13 that if we talk about not only the issues and the
14 initiatives, but we also talk about, here are the
15 solutions, it will be perceived that we've already
16 come up with our ideas, and our solutions to these
17 issues.

18 Now when we conduct the hearings, we will
19 potentially not only hear about this but we might have
20 people who in our hearings will talk about this. But
21 we will have moved down the road, so we'll have to
22 figure out when we do a report then to what extent do
23 we get into this area, in solutions, as opposed to

1 just saying, here are the issues and here are the
2 initiatives, and you, American people, come back to us
3 with the solutions.

4 We might have to figure out, and we'll
5 talk about this in a different meeting, how close do
6 we get to potential solutions?

7 Not because they're necessarily ours as a
8 group, but we've digested materials that will have
9 come in from our reading and hearings and so forth,
10 and then we'll have to figure out, okay, how much up
11 front are we going to be in talking about these as
12 solutions? Or are we just going to say, here are the
13 facts, ma'am, and leave it there?

14 MR. FRANK: Two comments, one commenting
15 on Mike's observations.

16 I think he's right. I think one of the
17 things we want to do, and one of the good things about
18 congressional hearings, I never thought I'd be saying
19 this, is that I do think it's a way of showing respect
20 to people who have big stakes in this. And I think
21 that we do want to do that.

22 And I guess the way I'm thinking about it
23 is, to say, all right, here are the tools that we have

1 to accomplish, the information gathering, but also the
2 respect-showing.

3 I think it ought to all be planned out
4 from the front. I don't think we should plan the
5 hearings without having fully thought out the
6 community meetings, so that we kind of have a strategy
7 laid out for how we want to accomplish these various
8 goals.

9 Now having said that, what I heard both of
10 the senators say yesterday was the first reports are
11 really supposed to answer like three questions, which
12 is, how do we spend money? What do we buy with it?
13 And where are the opportunities that we might be able
14 to do things with greater wisdom?

15 And that seems to be sort of what that
16 first report asks us, is, where are the opportunities?
17 Which sort of gets us to those first two boxes.
18 Actually, it gets us halfway through the second box or
19 something.

20 And I think that if that's right then
21 perhaps we should sort of have the hearings emphasize
22 that, but then think about what groups could really
23 bring good input to the table for answering those

1 questions that you want to sort of make sure you're
2 inclusive of in the process.

3 And then maybe you don't invite them
4 later, because they've had their bite at the apple.

5 But I just think that trying to figure out
6 the whole sequence of events up front is probably
7 something that might keep us out of trouble later.

8 CHAIRMAN JOHNSON: Can you build on those
9 comments a little more? Because I'm not sure I'm
10 totally understanding yet.

11 First, the legislation says what we need
12 to include in our report.

13 MR. FRANK: Right.

14 CHAIRMAN JOHNSON: So I don't know if it's
15 broader or less than what the two senators talked
16 about. But it also gives us room to include whatever
17 else we'd like to include in the report.

18 So am I hearing you narrow the
19 legislation, Richard?

20 MR. FRANK: Well, no. I was just -- from
21 having read the legislation, from having heard the
22 senators talk yesterday, if in fact we're supposed to,
23 as I understand it, not offer solutions or

1 recommendations in that report. So we're supposed to
2 stop before we get there, because it's the first
3 salvo.

4 And then both senators really emphasized
5 this idea of educating the American people, and laying
6 out in a transparent way the hydraulics of the health
7 care system.

8 And then when Senator Wyden went through
9 his chart, what he seemed to be saying is, lay it out
10 transparently so people can see where the
11 opportunities are, and then you go out in to the
12 communities and find out what people are doing locally
13 to try to fix things, what ideas people have, how the
14 interest groups feel about this, et cetera.

15 And so it seems like a natural --

16 VICE CHAIR McLAUGHLIN: If you look at
17 your slides you will see that these slides come later,
18 although talking about them now is fine. We in the
19 report are also supposed to list state initiatives,
20 local initiatives.

21 So we are supposed to actually have in the
22 report some accounting of what's going on out there.
23 But, yes, it's supposed to stimulate people coming to

1 community meetings to say, well, you didn't say
2 anything about these initiatives, so that we are
3 educated as well.

4 I mean this education effort is not just
5 unidirectional.

6 MR. FRANK: Opportunities are defined by a
7 combination of two things. One is where is there a
8 problem? And, two, is there any possible solution;
9 right?

10 If you have no solution, there is no point
11 in pursuing that problem. So I thought that the
12 initiatives are the way of saying, okay, here are some
13 possibilities for addressing these problems that we've
14 now laid transparent, et cetera.

15 Does that help?

16 CHAIRMAN JOHNSON: Well, it does. And I
17 didn't hear all your comments earlier when you were
18 talking about the value of hearings and so forth.

19 But one of the things that we've
20 considered, at least to some degree, is the fact that
21 oftentimes when we have hearings in Washington, we
22 hear from folks who are big-picture thinkers. And
23 they're researchers, and they might come from large

1 associations.

2 But we don't often hear -- we hear less
3 often from people who are in the trenches and
4 conducting programs in their local settings. And I
5 don't know if you'd call them state and local
6 initiatives, but that's another focus, I think, that
7 we can have and should have.

8 So that's a bias I have that I'm sharing
9 with all of you about these hearings.

10 MR. O'GRADY: Just a factual thing. I
11 think you're wrong. Most congressional hearings -- a
12 very traditional way of doing things is that you have
13 the people, you know, either actual practitioners or
14 actual patients or whatnot, and then you bring in the
15 researchers.

16 I think you're right in terms of the media
17 tends to then focus on the research. If you look at
18 the actual lineup of those hearings, they almost
19 always have somebody with a really heart-wrenching
20 story there. Or someone who is, you know, here I am,
21 I'm a nurse trying to help on the reservation working
22 with type 2 diabetes. So the way it's laid out --

23 I'm just saying that if you go this

1 direction, know that there is sort of a track record
2 of what the media covers and what it doesn't. But you
3 could certainly do that, and I kind of like that
4 style, that you hear from the different groups that
5 are affected by this.

6 But just know up front that some of that
7 is not that those hearings don't have that, it's just
8 that the media says, Bob Reischauer from the Urban
9 Institute finds "boom" and that's the story, not the
10 woman with diabetes.

11 VICE CHAIR McLAUGHLIN: That's a good
12 point.

13 CHAIRMAN JOHNSON: And my comments aren't
14 intended to talk about the woman with leukemia or the
15 heart-wrenching story. It's to talk about local and
16 state initiatives in those settings.

17 MS. CONLAN: I'm trying to clarify in my
18 own mind this issue of what's appropriate to a
19 hearing. And I know you're talking about the larger
20 issues. I talked to an attorney before I came from
21 Florida Legal Services. She looked at the matrix, and
22 she was interested in participating to offer some
23 input about Medicaid buy-in for people who are on

1 Medicaid feeling trapped, wanting to work but
2 realizing they would then lose their Medicaid benefits
3 if they went back to work.

4 And she thought this would facilitate a
5 Medicaid buy-in, facilitate articulation between the
6 public and the private sectors.

7 Is that's something that's appropriate?
8 But her perspective is from Florida and what she knows
9 about Medicaid patients in Florida. Is that something
10 that would be appropriate at a hearing?

11 CHAIRMAN JOHNSON: Without responding
12 directly to your question, I think there are two
13 things that we'll do in the hearings. Even if we were
14 not to invite that person to testify, my understanding
15 is that we're obligated, but beyond that we would
16 probably want to make known a posting in a federal
17 register or some place that we're going to have these
18 hearings, and that in fact our website would take
19 input in a written format in addition to those people
20 who would physically present testimony.

21 So your colleague would have an
22 opportunity to do that even if we were not to ask her
23 or him to testify.

1 We haven't gotten into the details of the
2 hearings. And by the way, what Catherine and I would
3 like to do is, we're going to try to appoint some
4 subcommittees, including a couple of other people to
5 work with us in what we'll call a hearing
6 subcommittee. And we'll have a report subcommittee,
7 and we'll probably look at some other subcommittees
8 that we will talk about later today.

9 So we're going to invite participation
10 from some of you as we develop the hearings. But
11 we're trying to get an overall view of them right now.

12 But that kind of detail is something that,
13 if you have input, that kind of input, you'd like to
14 share that, please do. And our reason for sending out
15 the matrix to you is to get your ideas and your input.

16 Shall we move on?

17 MR. HANSEN: Just a question, not a
18 comment.

19 At the hearings, I'm assuming, there will
20 be people that the committee will invite. The
21 community groups later on will be open to almost
22 anyone who wants to come, and that's for more
23 recommendations--

1 VICE CHAIR McLAUGHLIN: And, actually,
2 Joe, what we have been thinking so far -- and part of
3 this came also from advice from Larry Patton, who is
4 familiar with the hearing structure, is that for the
5 community meetings we make sure that we're pro-active
6 as well, that we invite particular people. And let's
7 say we do one in New Hampshire. And we'll say, Dotty,
8 can you recommend somebody from this community, from
9 that community and make sure we invite representation.

10 But they will be posted. And one of the
11 things we want to do is, hook up with local media, try
12 to get an interview in New Hampshire with Dotty to
13 say, yeah, we're having a community meeting, and we're
14 hoping to have it posted places. Senator Wyden told
15 you we're meeting with the CEO of Starbucks. He may
16 want to post community meetings in the local Starbucks
17 store or whatever.

18 We really want to get out the word so that
19 a lot of people show up. But we also have to be pro-
20 active and invite local union reps, local practitioner
21 people, and make sure that those people are heard from
22 as well.

23 MS. HUGHES: Could I ask something? I

1 have not had the privilege of ever attending a
2 congressional hearing. But I have this image in my
3 mind of what it could be like or it could not be like.

4 And I guess where I am, based on where the
5 conversation has gone, is that there's a style for a
6 hearing, how it's set up, and then there is content
7 for the hearing, is that right? So we're sort of
8 right now combining both of them, trying to figure out
9 a style for the hearing and the content for the
10 hearing, is that right?

11 So in the content for the hearing you have
12 your experts. You invite them to come and address the
13 board, whoever it is. You have your practitioners
14 that you invite.

15 Are the only people who speak in a
16 congressional hearing the people who are invited?

17 CHAIRMAN JOHNSON: Yes.

18 MS. HUGHES: Is that right?

19 CHAIRMAN JOHNSON: We would post in the
20 Federal Register the fact that we're going to hold
21 hearings. And you might say, hey, I'd like to
22 testify. And so we might say, yes, we'd like to have
23 you come and testify. As opposed to our figuring out

1 in advance who would testify.

2 MS. HUGHES: So I guess what I'm saying
3 is, they're really not open hearings. I mean they're
4 open to the public in terms of listening, of hearing,
5 but they're not open to the public in terms of
6 speaking.

7 MR. O'GRADY: You want me to take 30
8 seconds on how a congressional--

9 VICE CHAIR McLAUGHLIN: Well, this is not
10 a congressional hearing.

11 MR. O'GRADY: Okay, just to give what the
12 goals are and how you'd set them up. You're moving
13 into a new area. Some of it may be just educational.
14 You're heading into a Medicare prescription drug
15 benefit. You think the members of the committee
16 should hear about drug benefits are designed in the
17 private sector, and other programs and things like
18 that, where you're trying to move into an area.

19 It can be two or three panels. Typically,
20 and what I think would be more applicable for us to a
21 certain degree, let's say we go to Utah, and they've
22 done something that we feel is sort of interesting,
23 and maybe innovative.

1 So you may have what I think of as a
2 luminaries panel to start out, maybe the governor,
3 maybe the head of the Medicaid program, something like
4 that.

5 Are they experts? Yes. But they're sort
6 of your headliners, however you want to think about
7 that. So you have them first, so that they don't have
8 to wait around basically.

9 Then you come in with the second. And it
10 doesn't matter what order you do them in. But you
11 then have what I think of as the right-side left-side
12 of the brain. You have your lady with leukemia or
13 whatever you think is really affected by this, whether
14 they're practitioners in this area, whether they are
15 patients, et cetera.

16 Then you have some people who are going to
17 be your experts. Now you may also have, depending on
18 how you want to do that, you may also have what you
19 think of as stakeholders. So you're coming into
20 Utah, you hear from the governor or the state Medicare
21 director, and you probably at one point want to hear
22 from the docs in Utah and the hospitals in Utah as
23 well as from the patients.

1 So how do you make sure at the end of the
2 day you've heard a wide range of the perspectives on
3 this, from the very analytical to the very personal,
4 and you've sort of gotten this range of where the
5 stakeholders are, so you're not surprised later that
6 if you say, this sounds like a good idea, and we move
7 forward with it, all of a sudden to find out, it
8 looked good but it costs ten times more than anybody
9 told you in the hearing.

10 Do you know what I mean? So you're
11 looking for that balance.

12 MS. HUGHES: So we come up with this,
13 however we do it, are you going to let us know whether
14 we're going to be blindsided later down the road. You
15 said, so you wouldn't be surprised later down the
16 road.

17 MR. O'GRADY: There's a wide range in
18 terms of good hearings to really bad ones. You
19 certainly can see ones where people have only brought
20 in people who agree with them. I mean, group-think is
21 as common in Congress as it is anywhere else. So you
22 can see that sort of stuff.

23 So what does that serve? It's a rally to

1 get your troops together. But does that give you a
2 notion that then when you go forward with a proposal,
3 like hopefully when we're done those guys have
4 something they can run with.

5 If you're in a situation, I can hear it,
6 if it's not viewed as representative and broad-based
7 to a certain degree, whoever is hurt by it is going to
8 come in and go, they never listened to me. I never
9 got a chance to say my side of the story. This isn't
10 balanced.

11 CHAIRMAN JOHNSON: Let's go through the
12 slides that we have on the subject of hearings. And
13 maybe that combination of material will help some of
14 our thinking, and then we can continue our discussions
15 on hearings.

16 These are the subjects that we've
17 contemplated covering: issues that are required right
18 in the statute, and we've shared that with you
19 yesterday; to cover issues raised by you, all of
20 those, we talked about that yesterday; to cover
21 initiatives identified by you. And we've had some
22 discussions on that already, but we're going to have
23 more likely. To cover initiatives, issues, and

1 potential solutions identified by the experts or the
2 practitioners, and those would be some of those that
3 would be in hearings that we would have, okay?

4 Who are some of those who might testify?
5 Potentially some citizens, consumers, patients.
6 Providers, Catherine talked about the classification
7 of these as individual and institutional, physicians,
8 nurses, other paid and non-paid caregivers,
9 potentially institutional like hospitals, long-term
10 care facilities, managed care plans, clinics and so
11 forth.

12 Now, would we do all of these? These are
13 just some examples of who might fall into these
14 categories of stakeholders and people who we might
15 suggest to come. Purchasers, private purchasers such
16 as consumers who are buying their own coverage,
17 employers, unions, purchasing coalitions, and there
18 might be others.

19 Public purchasers, Medicare, Medicaid,
20 CHAMPUS, the VA. What are they doing that they're
21 finding to be issues? What are they doing in some of
22 their recent initiatives that have been successful, or
23 maybe we don't know yet but they're moving in that

1 direction.

2 And then maybe regulators, and we've
3 talked about regulators not only being government, but
4 some private accreditors, such as the Joint Commission
5 on Accreditation of Healthcare Organizations, National
6 Committee for Quality Assurance, and the National
7 Quality Forum.

8 And there might be others that will hear
9 from you all.

10 VICE CHAIR McLAUGHLIN: Randy, I just
11 wanted to point out one thing while you were reading
12 this. You may be looking at the slides that are in
13 your book, and realizing they're not exactly the same
14 as what are on Randy's computer.

15 For example, the slides now say, SCHIP and
16 TriCare, not CHAMPUS. So in case you're confused
17 between what's in your book and what's on the screen,
18 it's because this was the previous edition.

19 CHAIRMAN JOHNSON: Who might testify,
20 expert groups, policymakers from the public sector as
21 well as from the private sector, health services and
22 health policy researchers, some of the academic
23 organizations, consulting firms, think tanks.

1 And then where to hold the hearings.
2 We've contemplated Washington, D.C., and outside
3 Washington, D.C. We've contemplated urban and
4 potentially rural settings.

5 But one of the things we need to consider
6 is, where are our stakeholders located that we would
7 want to testify, and what are the logistical
8 challenges of getting people there.

9 So then we get into the health report to
10 the American people. So let's stop and continue our
11 discussions on the hearings and subjects that you
12 would like to raise or discuss, or suggestions,
13 whatever.

14 Some of you have been quiet today so far,
15 so don't want to call on your by name, but we would
16 value your input.

17 VICE CHAIR McLAUGHLIN: Because Larry's
18 not here, our taskmaster normally, but one of the
19 things that he kept impressing upon is that by the
20 time we walk away today, we have to have a very clear
21 understanding of when the hearings are going to be,
22 where they're going to be, what the subjects are, who
23 we're going to invite. Because people are busy, and

1 in order to get these so-called experts, stakeholders,
2 et cetera, that we want at these hearings, we should
3 have invited them three months ago, but we certainly
4 need to invite them soon.

5 So this is something that there is some
6 urgency about in terms of making these preliminary
7 decisions. And the discussion so far already makes it
8 clear that this is complicated. It's not a
9 traditional congressional hearing when we have a
10 template, outlined so nicely by Mike for us, of how
11 it's supposed to proceed.

12 And if we did that, we could have the
13 template, and then we could just fill in the names and
14 move on. But these are, first of all, they're not
15 congressional hearings, they're commission hearings,
16 which is slightly different. And also, it's just not
17 clear to us anyway what's the best way to proceed.

18 I outlined to you what I thought, and
19 Mike's comments certainly agree with that, that from
20 my own selfish perspective some of you will be asked
21 to be on a subcommittee with me to put together a
22 report and I'm thinking well, what do I think I
23 personally need to get from these hearings.

1 But Randy, who is coming at it from a
2 different perspective is saying, well, what do I want
3 to get from the hearings, and what do I think is the
4 role they should serve.

5 So we already know that we are facing this
6 kind of dilemma. One more comment, and then I hope I
7 stimulated some comments from all of you.

8 Mike talked about the educational one, and
9 we did talk about that in this first hearing in May in
10 Washington, was what we were thinking about, having
11 at least a couple of panels that are educational for
12 the working group.

13 So then the question is, what issues, what
14 areas, do we want to cover to bring experts in to talk
15 to us so that we all feel more informed about a
16 particular area.

17 CHAIRMAN JOHNSON: So with those comments
18 in mind, what we would want to do is get as much
19 information from you and comments and suggestions
20 today. And then what our subcommittee will do is go
21 and try to work out some of those details with the
22 staff, so we can proceed as quickly as we can to
23 conduct the hearings on a timely basis and provide the

1 input for the report.

2 DR. SHIRLEY: In an early email, this was
3 simply mentioning the potential sites, I think that
4 would be an excellent and strategic move for several
5 reasons. One, there is an opportunity to see some
6 programs that are addressing some of these issues
7 related to access, patient education, reduction of
8 cost.

9 Also it's an opportunity to have it here
10 on our home ground. And a facility that's named after
11 Senator Cochran, which would also be a strategic move,
12 I believe.

13 So we would welcome you to Mississippi,
14 and we think we could accommodate the group and all of
15 the logistic needs.

16 CHAIRMAN JOHNSON: Contrary to what we do
17 here in Washington, D.C., and I'm calling this
18 Washington, D.C., even though it's outside the
19 beltway, it's almost inside the beltway. And we have
20 rooms where we have people come in and so forth.

21 You're suggesting that just going to a
22 facility that has implemented some of the initiatives
23 striving to deal with some of the issues we've talked

1 about today would be helpful?

2 DR. SHIRLEY: Yes.

3 MR. HANSEN: I need more education.
4 There's no other way to say it. And you've got that
5 kind of chicken and an egg thing, you've got the cost
6 out here, and then the quality and the access over
7 here.

8 I'm not sure which way you go first. If
9 you do the cost part, I'm a little bit concerned that
10 will be so dampening that we won't get to Dotty's
11 point of how good can we make the system, which I
12 think is what her comment was.

13 So I think we need to go all around the
14 country. And I think Dr. Shirley's comment is good.
15 But I would really need to get a broader overview from
16 some experts for my own sake. I'm not as far along as
17 some of the other members of this committee.

18 CHAIRMAN JOHNSON: Are you suggesting that
19 you'd like a foundation of information --

20 MR. HANSEN: Exactly.

21 CHAIRMAN JOHNSON: -- from some of the
22 thinkers, and then potentially some hearings outside
23 of Washington.

1 MR. HANSEN: I think the hearings outside
2 of Washington are absolutely necessary. Because I
3 learned so much yesterday from the stories I heard
4 around here, I realized how uneducated I am on some of
5 these particular issues. Somehow we've got to do
6 both.

7 MS. PEREZ: I think that would also take
8 it out of the context of some of the conversations we
9 had yesterday that, you know, we tried it once. For
10 decades we've been trying to do something and it just
11 hasn't happened. And maybe it's in Washington, the
12 reason why it hasn't happened. So I think maybe that
13 kind of already sets the context for what we're trying
14 to accomplish. And especially as we go into the
15 community meetings, and putting the report together,
16 that this was a little bit different than what's been
17 tried before, and that there was a real effort to get
18 real input.

19 Maybe someone coming here to Washington is
20 going to say, well, they're going to want to hear
21 this. And that's the line, and that's what we're all
22 going to have to stand behind. But if it said
23 Mississippi or California or wherever, let's take them

1 some real information and think outside the box.

2 MS. CONLAN: I guess I agree. You know, I
3 think that there is a perspective that needs to come
4 from a national perspective that maybe could come from
5 Washington. For instance the people I work with are
6 associated with the Center for Medicare Advocacy. And
7 they can give information, national figures.

8 But then I think we have a particular
9 story in Florida that we need to supplement that, so
10 you know the particulars from our perspective. So I
11 like the idea of having hearings in one setting for
12 the overall, and then particular for specific.

13 MS. STEHR: I'll have to agree, that I
14 think we do like the main meeting in Washington, D.C.,
15 and we get basically all the experts as an educational
16 information-gathering for all of us, and then do the
17 outside D.C. And I remember Iowa was listed too as a
18 possible for the overall.

19 And I think that is a good idea because
20 our governor just got a recent waiver, I don't know
21 the details yet, but to do Medicaid expansion without
22 cutting supposedly it's not going to cut any of the
23 existing Medicaid recipients, but he's going to do an

1 expansion and do a buy-in.

2 So I think they've got some good ideas on
3 innovative things to try out there in rural areas.
4 And I think that's a good idea to try and do one in
5 Iowa.

6 MR. FRANK: So at the risk of going from
7 the lofty to the commonplace, I have four questions
8 that I'd like experts to come in and tell us about.
9 Do you want to hear them?

10 CHAIRMAN JOHNSON: Sure.

11 MR. FRANK: The first one was to test the
12 basic assumption that we heard yesterday, which is, is
13 there enough money in the system? There are people
14 out there who have studied this, and find out, is
15 there enough money in the system.

16 CHAIRMAN JOHNSON: And how would that be
17 answered, do you think?

18 MR. FRANK: I know at least one of my
19 colleagues at Harvard believes that cost containment
20 isn't a big issue. I don't happen to agree with him,
21 but he is an extraordinarily smart guy, and he has a
22 lot of evidence that he brings to that question.

23 There are other people on the other side

1 of that question, so I think that having them talk
2 about it too. He believes that in general we could
3 spend two or three or four percent more of GDP and
4 there would be no problem except that people would be
5 healthier.

6 CHAIRMAN JOHNSON: Okay.

7 MR. FRANK: So there's one.

8 Another one is I'd like people, maybe
9 Weinberg, maybe others, to say, where are the high
10 value and low value services? Which is sort of why
11 he's sort of here's how we spend the money, here's
12 what we get for it. Identify where --

13 VICE CHAIR McLAUGHLIN: Services, high and
14 low value --

15 MR. FRANK: High value and low value
16 expenditures.

17 VICE CHAIR McLAUGHLIN: Oh, expenditures.

18 CHAIRMAN JOHNSON: And can you just say a
19 few more words about that so we're all clear?

20 MR. FRANK: All right, so for example, a
21 lot of people would say that the way we spend money
22 and the like is low value.

23 CHAIRMAN JOHNSON: Okay.

1 MR. FRANK: And high value might be the
2 way we spend money in the first six weeks of life,
3 right? Actually, prenatal.

4 The third thing is, what are the real
5 uninsured numbers, and what are the things driving the
6 uninsured?

7 And then the fourth one is a fairly
8 detailed discussion of the financial crisis in
9 Medicare, since it's all been eclipsed by Social
10 Security, but everybody I think secretly knows that
11 the real problem is Medicare, but it would be I think
12 very useful for us to get the very basic facts on
13 that. And then probably on Medicaid as well, but
14 certainly Medicare.

15 MS. MARYLAND: Could you restate that
16 fourth question again?

17 MR. FRANK: The fourth is, what are the
18 details behind the crisis in Medicare and Medicaid?

19 CHAIRMAN JOHNSON: Okay. I've heard your
20 comments and suggestions, and I think those are
21 questions that really merit some discussion.

22 They highlight something that I'd like to
23 address with us as a working group. That is, there

1 are already folks who are assigned to study Medicare,
2 folks assigned to study Medicaid. As a working group,
3 is that a subject that we also want to take on? Or
4 are we going to say, we'll let the other folks who are
5 focused and specializing in Medicare or Medicaid take
6 those on with their recommendations, and we'll look at
7 the system more broadly or in total?

8 That's not to say that we won't touch
9 Medicaid or Medicare, but is this group going to look
10 at the reform of Medicare? The reform of Medicaid?
11 And all of the other things we talked about as issues
12 yesterday.

13 I'm not making a statement regarding what
14 we should do as much as asking the question.

15 MS. BAZOS: I have a question with regard
16 to your question. How could we address the issues
17 that are here without having a really good grounding
18 about whether or not there's the possibility to use
19 Medicaid or Medicare as a tool for coming up with some
20 of the solutions?

21 And I think that might be why we want to
22 understand the programs more, and understand if they
23 can be tools for our recommendations.

1 MS. CONLAN: And then I'm wondering, if we
2 follow what you're proposing, why am I here? Because
3 I represent Medicare and Medicaid beneficiaries.

4 CHAIRMAN JOHNSON: Well, I'm not
5 proposing anything. I'm asking a question.

6 MS. CONLAN: Well, I know. But if we
7 follow what you're saying, or if we took your
8 suggestion, someone chose me for a reason, and I
9 thought that was to bring the voice of the Medicare
10 and Medicaid patients who are beneficiaries to this
11 discussion.

12 So it has to be something for
13 consideration.

14 DR. BAUMEISTER: But I think that if we're
15 going to start one of the questions is, should there
16 be a Medicare? Should there be a Medicaid?

17 MS. CONLAN: But we can't answer that if
18 we're not educated.

19 DR. BAUMEISTER: Should there be employer-
20 based health insurance? Should we start over?

21 I don't know any of these answers. I
22 don't even know the questions. And I feel dwarfed
23 really by some of the knowledge of some of the people

1 here. I hear Mr. O'Grady, and wham, he's like a
2 computer, you know.

3 And then I hear --

4 MR. O'GRADY: Too many damn hearings.

5 DR. BAUMEISTER: And then I hear Dr. Frank
6 over here. And that's their life work, you know.
7 And here I am really a country doctor.

8 MR. FRANK: You and Sam Ervin.

9 (Applause.)

10 DR. BAUMEISTER: I've been in this stuff,
11 delving in it, sort of. It's like the difference
12 between a hobby and like drifting in a river with a
13 guide, you know. And I can cast, and I can land a
14 fish. But the guide is there. His knowledge is so
15 infinitely greater than mine.

16 And I don't know any of these answers.
17 But you talk about these hearings, are these hearings
18 designed to be a dialogue? I guess I'm talking about
19 David Cutler here who had a big piece in the New York
20 Times a couple of weeks ago really about health care.

21 And that we're probably not spending enough. And
22 good evidence based and pay for performance but pay
23 more money. I don't remember all the details of the

1 article.

2 But there are a lot of different opinions
3 out there, and you come to Oregon you'll hear a lot of
4 experts. We've got a lot of them out there who feel
5 they know a lot about health care and stuff.

6 And I don't know, but we sort of softened
7 up there. We talk about the economic cycle and how it
8 influences health care. And we don't say, is
9 employer-based health insurance the way to go here?

10 VICE CHAIR McLAUGHLIN: That was my
11 invitation yesterday.

12 DR. BAUMEISTER: I don't know. I just
13 throw it out. My brain is just sort of in chaos here.

14 VICE CHAIR McLAUGHLIN: Well, a couple of
15 things. Yesterday when I made that, I said we just
16 have to be aware that if we stick with employer-based
17 health insurance system, so yes.

18 And I think Randy this morning was saying
19 comprehensive versus incremental. I mean that is
20 clearly something that this working group is going to
21 have to talk about.

22 The expert thing though, I just want to
23 say two things about that. One, to echo Montye, the

1 composition of this working group was thought about
2 very carefully by a lot of people. And when they
3 called me for example for an interview, I said, well,
4 you ought to know, I'm a researcher. That's what I
5 do. I can't really talk about policy and this and
6 that. And they said no, that's partly what your role
7 would be on the working group.

8 So it was deliberately meant to be a
9 simple country doctor.

10 CHAIRMAN JOHNSON: Which you are not.

11 VICE CHAIR McLAUGHLIN: And really,
12 exactly, Sam Ervin definitely comes to mind. Sam
13 Ervin, I'm just a simple country lawyer.

14 But I think that all of us have a
15 different role to play. And that's the comment
16 yesterday of, we're supposed to play that role, but
17 also go beyond it and think as a group.

18 The second is that, I referred to this
19 yesterday. I'm the director of this economic research
20 initiative on the uninsured at Michigan, that's funded
21 by the Robert Wood Johnson Foundation. And one of the
22 reasons why they asked me to do this is because I
23 said, you know, there are a lot of myths out there

1 about the uninsured, and there are a lot of experts
2 who say, and I'm not saying Mike does this, but they
3 go, 41 million, and the reasons are. And was curious
4 to say, how much of those are myths, and how much of
5 those are actually what's happening.

6 So they gave me money to contract a lot of
7 people to study this and say, what are they? And I'm
8 saying the same thing to you now.

9 Mike and Richard and I are supposedly
10 experts on different issues, and we're going to say
11 blah blah blah. But that doesn't mean we're right.
12 And it doesn't mean that we really do understand it.

13 And one of the reasons that I was excited
14 about being part of this group is because I like to
15 expose myths. That's sort of what I like to do. And
16 that's what I think we're doing.

17 And Mike, some of the things you said
18 yesterday, Richard and I looked at each other and
19 went, that's a bunch of baloney, because we have a
20 different view of the data. We have a different view
21 of the evidence.

22 And similarly, we're going to say things
23 that Mike is going to say, so it's not as though

1 experts know the answers. And boy, don't think that
2 at all.

3 CHAIRMAN JOHNSON: Mike, she told me the
4 same thing. So don't feel bad. I made a statement of
5 a few facts, and she said, the data doesn't show that.

6 Two comments, and then we'll come back to
7 Mike. Your comment about the old country doctor
8 reminds me of, I forget whether it was Adlai Stevenson
9 or Ev Dirksen who was pictured with his hood up kind
10 of like this and they showed a hole in the bottom of
11 his sole, he got more mileage out of that hole in his
12 shoe than anything else.

13 More to the fact here, hearings I have
14 observed have been typically where a person has five
15 or 10 minutes to testify, and then the panel responds
16 to questions. But that doesn't mean that we have to
17 have five to 10 minutes for each person to testify.
18 We can construct these, and we might construct them
19 differently depending on the setting, to accommodate
20 the needs of the working group, as well as those who
21 are sharing their input with us.

22 So that's something I think that the
23 working group, or the subcommittee on hearings can

1 think through. And if you have input on that

2 Mike and then Montye.

3 MR. O'GRADY: I want to go back to
4 Richard's point there, and the question you posed
5 before.

6 I think that in terms of when we think
7 about Medicare and Medicaid, they're about 50 percent
8 of the health care spending in the country. So I
9 guess I would go in the other direction and say, but
10 you know what's the other next big chunk? It is
11 employer.

12 I'd like to see a hearing like that in
13 terms of laying it out so you can get an idea of how
14 does this spending work? And then it gives us a
15 grounding to then confront these other questions
16 about, what do we think is going on.

17 And then not to be a one-note Johnny about
18 this, but especially when you get to Medicaid. One of
19 the real problems I think with Medicaid is that you
20 look at these things like Social Security and
21 Medicaid, they have these trustees report that sound a
22 certain warning, whether it's effective or not. It's
23 going to run out of money in X year, or Y. Medicaid

1 has nothing like that. I mean I don't think you have
2 to convince any governors that they've got a real
3 problem, but there is all this other stuff going on
4 with long term care, and the approach of the baby
5 boomer, you know Medicaid may be in more trouble than
6 Medicare when the baby boom comes.

7 And that's not as often highlighted in the
8 press in different things. So it'd be a real
9 advantage here.

10 But I think, you deal in a world, Randy,
11 of employer. That's a massive player in this game,
12 and therefore, I think it'd be real important to lay
13 out some of those issues as well.

14 MS. CONLAN: I guess this might be a trite
15 analogy, but in my personal life the question may be,
16 do I change jobs or do I buy a house? And I develop a
17 pro list and a con list.

18 I can only imagine what economists do to
19 make societal recommendations. But I would think the
20 hearings would be to help us develop this list of the
21 benefits and the costs and then answer the question,
22 should we have Medicare based on the evidence that we
23 received on both sides.

1 So I don't think entertaining information
2 or questions or testimony about Medicare necessarily
3 puts a stamp of approval that we have to have it. But
4 it helps us to reach a decision about it.

5 CHAIRMAN JOHNSON: And I want to make sure
6 that you're not misunderstanding my comments. If you
7 look at all of these that we discussed yesterday, a
8 lot of them are touching on, if not related to,
9 Medicaid and Medicare.

10 So it's not my intent to say that we
11 should get into those subjects at all, for all the
12 reasons we've all been discussing.

13 MS. HUGHES: First, I'd like to apologize,
14 Frank, for interrupting you when you spoke. Your
15 comments made me think that I feel awed by the
16 expertise in this room. And I know that like Montye,
17 when I was called to ask to be on the commission, I
18 said, what do I bring that can meet the expertise in
19 this room?

20 And so I listened to what's being said.
21 And I think that just as a citizen, who's not an
22 expert in this room, I'd like to ask that you consider
23 several things.

1 First, I'd like to see if we could get rid
2 of whether as a group we can have a meeting where we
3 can have some experts, GAO, whoever you think is
4 applicable for the menu, to come in and address us
5 with the ideas of what the nuts and bolts are of the
6 health care system today. That's the first thing I'd
7 like to see.

8 The second thing I'd like to see is that
9 when we discuss the hearings that we look at like you
10 said earlier, Randy, the locale which it seems like
11 that sort of has a consensus there. I don't know who
12 these people are. I have to depend on you to tell me
13 who they are, and I accept that, because I just don't
14 know.

15 But I'm very uncomfortable saying, talking
16 about experts coming to a hearing before you tell me
17 whether you're going to educate me and bring me up to
18 speed with the rest of you. And I won't be up to
19 speed with you, but at least I will have some
20 grounding that can allow me to participate a little
21 more in your dialogue.

22 So I would like to ask that if we could
23 move that education piece off the table, I think we

1 could move forward, or at least I could move forward
2 more easily with the next point which is the hearing.

3 CHAIRMAN JOHNSON: Therese, there's only
4 one person that Catherine and I and those who are
5 working with us on staff had talked about personally
6 coming to meet with us.

7 And his name is David Walker, who is the
8 person who appointed you all, to be part of the
9 working group. But he would approach this not only as
10 a person who's got a passion for this subject and is
11 knowledgeable about this subject, but he's approaching
12 it from, the United States can't continue to do what
13 we're doing, and we've got to find some ways to fix
14 the system, just for the United States economic
15 perspective.

16 Those are my words to describe some of his
17 thinking, and he might not put it in those words. But
18 we've got a conflict with him actually for the May
19 date. So we're trying to work with him and others,
20 his colleagues, to figure out when he might come and
21 how he might come.

22 MS. HUGHES: And would be just be the
23 whole kit and caboodle?

1 CHAIRMAN JOHNSON: No, but he would be one
2 who would provide a foundation of information, but not
3 the only one. And we have talked about dealing with
4 some of the questions that you were just raising.

5 DR. SHIRLEY: Could I? I think some your
6 comments are very interesting in that I don't have the
7 slightest idea why I was selected. And I was
8 surprised when I was.

9 And but I think that part of the decision
10 was based on my experiences, my involvement, and what
11 I had learned from that. And I suspect to a great
12 degree that might apply to you.

13 VICE CHAIR McLAUGHLIN: I would agree.

14 MS. HUGHES: I think there are some
15 dangers if we minimize internally that, to the degree
16 where the experts can come and change my perception of
17 what I have experienced, what is the impact it has on
18 me and my community.

19 It's like, I know I have this pain in my
20 shoulder. But some experts could come and talk me out
21 of feeling that pain. That's the danger that I see in
22 some potential danger that I see in the comments, that
23 you internally minimize what you bring, you can

1 educate the experts.

2 VICE CHAIR McLAUGHLIN: I agree.

3 MS. HUGHES: I didn't mean to minimize
4 what I bring. What I'm saying is, there is a
5 disparity between knowledge, and I would like to at
6 least feel that I'm on a more equal plane.

7 I have practical knowledge. It's
8 knowledge. That's not my point. My point is that I
9 would like some nuts and bolts on the system. That's
10 all I'm asking.

11 VICE CHAIR McLAUGHLIN: Well, I think
12 that's the precursor to the report. Right? That
13 basic plumbing, where do the dollars come from and
14 where do they go? I absolutely agree with you.

15 And I agree with what Dr. Shirley said. I
16 mean years ago when I was studying small businesses
17 and the health insurance, and I had all these great
18 ideas, and then I went and was participating in focus
19 groups, which economists almost never do. And if
20 economists knew I did it they'd take away from union
21 card.

22 And some of the comments from the small
23 business owners, and all they knew was their

1 experience and their own business, made me realize, my
2 assumptions were way off on this.

3 Dr. Shirley is absolutely right that I
4 think we're all here to learn from each other, but
5 isn't that part of the whole point of this working
6 group is to start a nationwide public dialogue. And
7 we're a microcosm of that, and starting this dialogue,
8 so that we all learn from each other.

9 But I also understand your point of let's
10 just get the plumbing, and understand the dollars,
11 where they come from, where they go, and these issues
12 which are really the precursor to the report itself.
13 That's what the report is supposed to do too.

14 CHAIRMAN JOHNSON: Any other comments on
15 hearings?

16 VICE CHAIR McLAUGHLIN: What do we do?

17 CHAIRMAN JOHNSON: I think we have had
18 good input and good dialogue this morning. And it's
19 really been helpful.

20 And first to Joe and then to Richard.

21 MR. FRANK: I have a process question. I
22 hope no one will take it the wrong way, but I've
23 served on a lot of committees, and there's two types

1 that I've noticed.

2 One is where everybody walks out having
3 understood whether a decision has been made or not,
4 and the other ones, you're never sure. And I just
5 wanted to know which one we were going to be.

6 Because to some extent, and unfortunately
7 I'm on another committee right now where I'm never
8 ever sure that a decision has been made, and when the
9 next meeting starts, it turns out they haven't. And
10 so we're not getting anywhere, but at least we're
11 spending a lot of time doing it.

12 So I was just wondering as a matter of
13 process whether we were going to sort of stop at
14 various points and illuminate what we have decided.

15 CHAIRMAN JOHNSON: Let see if we can bring
16 some closure here.

17 First, what we've understood is, at least
18 I'm going to share what I understood that we want to
19 have some hearings or education which help our
20 foundational education regarding the health system.

21 That's one thing I think we heard.

22 And the second thing I think we've heard
23 is, we will want to do some hearings in Washington,

1 D.C., or close by.

2 The third is, what I think we've heard
3 some consensus on is, we would also do some hearings
4 outside Washington, D.C.

5 Fourth, you've given us some questions,
6 and others have.

7 MR. FRANK: Friendly amendments.

8 CHAIRMAN JOHNSON: We've had some subjects
9 that we would cover. And we'll flesh out the input
10 based on our notes and come back to you.

11 Fifth, what we will do is, we'll appoint a
12 subcommittee, and we might be able to get it to you by
13 the end of the day who will be on that subcommittee.
14 Catherine and I will be for sure. But the
15 subcommittee will work with staff to work out some of
16 the details.

17 And then come back to you and let you know
18 what we're talking about.

19 The sixth is we have set aside some dates
20 in May, and it's the 11th through the 13th, and now we
21 have a challenge, because not everybody can make all
22 the dates.

23 And as we look between now and July 1

1 there is not one date on which our whole group can
2 meet.

3 So what we tried to do is look at the
4 dates where we had the least number of people who have
5 said that they can't make it.

6 But we've looked at these dates, and we've
7 thought, this is the Washington, D.C. meeting. This
8 is what we've been kind of contemplating so far.

9 So let me just stop and see if you have
10 any feedback regarding these at least preliminary
11 decisions for you to say, yes, we buy into those.

12 MS. MARYLAND: So can I ask a question?
13 The May 11th through the 13th is your foundational
14 meeting, or the hearing in Washington, D.C.?

15 CHAIRMAN JOHNSON: What we've talked
16 about, and you can give us guidance, what we've talked
17 about is two days of information that we would
18 receive. And we've talked about that in the form of
19 hearings, two days of hearings. We've talked about
20 one day could be in the form of a forum where there
21 would be some point-counterpoint kinds of discussions.

22 And what we've talked about, though this
23 is not a decision, talked about having a third day

1 when we get together on the third day, and we work
2 until maybe 3:00 o'clock.

3 That happens to be a Friday. But we'd
4 work until 3:00 o'clock or so, and say, okay, we kind
5 of have a brain dump, here's what we've heard so far,
6 and these are some of the things that have been
7 apparent to me, and that would help us figure out
8 where to go from there.

9 Now, that wouldn't be the end of the
10 hearings, because we would anticipate doing some more
11 hearings. What we need to try to do is have at least
12 one of the set of hearings on the legislative language
13 as early as possible.

14 And then we can have other subjects, and
15 we can build on those legislatively mandated subjects
16 as well, after May. But what we're trying to do is
17 get at least one set of hearings in.

18 VICE CHAIR McLAUGHLIN: About an hour ago
19 I said that we have to walk out of here today with
20 some kind of agreement about the hearings. And in
21 particular the May hearings.

22 The subcommittee can in fact start talking
23 about the broader hearings and what we want to do, and

1 we as a working group can delegate to the staff, okay
2 work out the details of precisely what panel on May
3 11th and May 12th.

4 But we as a working group, because of
5 Sunshine, FACA, in this public meeting today, have to
6 make the decision about whether we're going to have
7 hearings over that three-day period, May 11 - 13, if
8 they're going to be in D.C., and what the general
9 issue is going to be.

10 Because if we don't, then we can't have
11 the May meetings until we have another public meeting
12 of the working group.

13 So just to stay on task, we do in fact
14 need to come to closure about that, and make sure that
15 everyone is in agreement that that's what we should be
16 focused on in May, that's how we should spend the
17 time.

18 MR. PATTON: Anything delegated to a
19 subcommittee, the subcommittee does not need to have a
20 public meeting. Its decisions or recommendations must
21 come back to the full committee before you proceed.

22 So that's why if you delegate decisions
23 about May to the subcommittee, you're having no

1 meeting in May, so don't do it.

2 CHAIRMAN JOHNSON: Okay, well, let me test
3 this. Larry, if we say that we're going to hold
4 hearings on the meetings or on the subjects that are
5 mandated by the legislation and related topics, have
6 we met the obligation?

7 MR. PATTON: Yes, I think the framing out
8 of this that's delegated to the staff to do is fine,
9 so far as I know. I think we're fine. The issue is
10 not to let the whole issue be sent to a subcommittee
11 unless it's coming back to the meeting.

12 MR. FRANK: I just have a question, I just
13 want to poll the group. I could imagine sitting
14 through one day of hearings. I think that I would be
15 totally burnt out after two days. I mean it's going
16 to hard.

17 And we have a lot of work to do anyway.
18 So I'm just wondering how we should time this, or
19 whether we should have two half days. Or just
20 something so that we can actually get the most useful
21 things out of it, and then actually have enough time
22 as a group to process what we heard.

23 Because I think that's sort of an

1 important thing to do early on if we're going to learn
2 from each other.

3 CHAIRMAN JOHNSON: That's kind of what we
4 contemplated on the third day. But let me build on
5 your question and ask a similar question, maybe.

6 Are you saying by your question that maybe
7 we shouldn't have three days of meeting time including
8 two days of hearings? That we might want to
9 consolidate some of the hearings into a shorter period
10 of time, and just have a two-day meeting for some of
11 the reasons you're implying?

12 MR. FRANK: I was just sort of, as a
13 personal matter, I find it very difficult to sit still
14 for that period of consecutive hours. I can do it for
15 a day. But I think if I did it for two days my brain
16 would shut off after probably the second hour of the
17 second day.

18 CHAIRMAN JOHNSON: There's another factor
19 to be considered, and that is, for those of you who
20 are traveling, especially from the West Coast, it's a
21 four-day meeting if we have a three-day meeting. It's
22 four days out of your offices, assuming that you're
23 all participating.

1 MR. FRANK: Maybe what we could do is half
2 a day, full day, and then two-thirds of a day, and
3 that would get people enough time to travel.

4 MS. STEHR: That's what I was just going
5 to suggest, that we do like on the 11th it's a start
6 maybe 1:00 o'clock in the afternoon, go until 5:00,
7 then do a full day, and maybe do like the really
8 educational part, the government agency experts, maybe
9 on the 11th if that's workable. Then do the opposite
10 views on the 12th, and then the 13th is a working
11 group. So we're getting a wide range, but we're also
12 getting both views and not just one view.

13 Does that make sense?

14 CHAIRMAN JOHNSON: Let me test something
15 with you. Would you be open to starting at 1:00
16 o'clock on day one, but giving the subcommittee some
17 flexibility to figure out who all would come and what
18 would be the agenda for the first half-day as well as
19 day two?

20 MS. PEREZ: It would be the staff. We're
21 going to take the subcommittee completely out of it.

22 MR. PATTON: For the May meeting, the
23 subcommittee can take anything beyond that.

1 MR. O'GRADY: Although I don't know that
2 I'd be comfortable taking the subject of the hearing
3 and delegating that to staff.

4 MR. PATTON: That you should probably
5 discuss.

6 VICE CHAIR McLAUGHLIN: Well, we do need
7 some flexibility of the schedule, just because if
8 there are three or four people that we've identified
9 as the people, and one of them can come Friday morning
10 and one can come Wednesday afternoon, do we want to go
11 to a second best person? Or do we want the staff to
12 be able to be flexible on the scheduling?

13 MS. STEHR: I think flexible.

14 VICE CHAIR McLAUGHLIN: Me, too, that's my
15 issue.

16 MR. FRANK: My only plea was to, do we
17 want to impose a constraint like no more than two half
18 days or no more than three days.

19 MS. BAZOS: But Richard, can I ask a
20 question about your statement? I thought what you
21 were saying, you weren't questioning the three days -
22 - personally I must be a glutton for punishment - - I
23 think we need to really get up to speed fast. I'm

1 willing to put in three days.

2 But I thought what you were saying is, if
3 we could think about how the three days were laid out,
4 so that if we had intense meetings in the morning, and
5 we really heard a lot. The afternoon ones, okay,
6 let's talk about it, what are your assumptions, or
7 perhaps I think some homework ahead of time.

8 I want to have the right readings. I want
9 to be able to say, if we're going to have a person
10 come and talk to us, number one, I want to know what
11 he's done his work in.

12 Number two, I want to be able to somehow
13 tell someone what my assumptions are about that, so
14 that right away this person can come and say, well,
15 Dotty, that's a great idea, but you know what, you're
16 really all wrong because of this. And I'm going to
17 teach you why.

18 So I think that if we get all this
19 information sort of in a vacuum we could just be
20 sitting back at the table saying, well, I still don't
21 get it. Like I personally have an assumption about
22 how the VA could be much more efficient if in fact
23 veterans could just get buy-outs from Medicare. I've

1 done some research in that area.

2 If we're going to think about
3 opportunities, we need to quickly get some legs around
4 those assumptions. Either they're just like way out
5 in left field, let's never consider those things.

6 So I think we need to do our homework, but
7 also we need to think about real efficiency at these
8 meetings. So learn, do, build kind of thing.

9 MR. PATTON: Randy, if I could a bit in
10 response to both comments.

11 One of the things, if you're sitting and
12 thinking about the traditional hearing process where
13 you're up on the dais, and people talk for 5 to 10
14 minutes, as Mike can tell you, this will drive you
15 crazy very quickly. This is a long type of day.

16 But one of the things that Randy
17 participated in something that the comptroller
18 general, Dave Walker, had organized, which in fact was
19 much more of an educational seminar approach, where in
20 fact within an hour, or let's say an hour and 15
21 minutes, just to give an example, the presentation,
22 you had the material ahead of time, as you're
23 suggesting, and then you had 10 to 15 minutes of

1 presentation, but the rest of the time you're engaged
2 back and forth.

3 That's a very different thing than the
4 kind of structured stilted format, and it seems to
5 keep people's attention much easier, and you can get
6 both the basic questions, and the more sophisticated
7 questions for those who want to engage with the
8 experts.

9 It may work for you.

10 MR. HANSEN: I agree with Dotty. I think
11 we need the three days. But I like what Larry is
12 saying, and starting at 1:00 o'clock doesn't help the
13 people from the West Coast. They'll have to come the
14 day before anyway.

15 So I'm fine with that. And I think
16 Catherine, you kind of laid out how you wanted the
17 subject matter to be. And maybe we could get to that.

18 MS. HUGHES: Speaking from the West Coast
19 I'd just like to say that two days like yesterday and
20 today is difficult for me. So having that third day
21 is not a problem, and it's not a problem for me
22 workwise. So I can just say that.

23 Not that I'm asking you all to just think,

1 oh, West Coast, no sleep and the like. But I'm just
2 saying that it would be easier. I do like the idea of
3 an interactive hearing, because I feel I have a lot to
4 learn. And I think the interactive hearing would be
5 very helpful for me, whether I'm awake or asleep.
6 (Laughter.)

7 CHAIRMAN JOHNSON: Okay, we've heard some
8 counter-arguments for starting at 1:00 o'clock. Are
9 we moving away from 1:00 to 8:00 o'clock or 8:30 to
10 9:00?

11 MS. CONLAN: I think I would have a
12 problem, too, of traveling in the morning, and then
13 just because of my disease may get tired sitting there
14 listening, but I'm going to be tired from the travel.

15 So by 1:00 o'clock, that's my time of the
16 day to be tired anyway, and after the traveling I'm
17 not really going to be of much use anyway.

18 MS. STEHR: I'm thinking 1:00 o'clock too
19 for those of us that are flying in the night before,
20 but we're getting in so late that we're not started as
21 early in the morning is kind of why I was thinking
22 1:00 o'clock.

23 MS. CONLAN: Well, I don't mind starting

1 early in the morning, but I think compressing so much
2 into one day like yesterday was difficult. And you
3 can see what happens to my body as a result. So
4 that's just my personal problem.

5 CHAIRMAN JOHNSON: Okay, other thoughts?
6 Are we sitting at 1:00 o'clock or are we sitting at
7 9:00 o'clock.

8 MR. O'GRADY: Can I ask a question just in
9 terms of this, and Larry, in terms of trying to think
10 through FACA and how it applies, I'm hearing kind of
11 different things from different people.

12 Would it make sense to have like on the
13 morning of the first day to have some informational
14 seminars, bring in whoever, ask Senator Wyden to put a
15 request in to CRS or GAO, whoever.

16 Richard perhaps can fly down on the
17 shuttle from Boston that morning, but it would allow
18 some of these other things for folks who really feel
19 they want just a little more background on these
20 areas.

21 It wouldn't be a full hearing, and I don't
22 know whether FACA allows that sort of thing. But it
23 would be sort of resources made available to the

1 working group to help people kind of prepare for the
2 hearings.

3 MS. HUGHES: That's great.

4 VICE CHAIR McLAUGHLIN: And then the group
5 would have a couple of hours in the afternoon to talk,
6 and then Thursday we would have as outlined before
7 some of these other experts coming in to talk about
8 their perceptions.

9 And then Friday the subcommittee would
10 potentially report to the full committee on Friday
11 about the rest of the hearings, whether they're in
12 Mississippi, in Iowa, wherever they are.

13 We could then hear from the subcommittee
14 what their thoughts were. Is that --

15 DR. BAUMEISTER: I personally don't want
16 to fly in the day before and have a free morning.

17 CHAIRMAN JOHNSON: You prefer to fly in
18 the day before?

19 DR. BAUMEISTER: I would have to.

20 VICE CHAIR McLAUGHLIN: And fly in the day
21 before and get going.

22 DR. BAUMEISTER: I don't want to have a
23 free morning.

1 CHAIRMAN JOHNSON: So AM would be
2 basically I'll call it education and foundations. I'm
3 putting this down so I'm making sure I understand. PM
4 might be a little bit of that plus the working group
5 meeting.

6 Day two would be more traditional hearings
7 --

8 VICE CHAIR McLAUGHLIN: But still
9 interactive.

10 MR. FRANK: The question is, if we follow
11 up from Larry's suggestion.

12 CHAIRMAN JOHNSON: More traditional
13 hearings but with a focus on interactive dialogue.
14 And maybe not necessarily five minutes, five minutes,
15 five minutes, but it would be maybe 10 minutes, or in
16 some cases, we'll try to figure this out, maybe 30
17 minutes, and then some dialogue with more questions,
18 depending on who specifically we would bring in.

19 Richard, are you cool with that? MR.

20 FRANK: Yeah.

21 CHAIRMAN JOHNSON: So more traditional
22 hearings but with a focus on interaction. And day
23 three would be the working group meeting. Are we cool

1 with that?

2 VICE CHAIR McLAUGHLIN: Sounds good to me.

3 CHAIRMAN JOHNSON: Now later on we'll talk
4 about forming a couple of more subcommittees, and we
5 might have some interaction from them. We might have
6 some brain dumps or debriefing on day three from here.

7 VICE CHAIR McLAUGHLIN: Just keeping in
8 mind what Larry said, but can we in fact give the
9 staff the flexibility that if one of the people we
10 really want to talk to can only come Friday, that that
11 flexibility is fine, that we don't have to stay
12 rigidly to this. This is the game plan, but we have
13 to allow flexibility for availability. Have we met
14 our stuff, Harry?

15 MR. PATTON: You're fine on that. I just
16 wanted to come back to Mike's point to make sure that
17 the general topics that you wanted to cover, I think
18 Mike is right, it probably makes sense for you to at
19 least make sure that you're in agreement what topics
20 are going to be fleshed out.

21 VICE CHAIR McLAUGHLIN: Can we take a
22 five-minute break before we do that?

23 CHAIRMAN JOHNSON: Hold on before we take

1 a five-minute break. Is this a broad enough and
2 narrow enough subject matter for the hearings?

3 MR. PATTON: Do you want to get the
4 greatest level of specificity?

5 MR. O'GRADY: I think so. But I think
6 you're in a good position here. Because as I read
7 their legislative mandate, it's a whole bunch of it
8 having to do with the uninsured. So I think if
9 everybody is comfortable with it, you could move
10 forward with some of that sort of work, and kill two
11 birds with one stone.

12 CHAIRMAN JOHNSON: Okay, let's take a
13 break from the dialogue. We'll reassess this and talk
14 about hearings when we come back.

15 (Whereupon, the above-entitled
16 proceedings recessed at 10:26 p.m. and recommenced at
17 10:49 a.m.)

18 CHAIRPERSON JOHNSON: Okay, Brent, we're
19 going to welcome you in just a second and introduce
20 you and ask you to introduce yourself, actually.

21 But before we do that, what I'd like to do
22 is summarize what we discussed before the break, and
23 see if this summary is solid enough for us to proceed

1 with the assistance of staff.

2 So here we go. When we've talked about
3 hearings, what we've said is that we're going to have
4 not only a series of hearings, but we'll intend that
5 they be foundational, that there be a foundational
6 education process for us in the days that we'll meet,
7 and those days we're tentatively thinking of, or we
8 have put down on paper as being May 11 - 13.

9 We will have an initial set of hearings
10 and education and meeting in Washington, D.C. on those
11 three days, May 11 - 13.

12 Subsequent to that, those three days, we
13 will conduct some hearings outside of Washington, D.C.
14 where we will focus on what I'll just for right now
15 call practitioners and people who are really in the
16 process of delivering care, or in the trenches in one
17 way or another.

18 We will also be developing a subcommittee
19 on hearings in which we will invite a couple of you to
20 join Catherine and myself to be the subcommittee that
21 will work with staff and provide information back to
22 you and bring information back to you for your
23 comments and thoughts on the whole subject of

1 hearings.

2 The subjects about which we will conduct
3 the hearings will be legislative mandates, cross-
4 related subjects. So when we do the hearings we'll be
5 considering the legislative mandates that of course
6 are in the laws, plus the issues and the initiatives,
7 the related subjects that we discussed yesterday.

8 We talked about doing a meeting that would
9 start at 1:00 o'clock on May 11th, but what we've
10 decided to do instead is start earlier in the day, and
11 that might be 8:30 or 9:00 o'clock. Can we say 8:30
12 right now, just so everybody has got the starting
13 time? At 8:30 in the morning we'll start with some
14 what I'll call education forum types of focus, where
15 we'll have some of the foundational education that
16 will be provided by folks who have that kind of
17 background, and there will be interaction with us and
18 those who will be delivering the information.

19 We will meet in the afternoon to conduct
20 kind of a debriefing, what we've heard and discuss
21 some of that material further that we've had in the
22 morning.

23 On May 12th we'll conduct more formal

1 hearings that will look maybe a little more like
2 traditional hearings in Washington, D.C., but the time
3 allocated to the speakers might be a little different,
4 and they're intended to be interactive as opposed to
5 five minutes for a speaker, questions, next panel,
6 five minutes for the speakers, ten minutes, whatever.

7 And then on the 13th we will meet as a
8 working group to conduct working group business and to
9 conduct a debriefing on what we've heard.

10 The focus on the hearings and the
11 educational forum is interactive.

12 Okay, first have we captured what we've
13 discussed so far and what we've decided? And are we
14 comfortable with that approach and that that meets the
15 legal requirements that are on the record so to speak?

16 Anyone have any comments to the contrary of what
17 we've just discussed?

18 MR. O'GRADY: I just have one clarifying
19 question. Larry indicated that if we sort of
20 generally say we're going to talk about a more general
21 topic, but that will meet our FACA, our kind of legal
22 restraints.

23 At the same time in terms of just sort of

1 our putting a Federal Register notice out, letting
2 people know about this, do we want to try and drill
3 down and be a little more specific at this point, just
4 so that there's not any confusion, just [I mean not []
5 we're kind of legally covered. But I mean beyond
6 that, just properly communicating with the broader
7 community.

8 CHAIRPERSON JOHNSON: Okay, by drill down,
9 if we were to say, let me test this with you, I've
10 stated on the sheets, we'll conduct hearings related
11 to the subjects required by the mandate.

12 If we were to list those subjects in
13 greater detail, more specifically, would that be
14 helpful, do you think?

15 MR. O'GRADY: I was just, when the slides
16 were presented before, the first says capacity of the
17 public and private health care systems to expand
18 coverage. And then the third says, efforts to enroll
19 individuals currently eligible for public and private
20 health care coverage. That seemed to dovetail into
21 some of the things that Richard had brought up
22 earlier, and that that would give people some sort of
23 a feel for, and then depending on what our feeling was

1 is that the time we want to start with things like
2 Medicaid and SCHIP and some of the coverage expansion
3 discussions, and that could be maybe some of the
4 topics for the morning.

5 But that was just a thought.

6 VICE CHAIRPERSON McLAUGHLIN: I'm thinking
7 though about Aaron's comments earlier, that if we
8 chose, for example, to have one of the future hearings
9 in Mississippi, it seemed as though some of the things
10 being done in Mississippi would naturally lend
11 themselves to talking about Medicaid, SCHIP,
12 vulnerable populations, access, expanded coverage.

13 And that may be the better fit for the
14 Washington hearing, especially coming after this
15 foundation format, would be the next one, which is
16 cost of health care and effectiveness of care provided
17 at all stages of disease. Strategies to assist
18 purchasers of health care to become more aware of the
19 impact of costs. And then the role of evidence-based
20 medical practices.

21 I'm just offering that as an alternative.

22 That's still getting at the subjects we're supposed
23 to cover in the hearing. But it might be a better use

1 of the geographic issue that we talked about, the
2 location of these so-called experts, where do they
3 tend to reside, and how it would fit with our
4 Wednesday educational format.

5 Just a thought.

6 Richard, you're looking pensive.

7 MR. FRANK: Well, I tend to agree with
8 Mike. I think it's good discipline, partly for the
9 outside world, but it's good discipline for us to
10 decide what we really want to focus on and get
11 educated about. And I think that helps the staff,
12 because the last thing they want to do is do stuff
13 that either we already know or we don't care about.

14 So I think for that reason it would
15 probably be a useful exercise to drill down.

16 The other question is again a process one,
17 which is, have we decided if we're going to do
18 something like mimic the GAO conference that Larry
19 referred to, how that happens and how that works?

20 CHAIRPERSON JOHNSON: Let's just take that
21 for a second. Would we be able to consider that our
22 format for that day one?

23 MR. FRANK: That was what I thought was

1 day two, right?

2 CHAIRPERSON JOHNSON: Day one.

3 MR. FRANK: No, I think day two, for the
4 hearings.

5 CHAIRPERSON JOHNSON: So you're thinking
6 that's how we would do the hearings.

7 MR. FRANK: Well, that's the way I heard
8 Larry's suggestions.

9 MR. PATTON: I was actually referring to
10 the educational portion, the foundational portion.
11 But there are other ways to think about the hearings.
12 And Mike may have some other examples he wants to put
13 on the table.

14 But the traditional one is to ask a panel
15 to come up, and they might present their 10-minute or
16 five-minute spiel, what they're all about.

17 So for example if you wanted to bring in
18 safety-net providers, they would all do their spiel,
19 and then you would ask questions.

20 An alternative to that, Brandy, would be
21 to have no set presentations, and organize the
22 discussion around two or three questions. So that
23 rather than hearing from them sequentially, it's more

1 interactive from the very beginning, and you do it
2 that way, and Mike may have other variations that
3 might have worked on the Hill.

4 But there are different ways of thinking
5 about this within the quote hearing format.

6 MR. O'GRADY: There is one other model
7 just to put out there just for your consideration.

8 The way MedPAC tends to do it is that it's
9 often just a staff member - - well, I shouldn't say
10 "just", they're pretty expert guys - - they'll come
11 out, and there is a topic for the day, how we pay
12 hospitals for whatever.

13 Now they tend to drill down tremendously
14 on some of the detail. But they are moving towards a
15 report. This will be the outline of the chapter. And
16 then a staffer or perhaps a consultant that's been
17 brought in presents. And then there is very much the
18 kind of discussion you were looking for, Randy, there.

19 It really is not so much a five-minute thump thump
20 bringing the next group in. There is maybe a half
21 hour or 45 minutes that the first 15 minutes is the
22 presentation by the people sitting at the table, one
23 or two of them. And then there really is this

1 interaction between the commissioners then about what
2 they really think, and what they think is the right
3 thing to do.

4 CHAIRPERSON JOHNSON: A couple of
5 comments. First, the GAO forum, here is the way it
6 worked. There was a subject matter expert who came in
7 and talked, and maybe for 30 minutes.

8 Then there were two or three responders
9 who were also very smart people, but subject matter
10 expert, and added or disagreed, or filled in to the
11 subject matter expert's discussion. And that took at
12 least an hour to an hour and a half of intensive
13 discussion on a subject.

14 And there were three, I think three or
15 four such sections, maybe three, and then there were
16 some breakout groups, and then they came back to
17 report on what they heard in their breakout groups.

18 Now what we could do if you wanted to
19 build off of that would be to take the subject matter
20 expert and a couple of responders, or you could have a
21 panel of three experts, they go through their
22 presentation, and then we have a half hour or so of
23 dialogue with them where we ask questions, exchange

1 information, and so forth.

2 If we do that kind of a forum it probably
3 involves less people from the outside to share their
4 perspective as opposed to doing more traditional
5 hearings where we invite people to speak, and we have
6 three or four panel members, and then we ask them
7 questions.

8 Whatever we would feel comfortable with I
9 personally am open to it. But I would like to pretty
10 quickly come to a conclusion of what we'd like to do
11 so we can move on to the report.

12 MS. HUGHES: I'm sorry --

13 CHAIRPERSON JOHNSON: Those of you who are
14 speaking why don't you identify yourself now so--

15 MS. HUGHES: Hi, Brent, this is Therese
16 Hughes.

17 I'm sorry, you're interchanging words and
18 I'm getting confused.

19 Are we talking about the educational thing
20 or are we talking about the hearings, or are they both
21 called the same thing? I just need to have that
22 clarification.

23 CHAIRPERSON JOHNSON: Can we call day one

1 an education forum?

2 MS. HUGHES: That's fine.

3 CHAIRPERSON JOHNSON: And let's call day
4 two, let's call that hearings to begin with. And if
5 we want to have the same format for both, well fine,
6 I'm open to that.

7 But let's just start with day one, I'll
8 just share what I thought was the education forum, and
9 building off Larry's comment was the GAO type of
10 program that we conducted last year.

11 And day two hearings, we can come back and
12 talk about that separately. But how do you feel about
13 the education forum that GAO had last year? Is that
14 something you would like to do, or would you like to
15 structure it differently?

16 VICE CHAIRPERSON McLAUGHLIN: I have a
17 slightly different question. Larry has left us, Mike
18 you may know the answer. Do we post all of these
19 though as hearings? Because the public is invited to
20 all of these.

21 And so internally we may say one is the
22 educational forum, and the other one is the hearings.

23 But externally, I think these are all posted as

1 hearings. But just serve different purposes for us.

2 MR. O'GRADY: But there may also be in
3 terms of the way you want it handled, there is the
4 notion of an executive session. There are certain
5 rules. You take no votes. Keep in mind that the main
6 purpose of the FACA law is sunshine, so that there is
7 no backroom stuff going on.

8 But in terms of bringing in an expert,
9 it's a briefing in effect on how Medicaid operates and
10 you're not making any particular recommendation, et
11 cetera, et cetera, that's probably fine.

12 And the question would be, if you really
13 are having someone that is just trying to educate
14 people, some people on a task force like this don't
15 want that done in public because they want to ask what
16 they think might be kind of a dumb simple question.
17 And they don't want to do that in front of an
18 audience. They're comfortable enough if there were
19 300 people out here, does that have a chilling effect
20 on your willingness to just go, slow up, slow up, go
21 back, I didn't get that.

22 So I think it's mostly in terms of the
23 usefulness of the day. If you think it would be more

1 useful to have it simply be sort of us, I think that's
2 allowed because we're not taking any votes, and you
3 just call it an executive session, and the public
4 session starts at noon, or starts on day two, or
5 whatever.

6 If you'd like to be more open, I think
7 that's all allowed.

8 MS. BAZOS: Could I just follow-up on that
9 point? We can express preferences now, but I think we
10 have to wait until Larry comes back.

11 MR. O'GRADY: That's my understanding, but
12 Larry is more the --

13 VICE CHAIRPERSON McLAUGHLIN: We can do
14 it, but I think we have to make sure when Larry comes
15 back that we did the right thing with full
16 understanding.

17 CHAIRPERSON JOHNSON: Okay, having said
18 that, how would we like to do this? Is the GAO
19 forum the format that we'd like to do in day one or do
20 you have a preference for something different?

21 MS. BAZOS: The GAO forum is the
22 interactive forum?

23 CHAIRPERSON JOHNSON: Yes.

1 MS. BAZOS: I think an interactive forum
2 in executive session so that people are comfortable
3 asking the dumbest questions, bantering around, sounds
4 good to me. This is Dotty Bazos, Brent.

5 CHAIRPERSON JOHNSON: Okay. Other
6 comments?

7 MS. HUGHES: Did the man above hear that?

8 DR. JAMES: I did hear that, and I'm
9 perfectly willing to sound foolish in a public forum,
10 so it's all the same to me. Do it often in fact.

11 CHAIRPERSON JOHNSON: Okay, I hear no
12 objections to this. So let's move to day two, the
13 hearings.

14 I'll start the conversation by calling
15 them hearings, and ask you again the question, how
16 would you like to proceed with them? Would you like
17 to proceed with them in a similar style for day two?
18 Or would it be your preference to conduct what appears
19 to be more formal hearings that would look more
20 traditional like hearings than this, and we'd have
21 people coming on a variety of subjects that deal with
22 all of the issues that are required by the law.

23 MS. CONLAN: This is Montye Conlan. I

1 just wanted to put out there, you mentioned, you might
2 bring in one or two or possible three people. That
3 seems to assume that there's only one or two or three
4 positions, and are you skewing the results by doing
5 that? Or if you have more voices coming to the table
6 do you get a broader representation of the issue?

7 CHAIRPERSON JOHNSON: Well, one of the
8 challenges we're going to have, Montye, is, we could,
9 just on the subject of Medicare, we could host two
10 weeks of hearings and not cover all of Medicare.

11 We could do the same thing for Medicaid.
12 We could conduct a couple of days, maybe a week, of
13 just access issues.

14 And so that's why we're not going to be
15 able to cover all of the subjects in depth, like those
16 groups that are really focused on, what are we going
17 to do on Medicare reform? Or what are we going to do
18 on Medicaid reform?

19 That doesn't mean we can't touch on those,
20 and we are not going to become Solomon on Medicare, or
21 Solomon on Medicaid. But we can certainly attempt to
22 have education and hearings from people that we think
23 would be helpful on those subjects, and these other

1 subjects that are required by the legislation.

2 Pat.

3 MS. MARYLAND: Have we defined the topics
4 or the topic or two that we want covered the second
5 day?

6 CHAIRPERSON JOHNSON: In response to that,
7 we need to have hearings on those subjects that are
8 legislatively mandated. Plus we've talked about the
9 issues yesterday, and we talked about initiatives.

10 So we would try to incorporate the issues
11 we discussed yesterday with the initiatives and either
12 hold hearings on those, all of those subjects in
13 Washington, D.C., or some of those subjects in
14 Washington, D.C., and others in the subsequent
15 hearings.

16 MS. McLAUGHLIN: So no, we have not nailed
17 down whether we want to drill down, as Mike said, for,
18 this is the list for the Washington group. We haven't
19 done that yet. We've kept it very broad at this
20 point. As Randy just said, the mandated ones, the
21 issues, et cetera. But we have not in fact made a
22 decision whether we want to keep it that broad at this
23 point or make a decision.

1 Do we want the staff to work with the
2 subcommittee to look at that whole big list and then
3 see who's even available, see what panels make sense?

4 Or do we want to be more prescriptive and
5 say, this is what we want the subcommittee and the
6 staff to do the best job possible finding the best
7 people to talk about the following?

8 I think from what Larry said to me at the
9 break, we can do either way. It's okay for us to say
10 okay, there's the list of the issues in the mandate.
11 That's a pretty long list. And we are going to do
12 either all of them at some level of specificity, or a
13 subgroup of them in more detail. But we're not
14 deciding now what that's going to be.

15 Mike is saying, maybe we do want to carve
16 out some in order to have, as part of the publicity
17 for this hearing, to give it more focus.

18 I can see the pros and cons of both, but
19 we haven't yet made that decision.

20 MS. BAZOS: Can I ask a clarifying
21 question, Catherine?

22 For the hearings, where we've talked about
23 doing hearings inside Washington this day, and then

1 other hearings. So should we decide that we want to
2 have hearings around all the issues? I mean do we
3 need to decide that ahead of time?

4 I mean you had said we could have in-depth
5 hearings on some of the issues, shorter hearings on
6 other of the issues. But the mandated, we need to
7 have hearings on each one of the issues at some point,
8 some time, some place, right?

9 CHAIRPERSON JOHNSON: Yes, we need to
10 discuss those subjects.

11 MS. BAZOS: Okay, I just wanted to make
12 sure.

13 CHAIRPERSON JOHNSON: Also, if you look at
14 some of the subjects mandated by legislation, a good
15 number of them do require researchers, like my
16 esteemed colleague here or Richard or Brent James or
17 others, who really understand the in depth, they've
18 studied some of our systems on an in-depth basis.

19 And so initially going in, my personal
20 thought would be, we would try to have as many of
21 those subjects dealt with in our Washington, D.C.,
22 hearings as we can, and focus outside of Washington on
23 some of the practical implementation of initiatives

1 that have been done and so forth.

2 Now, that doesn't mean if you all agree or
3 if you all would want, that doesn't mean we can't come
4 back to Washington at a different time for another
5 hearing. But we've really contemplated just as those
6 of us who have been talking about this before this
7 meeting, maybe three to four hearings total.

8 If you as a group say, no, we need to have
9 15 hearings between now and July 1st, if that's what
10 your wish is, we'll try to accommodate that. But we
11 haven't heard that either. So we're trying to balance
12 what are the legal requirements, what are the
13 timetables, and what are the subjects to be covered,
14 and what's the best way to do that. Understanding
15 that we'll have town hall meetings later on so the
16 report can be put together and so forth.

17 DR. SHIRLEY: I'm looking at 20 mandated
18 subjects. It might be helpful to get that number out
19 there.

20 VICE CHAIRPERSON McLAUGHLIN: Actually for
21 the hearings there are eight. Don't confuse the
22 hearings with the report. There are eight.

23 CHAIRPERSON JOHNSON: However, I agree

1 with my colleague, as I normally do, but we have to
2 write on all of the subjects that were in the bullets
3 yesterday. And therefore, we have to have some
4 information from some place.

5 So we have the subjects of hearings. We
6 have the subject of hearings that are mandated. We
7 have the subjects that are to be in the report that
8 are mandated.

9 So we've kind of put some of those
10 together. Because somehow we've got to get
11 information to include in the final report.

12 MR. O'GRADY: Just a footnote. In terms
13 of some of this stuff, doing things in D.C. versus
14 otherwise, much of that is tied just because it's
15 congressional. That's where the members are, as they
16 say, like that's where the money is.

17 Other things where we've gone trying to
18 draw experts we tended to use some place in the middle
19 of the country so you're not making it much harder for
20 the West Coast people.

21 So you pick Chicago or you pick St. Louis,
22 some place with a good airport, good hub, and
23 everybody gets then a day trip. It's sort of a day

1 trip for those of us on the East Coast, and you just
2 sort of share the pain in terms of getting there. And
3 the guys of course in the middle have the least pain.

4 But much of the stuff with D.C. is more
5 driven by the institutional side of the Hill, and
6 therefore we're not constrained by it.

7 CHAIRPERSON JOHNSON: Agreed, and yet
8 there are many of the researchers and academicians who
9 are on the East Coast. So not limited--

10 VICE CHAIRPERSON McLAUGHLIN: Don't tell
11 the Berkeley guy.

12 MR. O'GRADY: Oh, yeah, the Stanford guys,
13 the UC guys. There are some of them, yeah. I mean
14 that's where the criticism came from. You guys in
15 Washington only listen to a certain East Coast elite,
16 and there is a whole big country out there.

17 CHAIRPERSON JOHNSON: Agreed, and that's
18 why we're talking about going outside of Washington,
19 D.C.

20 Therese, you were going to comment?

21 One more comment and then let's see if we
22 can put closure to some of this.

23 MS. MARYLAND: My question is more of a

1 philosophical question, point of view. Do we feel
2 that with the combination of the hearings and the
3 follow-up, town hall meetings or whatever you want to
4 call it, that that will give us enough information to
5 really understand the national opinion, if you will,
6 of health care and the state of health care?

7 And I ask that question from the
8 standpoint that we may want to consider the
9 possibility of supplementing this with a survey of
10 some type, a consumer survey in terms of their
11 thoughts on questions and issues.

12 VICE CHAIRPERSON McLAUGHLIN: We certainly
13 are going to use the Internet for interactive stuff.
14 But the reality is, we don't have anywhere close to
15 enough money for a survey. There's \$3 million to pay
16 for all of our travel to all of these other places.
17 Surveys, a decent survey, would cost a million. And
18 we just don't have that kind of funding.

19 But we are going to try to be very clever
20 in our use of the internet to supplement what we get.

21 The other thing is Richard, I know last night, and
22 Therese and people were talking about the community
23 meetings, and a way to try to make the community

1 meetings bigger than just having 10 to 15 people in a
2 city come to this America Speaks.

3 MR. FRANK: Actually, I emailed Randy --

4 DR. JAMES: Randy, could I ask people to
5 talk into their microphones.

6 MR. FRANK: I emailed Randy about this,
7 and he said, well, I volunteer to sort of hunt down
8 some of this, so I just brought some stuff for you all
9 to look at, so I'll past it around. And it's sort of
10 a different way of kind of getting people to
11 participate, where you can get both interest groups,
12 but you also get regular people.

13 And they've been very successful in
14 organizing forums around the country to do this. And
15 there are a couple of these, these guys have done it
16 in health. And they ran the GAO one, right, didn't
17 they?

18 CHAIRPERSON JOHNSON: I don't recall that
19 they did or not.

20 MR. O'GRADY: They've done a lot of work
21 for the comptroller.

22 CHAIRPERSON JOHNSON: Okay, now, what we
23 have anticipated doing, Pat, is getting input from

1 citizens after the report. But we have not
2 contemplated going to the broader range of citizens at
3 the same time we're doing hearings.

4 Phase one is the hearings, phase two is
5 doing the report, phase three is putting the report up
6 on the website, letting people feed back into that,
7 phase four is doing the town hall meetings and
8 interactive website materials next year.

9 So what America Speaks is about is more
10 the phase three/phase four kind of initiative.

11 Okay, to try and push us along, because
12 we've got some other things we need to do, I'm going
13 to test something with you. We've discussed day one.

14 I'm going to throw out day two as it
15 sounds a little bit like a repeat, but see if we can
16 say yes, let's move forward, and if not, what's the
17 amendment to it.

18 Day two, let me propose to you, is a day
19 of hearings with a structure that looks more like
20 formal hearings, covering the subjects that are in the
21 legislation for both the hearings and the report, and
22 including the discussions that we had yesterday on
23 issues and initiatives, that would allow interaction

1 by us as a working group but the interaction would be
2 after people present testimony, we would have
3 opportunities to respond with questions or additional
4 comments if we wanted to.

5 That would be May 12th. If after we
6 conduct those hearings in Washington, D.C., with that
7 kind of a format, and if we, after we go out to the
8 other locations that we're contemplating for some
9 folks other than academicians and researchers and so
10 forth, we would potentially if you want conduct still
11 another hearing in Washington, D.C., or maybe in
12 Chicago, that would get at some of the same issues
13 that we would be focusing on May 12th.

14 Let me test that and see if you are
15 comfortable with that, or if you have amendments that
16 you would want to propose to that.

17 VICE CHAIRPERSON McLAUGHLIN: Well, they
18 applauded.

19 CHAIRPERSON JOHNSON: So you're
20 comfortable.

21 Richard?

22 MR. FRANK: I remain a drill-down guy.
23 And I guess what that means is, I like the structure

1 of what you say, the structure is fine. And what I
2 would propose is that we keep the topics more focused,
3 and have a more limited number of topics that are
4 pretty broad, like Mike suggested like the uninsured.

5 And given, particularly given that we have
6 an international expert on this on our panel, that
7 should be an easy one to get the best people on,
8 because she pays them.

9 CHAIRPERSON JOHNSON: Millions of dollars.

10 MR. FRANK: But I do think that if we have
11 a leg up that way we might as well use it. Maybe
12 choose the three or four issues that are most salient
13 and perhaps we need the most education on and that are
14 most controversial in a sense might be the --

15 CHAIRPERSON JOHNSON: And then you would
16 imply on that, if we drill down on some subjects, that
17 means we don't cover as broad a range of topics, and
18 we have to find another day to do that.

19 MR. FRANK: Exactly.

20 CHAIRPERSON JOHNSON: Okay. I'm seeing
21 some heads going up and down and nodding affirmation
22 to the amendment.

23 Yes?

1 MR. O'GRADY: Can I ask a clarifying
2 question to the amendment? I've also heard this theme
3 of folks saying, okay, I'm willing to put in the time
4 at the same time, this can be wearing at points.

5 There are two different topics that have
6 been brought up. One is the uninsured, and one is the
7 overall question of costs and health care costs and
8 where the money is. Would people be more comfortable
9 given that other notion of how much. Because if you
10 had day one where that's the briefing day or however
11 you want to think about it, if like the morning was
12 the uninsured, and the afternoon was health care costs
13 and where is the money.

14 And then you go to the second day where
15 you hear from witnesses in the morning is the
16 uninsured, and the afternoon is you know what I mean?

17 Something like that. I don't know that we have to
18 make the whole deal the uninsured, and then we're
19 done.

20 Because what you said before about the
21 idea of, once we get out into other parts of the
22 country, we may want to deal with it. We don't want
23 to limit ourselves I don't think necessarily in terms

1 of those sorts of things.

2 VICE CHAIRPERSON McLAUGHLIN: Well,
3 actually, Mike, there is this wonderful item, subject
4 on the hearings, called, innovative state strategies
5 to expand health care coverage and lower health care
6 costs.

7 So that can actually be a topic for every
8 single hearing no matter where it is so we get the
9 best of both in that sense.

10 MR. FRANK: If we did spending and the
11 uninsured, we'd probably cover half the eight anyway
12 or maybe more than half the eight?

13 VICE CHAIRPERSON McLAUGHLIN: Yes.

14 CHAIRPERSON JOHNSON: If we what?

15 VICE CHAIRPERSON McLAUGHLIN: Half the
16 eight. That's exactly right.

17 MR. FRANK: If we did the uninsured, and
18 spending, then we would cover half of what we're
19 mandated to cover anyway. Then we'd still have this
20 other hearing we're going to do outside of Washington,
21 right?

22 So it sounds like this is not going to be
23 hard to accomplish, and we need to accomplish

1 legislatively. And I wouldn't be surprised if we
2 finished a couple of days like that, and then people
3 will have a chance to think about it a little bit.
4 And they may want to hear more witnesses and do
5 something else, you know what I mean? Go beyond that.

6 But I'm just wondering if a full two days
7 on either topic, whether people aren't just going to
8 be coming out their ears by the end of the second day.
9 That was my only thought.

10 VICE CHAIRPERSON McLAUGHLIN: Well, I
11 think the education forum is going to be on the broad
12 topics, I thought, for the first day, isn't it?

13 So we actually are going to cover the
14 whole broad range of topics, sort of the plumbing
15 system, as Richard put it.

16 MR. FRANK: Hydraulics.

17 VICE CHAIRPERSON McLAUGHLIN: Hydraulics,
18 oh I'm sorry, I did plumbing, you did hydraulics. The
19 hydraulics of a system-wide thing is what's going to
20 be on the first day, that's the educational forum.

21 CHAIRPERSON JOHNSON: Would we also be
22 doing Medicare and Medicaid on day one?

23 VICE CHAIRPERSON McLAUGHLIN: Yeah, that's

1 part of the hydraulics. I said hydraulics, Richard.

2 CHAIRPERSON JOHNSON: I understand what
3 plumbing is. I don't know what hydraulics are.

4 Okay, why don't you repeat what you've
5 heard all of us say so we're on the same sheet of
6 music.

7 VICE CHAIRPERSON McLAUGHLIN: So the first
8 day in the morning, whether it's CRS or GAO, whoever
9 it is, that we have run the educational forum, they
10 are going to teach us about hydraulics, also known as
11 plumbing, also known as, the system, what is the
12 current health care system. And that is going to be
13 in executive session where we we're not going to take
14 any votes or any decisions. It's an educational
15 forum. And we're going to be able to ask really dumb
16 questions.

17 Brent, we're happy to know that you're
18 happy to ask dumb questions in a large group. But
19 there are some people here who prefer to be in
20 executive session.

21 MR. O'GRADY: We needed to check with
22 Larry.

23 VICE CHAIRPERSON McLAUGHLIN: Oh, that's

1 right, we need to check with Larry.

2 MR. O'GRADY: Because essentially that's
3 not administrative. You're talking about subjects
4 that are a different subject --

5 MR. O'GRADY: Well, is that allowed, if
6 there is no vote and there are no recommendations
7 coming out of it, it's simply a briefing?

8 MR. PATTON: I'll check with the
9 lawyers but I don't think you can. The exception is
10 that you can close a meeting when you're doing things
11 that either deal with commercial secrets, undue
12 invasion of an individual's privacy, or proprietary
13 information.

14 So you don't really have that choice on
15 this, or administrative matters. So if you want to
16 discuss kind of how you do your work unrelated to the
17 subject matters. But you can't close for the subject.

18 Sorry.

19 CHAIRPERSON JOHNSON: Okay, but there is
20 no reason why, unless someone is embarrassed about
21 asking basic questions, there is no reason why you
22 should have --

23 VICE CHAIRPERSON McLAUGHLIN: Some people

1 are.

2 MR. O'GRADY: For everyone including all
3 of us who work full time for the government, there is
4 going to be topics we all know a lot about, and others
5 we know nothing.

6 CHAIRPERSON JOHNSON: Okay, but what we
7 can do, if there is an embarrassment with asking
8 questions, what we can do is we can develop some
9 mechanisms to help do that, including slipping papers
10 to the chairperson --

11 VICE CHAIRPERSON McLAUGHLIN: To Brent,
12 who is not embarrassed.

13 DR. JAMES: Send a note to me and I'll ask
14 it.

15 VICE CHAIRPERSON McLAUGHLIN: You will be
16 our questioner for sensitive questions.

17 The first day we'll do that afterwards.
18 And we're not sure, it might be one or two panels in
19 the morning, and then one right after lunch. But then
20 the group will meet for a few hours to say, okay, what
21 have we learned? How has this changed what we want to
22 do next? Et cetera, et cetera, et cetera.

23 Then the second day we're going to have

1 hearings, and in those hearings, they are going to be
2 focused on the different coverage issues that are
3 listed in the statute that have to be covered in the
4 hearings, right?

5 And we will have panels structured around
6 those topics with one, two or three. The subcommittee
7 can make recommendations back to us later for future
8 hearings.

9 But at this point we just want the staff
10 to work on, how many people can we actually get, and I
11 guess it means how many can Catherine call and get in
12 May, to come and talk about these different issues
13 about coverage.

14 And then Friday, the working group is
15 going to meet to hear from the subcommittee on future
16 hearings, to make decisions about future hearings, and
17 other subjects that have come up.

18 CHAIRPERSON JOHNSON: Okay, thank you very
19 much.

20 VICE CHAIRPERSON McLAUGHLIN: We have one
21 hand and a lot of nods.

22 Richard, the hand?

23 MR. FRANK: My only question was, so your

1 summary implies that we're going to do one topic alone
2 all day.

3 VICE CHAIRPERSON McLAUGHLIN: On the
4 second day. Coverage. I thought that's what the group
5 decided to drill down on.

6 MR. FRANK: I thought it was coverage and
7 spending.

8 VICE CHAIRPERSON McLAUGHLIN: Spending,
9 though, is where the money goes and where it comes
10 from.

11 MR. FRANK: Well, and also where are the
12 sort of crises? What do the crises mean in Medicare,
13 Medicaid, for the employer, retiree.

14 VICE CHAIRPERSON McLAUGHLIN: Okay.

15 CHAIRMAN JOHNSON: Okay, thank you.

16 VICE CHAIRPERSON McLAUGHLIN: It's a
17 correction, not an amendment. It's a helpful
18 correction.

19 CHAIRPERSON JOHNSON: Yesterday we spent
20 some time talking a bunch on searching subjects.

21 MR. O'GRADY: Can you hold one second?
22 I've learned from enough of these that when the staff
23 starts to get as nervous that those two look --

1 MR. PATTON: Just to clarify once again
2 for the direction, in terms of, are you doing what
3 Richard just said? Between Richard and Mike we heard,
4 kind of, some parallel structure I thought between the
5 two days using those two topics.

6 But I just wanted to be sure what you've
7 restated, if you could restate it one more time.

8 CHAIRPERSON JOHNSON: Well, I have not
9 heard or understood a parallel structure between the
10 two days.

11 MR. PATTON: Okay, so that was when I
12 heard that from Mike, I guess, and I didn't hear that.

13 So what the structure on day one is --

14 CHAIRPERSON JOHNSON: Education forum such
15 as we had there.

16 MS. BAZOS: With all of the topics.

17 MR. PATTON: With all the topics. And day
18 two --

19 CHAIRPERSON JOHNSON: Day two would be
20 more traditional types of hearings with a focus on
21 drill-down on the subjects that Catherine and Richard
22 have been discussing.

23 VICE CHAIRPERSON McLAUGHLIN: Coverage and

1 cost but not medical effectiveness and some of the
2 other subjects we're supposed to cover in the hearings
3 are strategies to assist purchasers of health care and
4 clinic consumers to become more aware of impact of
5 costs and to lower the costs of health care. That's
6 costs, you guys.

7 Costs of health care and effectiveness of
8 care provided at all stages of disease.

9 MR. FRANK: No, we won't do that.

10 VICE CHAIRPERSON McLAUGHLIN: Well, but
11 costs of health care.

12 MR. FRANK: We identify I think on the
13 employer's side there are sort of these retiree
14 pressures on the employers, the Medicaid prices,
15 Medicare prices, that's just sort of getting the facts
16 and the clarity on those seems an important place for
17 us to start.

18 VICE CHAIRPERSON McLAUGHLIN: Well, some
19 of the facts we'll get the first day in the
20 educational forum.

21 MR. FRANK: Right, the facts, but also the
22 perspectives.

23 VICE CHAIRPERSON McLAUGHLIN: So give me

1 better ideas of what that panel will look like for the
2 hearing day, and what kind of people you're thinking
3 of to testify on that.

4 CHAIRPERSON JOHNSON: I'd like to not get
5 into that kind of detail actually right now, because
6 we've got lots of other things we need to talk to.

7 Let me come back and ask, instead of
8 getting into that kind of detail, if we can say, we'll
9 do hearings on all of these subjects that we talked
10 about. We will drill down on some of the subjects as
11 well.

12 But we are not going to exclude any of
13 these subjects that we talked about.

14 Can we say that from a legal perspective
15 and then give the staff some latitude to develop some
16 recommendations and come back to us as a working
17 group, legally?

18 MR. PATTON: If the staff is bringing
19 recommendations back to the group, you need another
20 public decision meeting. So I would not do that.

21 CHAIRPERSON JOHNSON: Okay thank you.

22 MR. PATTON: It can be fleshed out. The
23 question I'm trying to get at is, to say we're going

1 to do all of the topics in hearing, day two are you
2 going 24 hours? This is not doable to do all of the
3 topics on day two.

4 So all I want you to do is just try to
5 come to a sense of, you're going to do as many as the
6 staff can set up. That's a fine set of directions.
7 See who's available and see how many of these you can
8 do, and you'll do the remainder in subsequent
9 hearings.

10 That would be sufficient directions to
11 staff. But there's got to be a question. We can't do
12 all eight topics and have panels. That is just not
13 doable unless you're prepared to sit incredibly long
14 period of time.

15 MS. BAZOS: I have a suggestion.

16 I think what we brought to the table was
17 that if we focus the second day of our formal hearings
18 on just one subject we'd be brain dead.

19 So I thought the suggestion was to have at
20 least two topics. Someone through out, why don't we
21 do the uninsured and something about cost.

22 So perhaps we could come to the agreement
23 that we should be the uninsured. Because, Catherine,

1 we have you with contacts for decent people to come,
2 and then for the second topic, so that we have two
3 topics, we just base it on the best experts that are
4 available on a topic that's in that list of eight, and
5 leave it up to who can come.

6 CHAIRPERSON JOHNSON: Are you comfortable
7 with that?

8 MR. PATTON: Yes, that's absolutely fine.

9 CHAIRPERSON JOHNSON: Are the rest of you
10 comfortable with that?

11 DR. JAMES: I'm comfortable with that.

12 CHAIRPERSON JOHNSON: Okay, thank you.

13 Now let me just kind of share with you
14 what we have tried to do. We'll have more committee
15 interaction in the future, and we'll be more proactive
16 in bringing recommendations to you as a full working
17 group.

18 We've come into this session this morning
19 with something of an absence of recommendations,
20 because we've wanted everybody to have a feeling like
21 you had input into the process and so forth, and to
22 share your ideas. And we have a better understanding
23 now I think of some of your thoughts and directions.

1 So we appreciate the dialogue.

2 Okay, are we ready to move on to this?

3 VICE CHAIRPERSON McLAUGHLIN: I'm ready.

4 I think everyone is.

5 CHAIRPERSON JOHNSON: Okay, yesterday we
6 talked about issues that all of us see, and we talked
7 about some initiatives that we have seen implemented,
8 or see about to be implemented, that we're aware of.

9 And Brent James, who is with us now, was
10 not able to share his perspective with respect to
11 that. So while we were on break I asked him if he
12 would take a similar amount of time as we had
13 individually yesterday to introduce himself, why he
14 applied to be part of the working group, and then some
15 of the issues that he has seen, experienced, observed,
16 and any thoughts he has on initiatives that relate
17 either to those or others that are working well.

18 DR. JAMES: Thanks, Randy.

19 Maybe I ought to give a little background
20 first. I know many people on the committee but there
21 are some I don't.

22 I'm a physician first of all, with a
23 degree in statistics and a very heavy background in

1 computer science. But I worked for the last almost 20
2 years at Inter-Mountain Health Care in Salt Lake City,
3 Utah. In that role I run a training program on
4 clinical quality improvement.

5 And really my areas of background are
6 clinical quality and patient safety. That's where
7 I've spent a good chunk of my life.

8 I guess two little things in association
9 with that. We run a training program. The reason I'm
10 not with you today is because our advanced training
11 program is meeting. So I have a roomful of about 40 -
12 - about 60 percent physicians and about another 30
13 percent nurses, 7 or 8 percent CEOs, CFOs, various
14 academics, who are in services research for example.

15 But over the last 15 years we've trained
16 about 1,400 health caregivers in quality improvement.

17 We actually have quite a number of knock
18 off programs running. We call them mini-advanced
19 training programs, mini-ATPs. But last count I came
20 up with 10. Pretty strong ones, very strong one at the
21 Alaska Medical Center in Anchorage that supplies
22 services to the native Alaskan population.

23 A very strong one at Baylor Health Care

1 Systems, Memphis, Tennessee. Well actually two very
2 strong ones.

3 We're now on our 12th or 13th class in
4 Sydney, Australia, where the public health services,
5 New South Wales Health, started that kind of training.

6 We also have a very strong group, I think
7 we're on our eighth Yarmshire County Council in
8 Sweden.

9 One of my real reasons for doing that is,
10 it just gave an opportunity to go and teach. All of
11 the classes have projects. You're required to
12 complete a successful improvement project to graduate.

13 And one of the things you very quickly
14 discovered is that all of those countries suffer from
15 fundamentally the same problems that we do in
16 different ways.

17 One of my real interests in this is the
18 different ways well, just comparing the U.S. to these
19 other countries and what we can learn from that.

20 I guess the other major thing is this,
21 there's a body of quality theory very well established
22 outside of health care that holds that as you improve
23 your clinical results, service quality and medical

1 outcomes quality, it should cause the cost of health
2 care to drop significantly.

3 The best current estimates are a little
4 bit soft, 25 to 40% of all health care costs represent
5 waste. Our work suggests that that's a low amount,
6 that there is a massive gap in health performance
7 within the system itself, performed kind of from the
8 inside out, that there are opportunities to greatly
9 expand access by appropriately controlling costs.

10 So the idea that better access coming from
11 better outcomes that produce lower costs. I have a
12 very intense interest in that, and I think that was
13 the real trigger that got me interested in the
14 citizens working group, just the idea that we very
15 clearly need to reform health care.

16 And I guess what I'm suggesting is that
17 the big part of that reform needs to come from the
18 inside out, as opposed necessarily from the outside
19 in. And I think the contrast that you can learn from
20 looking at Canada, Sweden, Australia, Great Britain []
21 I have a very heavy relationship to Singapore, too, to
22 these other health care systems.

23 So with that, I'd be curious if anyone has

1 any questions for me, about my background or my
2 obvious prejudices.

3 CHAIRPERSON JOHNSON: Brent, did you say
4 that you believed that the 25 to 40% might be low?

5 DR. JAMES: Yes, I do.

6 CHAIRPERSON JOHNSON: Could you build on
7 that?

8 DR. JAMES: Oh, this really comes from Dr.
9 W. Edwards Demming, who developed the main theory and
10 demonstrated it very heavily in industries outside of
11 health care.

12 The classic example in health care is
13 patient safety. So for example the number one source
14 of injury to patients in hospitals are adverse drug
15 events, allergic reactions, drug-drug interactions,
16 overdoses in their various forms.

17 Some of the research we've done suggests
18 that well over 95 percent of all of those injuries
19 result not from errors but from system failures in how
20 the system is constructed.

21 There are some that result from errors,
22 but it's under five percent, at least of classic
23 errors. We researched the things that we would

1 intuitively regard as errors. It turns out they're
2 all technically errors.

3 Well, that's associated with literally
4 billions of dollars in costs. If you have the adverse
5 drug event you have to pay to fix it, pay to treat the
6 patient.

7 And this has the potential of, to give a
8 15 to 1, 20 to 1, return on investment, as you take
9 down adverse drug event rate by fixing the system.

10 Now the guy who published the main work on
11 this in health care in the past was Craig Anderson at
12 Chicago. 1991 was the date of a very rough estimate.

13 He said 25-40%. That corresponded to what people
14 found in business outside of health care, when this
15 movement really first started 20 to 30 years ago.

16 By the way, let's just put it this way, if
17 you haven't already mastered this in a nationally
18 competitive manufacturing industry, you don't exist
19 any more.

20 You cannot fail to master this and compete
21 successfully. And it's to the level of subconscious
22 thought almost in most of industry.

23 We currently have a grant. We're trying

1 to get some estimate of how broadly it spreads in
2 health care. And based upon our initial findings,
3 Randy, in that bit of research, yeah, I think that
4 it's going to be, well, up around the 40 percent mark,
5 let's say.

6 So for example, we've been observing
7 people at the front lines, nurses caring for patients.

8 You know we have this nursing crisis in the country
9 with too few nurses. Our best guess is, somewhere
10 around about 35 to 50 percent of nursing time is waste
11 in how they do their work and how their system is
12 structured in which they work.

13 And I don't know, I'd have to take some
14 real time to show you the details, but I think it's
15 very compelling.

16 CHAIRPERSON JOHNSON: Thank you very much.

17 We have a few people who are talking
18 across the table here, and I'm wondering if they have
19 comments that they would build on, or if this is new
20 information, or if some of our experience as well.

21 I'm not trying to pick on anybody, but
22 your data is compelling. So if we have questions or
23 comments on that, I'd be interested.

1 DR. JAMES: I guess what I'm saying is
2 that I agree that any health care reform has to
3 somehow address this issue. And just in passing, the
4 rates of quality waste in other countries are very
5 similar to the United States.

6 So Sweden, for example, arguably the
7 finest socialized medicine system in the world, at
8 least by reputation, Great Britain, Australia, Canada,
9 I've got a bunch of Canadians in the class downstairs
10 right now.

11 But the reason is their health care costs
12 are increasing at an unsustainable rate, despite their
13 relatively low levels of cost compared to the United
14 States.

15 And when you get down underneath it, you
16 find these same issues.

17 So the reason I like teaching my classes
18 in those countries is it means we work on projects
19 down at a care delivery level, the level at which care
20 actually happens. And you get to see all the dirty
21 details.

22 CHAIRPERSON JOHNSON: What I'm hearing
23 also is, you're suggesting that the issues that you

1 are attacking are systemic as opposed to I'll just say
2 personal neglect.

3 DR. JAMES: Yes, they are clearly system-
4 based, no question about it. It's how you structure
5 the system. One of the models I really like is one
6 that Don Berwick cooked up for the IOM "Crossing the
7 Quality Chasm" report. I think he may have sent it
8 around, I really can't remember exactly.

9 The idea is that care happens at a front
10 line level, so you have patients, then you have above
11 them the local care, what we call the micro-system.
12 Above that you have a health care system. So like
13 IHC, the company who I work for, is health care
14 system. And above that you have a policy level. And
15 you start to think about what you do at every level of
16 that little model, you know, up and down, to make
17 things work right.

18 But the main point of contact, what the
19 Australians have called the cold face, the sharp end,
20 because patients interacting with care deliverers in
21 various forms.

22 DR. SHIRLEY: This is Aaron Shirley. I'll
23 just make a comment for the group. The kind of

1 information that you have just shared with us is going
2 to be very threatening to some folks.

3 DR. JAMES: Yes, it will. They need to be
4 threatened by the way. And it turns out that with a
5 little work they can respond quite positively.

6 MS. PEREZ: This is Rosie.

7 And as you were talking, I couldn't help
8 but think about focus groups we've had in hospitals
9 and just with associates, the nurses and staff having
10 to do the work. And that's their main complaint is
11 that they don't have enough time to spend with the
12 patients, because it's trying to do all the paperwork
13 because of the regulations or the accreditations or
14 everything else.

15 And of course that's certainly not the
16 reason why they came into health care was to do
17 paperwork, but to do interactions with patients.

18 DR. JAMES: I hear you. It's interesting,
19 last year, we have a clinical management team called
20 Women's Newborn, where we're starting to generate the
21 data systems. Frankly the data we have today are not
22 the right data to manage care properly.

23 By manage care, I don't mean an insurance

1 company. I mean a group of clinicians managing the
2 way that they deliver care.

3 We're starting to create those data
4 systems. And I think last year we took about \$20
5 million for our system out of the cost of labor and
6 delivery. It turns out that's the biggest single
7 process we run, is pregnancy, labor and delivery.
8 About 30,000 deliveries a year.

9 And we dropped the cost, the variable
10 cost, not fixed, of the labor and delivery, by about
11 \$400 a case by appropriately managing elective
12 inductions, you see what I mean?

13 And when you start to do that, it means
14 that the staff gets to put their time where they're
15 most effective. They came into care to deliver care.

16 And if you start to stress your systems, you get a
17 whole series of efficiencies in terms of using their
18 time wisely in terms of not being in recovery mode
19 because you just screwed it up in different ways.

20 And it turns out it was pretty compelling.

21 Somewhere along the line if people are interested I'd
22 love to share those results. Because I personally
23 believe that it will be critical to our long-term

1 work. It just changes the way you look at the world.

2 CHAIRPERSON JOHNSON: Could we ask that
3 you get the material to Ken Cohen. Do you have his
4 email address?

5 DR. JAMES: I don't know, let me write it
6 down. It's extensive enough, Randy. I don't know,
7 I'll have to think what to send, and then I'll start
8 to send some stuff.

9 But I'm looking forward to a long time to
10 discuss this back and forth. And in honest truth,
11 guys, I'll usually just listen. So I hope I won't be
12 too much of a pedant.

13 CHAIRPERSON JOHNSON: We will connect with
14 you so you know Ken's email.

15 DR. JAMES: Okay, sounds great, or he can
16 just email me.

17 CHAIRPERSON JOHNSON: Okay, thank you.

18 Other comments or questions? Yes.

19 MS. BAZOS: Well, this does bring up a
20 question for me, this is Dotty Bazos. As we're having
21 these discussions, and I'll ask you this, Brent,
22 because you're not here. But some folks in this room
23 have tremendous expertise. And if we wanted to get a

1 paper or ask a question about whether they've applied
2 their research to another question that might help us
3 move forward, is it all right with everyone for us to
4 just sort of email each other with those kinds of
5 requests?

6 CHAIRPERSON JOHNSON: We talked about that
7 yesterday actually. Not as a group, Catherine and
8 myself. And there are some of you who have expertise
9 that we could ask to participate in a hearing for
10 example.

11 But rather than doing that in a formal
12 hearing, we thought maybe we could identify some time
13 where some of us could share the learnings that we
14 have based on the experience that we have.

15 We just had a touch of that yesterday with
16 Frank talking about the Oregon project. But there
17 might be other similar kinds of experiences for which
18 we would want to have longer periods of time.

19 And the response is, yes, I think Dotty,
20 that we'd like to do that. And if any of you have
21 similar kinds of experiences that you'd like to share,
22 and you have written material you'd like us to review,
23 we're open to reviewing that. And then share your

1 requests for some time with Catherine or myself. We'd
2 be happy to consider that as well.

3 DR. JAMES: Can I ask a procedural
4 question about that?

5 CHAIRPERSON JOHNSON: Sure.

6 DR. JAMES: Relative to the Sunshine laws,
7 I guess that we should email things they become part
8 of the public record so that makes it legal, right,
9 when we email things around?

10 CHAIRPERSON JOHNSON: Well, I'll ask our
11 esteemed colleague, Larry Patton, to discuss that.

12 My understanding has been that what we use
13 as materials in our meeting is public, but not
14 necessarily what we email, as long as we're not
15 emailing decision matters back and forth.

16 Is that a correct understanding?

17 MR. PATTON: I think what Brent is going
18 to is the question of whether it's best to keep the
19 most comprehensive record possible. That's probably
20 advisable.

21 The tapes for the emails with the staff
22 will be backed up and maintained. Individual emails
23 between a member and another member obviously are on

1 their email systems, they are not on the email system
2 of the working group.

3 But it's a question of what you choose to
4 do. There is nothing that prevents a working group
5 member from sharing an idea with another one. The
6 biggest question, where you start to get into a
7 clearer area is where there's actually if all of the
8 working group is on an email, it should be copied so
9 that it goes to Ken or one of the staff so that it
10 will be part of the backup system.

11 Because you shouldn't be doing any offline
12 decision-making or even too much, that type of
13 information sharing at that level. But I don't think
14 you need to copy email. But as Brent says, it would
15 in fact be a nice thing to do. But not a required
16 thing.

17 DR. JAMES: The main thing is, Larry, it
18 sounds like it's a legal thing. I was hesitant to
19 start to blast things out because, first of all, it's
20 burdensome, but more important, I just wanted to make
21 sure we can make it part of the public record pretty
22 easily, can't we?

23 MR. PATTON: Yes. So if you want to blast

1 things out to the entire group I would recommend
2 copying the staff. And we'll get those emails to you.
3 That way it will be part of the backup tapes.

4 DR. JAMES: Okay, wonderful.

5 CHAIRPERSON JOHNSON: And could we just
6 send it to Ken Cohen? Any information we want
7 broadcast would go to Ken. And he would send it out
8 to us.

9 MR. O'GRADY: Randy, can I? Given that
10 there's been a number of questions about sort of how
11 we educate ourselves and how we continue to do this,
12 is it possible for the working group to have a web
13 page where there'd be sort of a reading file along
14 these lines, it would be part of the public record as
15 well as real easily accessible to all the members as
16 well as anyone else.

17 MR. PATTON: We're going right there this
18 afternoon.

19 VICE CHAIRPERSON McLAUGHLIN: At lunch,
20 just like I worked at dinner, I'm working at lunch to
21 talk to staffers here who are drafting the prototype
22 for our website in the short run.

23 In the long run we're going to have to add

1 a lot of interactive stuff. In the short run for
2 information, we're close to having something ready to
3 be put up.

4 CHAIRPERSON JOHNSON: Chris, you had a
5 question a few minutes ago.

6 MS. WRIGHT: Brent, this is Chris Wright,
7 and it's really not a question, just a comment,
8 hearing what you have been doing, and what I see in
9 some other areas of the country also, in that you're
10 actually looking at maybe not so much time of root
11 cause analysis of problems, but actually hardwiring
12 systems into place.

13 And I guess my question to you is, do you
14 see that can be done at a national or federal level?

15 DR. JAMES: I don't know whether this is
16 going to cause a real heart murmur for some people,
17 but it is a major cultural change, and change is hard.

18 But what we're seeing now is that these sorts of
19 things are happening on a fairly wide scale. And the
20 pace is accelerated.

21 This is just me being perhaps a little bit
22 naïve, but I personally find that very, very
23 encouraging of this kind of reform from the inside

1 out. It ties heavily into electronic medical records,
2 too, very heavily into electronic medical records and
3 how they're used, and the techniques we use to make
4 them effective.

5 So it all kind of fits together as a
6 piece. But yeah, it's clearly passed the tipping
7 point. But on the other hand, it's darn hard work.
8 There's a fair bit of resistance, you know, just
9 general training strategy that is working its way
10 through the system.

11 But I think it gives us at least part of a
12 foundation from which to make recommendations that
13 could really have some teeth. I would think of it as,
14 what do you do in the short term, and what do you hope
15 for in the long term, or what vision do you have for
16 the long term?

17 Now, just a little bit of background,
18 again, a little bit of prejudice, I was a member of
19 the IOM committee that produced "Crossing the Quality
20 Chasm," which was of a similar nature. That was our
21 30,000 foot level, not too prescriptive,
22 recommendations for health care reform for the
23 country.

1 And frankly, I regard it as probably the
2 finest piece of work with which I've been associated
3 today. Of course our work as a working group is going
4 to surpass that, I'm confident.

5 If you haven't had a chance to see it, I
6 strongly recommend it to you. But it was built around
7 the same sorts of ideas and principles. And I think
8 they're starting to really play out.

9 CHAIRPERSON JOHNSON: Well, Brent, your
10 comments today go to some of the initiatives we
11 discussed yesterday regarding also disclosure to
12 doctors and hospitals and patients of performance,
13 paying for performance, and having patients have an
14 increased sense and opportunity of consumerism □ not
15 just cost shifting for the sake of cost shifting, but
16 actually financial discretion.

17 And it sounds like what you're talking
18 about goes hand in hand with that.

19 DR. JAMES: Yes, it really does. So
20 again, truth in advertising, I'm currently serving on
21 the IOM performance measures subcommittee. We're just
22 wrapping up, hopefully getting our report ready to go.
23 So I'm very heavily involved at that level.

1 CHAIRPERSON JOHNSON: Well, Brent, thank
2 you very much for your input. We're sorry you weren't
3 able to be here yesterday but glad you're able to be
4 with us today for the time that you are.

5 For everybody's information, Ken has
6 provided his email. I will give it to you in case
7 you'd like to write it down, but you're going to
8 receive emails from him in the future.

9 Ken Cohen is kcohen@ahrq.gov. So it's one
10 word before the @, kcohen, k-c-o-h-e-n @ a-h-r-q dot
11 gov. Okay?

12 Okay, well, it's closing on 12:00 o'clock.
13 Is lunch here? Lunch is not here.

14 The other agenda item for this morning is
15 to get in and talk about reports. And Catherine is
16 the one who is going to facilitate this discussion.
17 I'm going to find a power source to turn my computer
18 on.

19 VICE CHAIRPERSON McLAUGHLIN: As we said,
20 you guys have a copy of the slide so you can look at
21 them. They're in your book, maybe under a color tab.
22 So it's just all part of tab four, page three, tab
23 four.

1 The hearings are to feed into the report,
2 and we debated for quite some time about how to start,
3 whether we start talking about the report and then
4 talk about the content of the hearings, or vice versa.

5 And arbitrarily we picked this way, but it
6 could have been either.

7 The report has, again, a list of things
8 that we are required to put in, remembering that the
9 focus is to start this dialogue and be educational.

10 A lot of it is summaries. There is a long
11 list, if you look at the list yesterday, a long list
12 of summaries. And this is Senator Wyden's, where the
13 dollars come from, where do the dollars go.

14 And that's something that we will have
15 staff who hopefully have access to a lot of good data
16 as well as use summaries and tables that have already
17 been calculated by other people.

18 So that's the analysis of the cost
19 utilization data, and coverage and payment data. And
20 those I don't think will be very controversial, with
21 the exception of what we choose to present. And that
22 will be something I'm hopeful the group can at future
23 meetings, the staff can present us with suggestions of

1 how to present different data, but also discussions of
2 what the focus of the data should be.

3 So we're going to start fairly inclusive
4 and then whittle it down so that we don't have a
5 2,000-page document, but have something that is
6 digestible.

7 We also will want to talk in a little bit
8 about dissemination. But at this point I was just
9 talking about the development, this is really stuff
10 the staff is going to do using information that is
11 already available, and in some cases, and Caroline
12 Clancy talked about this a little bit yesterday, using
13 the MEP data and the hospital discharge data, other
14 data that HHS has, that are confidential, and that
15 researchers outside are not allowed to because of
16 confidentiality reasons.

17 So you can't get city-level data or MSA
18 level data if you're a researcher, but they have it.
19 So there will be some new aggregations that are not
20 available that will be calculated just for our report
21 using those data.

22 The next step is the critical syntheses of
23 extant literature. And that's where I was saying this

1 morning earlier that I personally would like to see
2 some people come to the hearings and tell us, Brent
3 I'll use your example of "Crossing the Quality Chasm",
4 have some people from the field come in and say, yes,
5 that report was wonderful and it laid out this and
6 laid out that, but here are some problems that I have
7 raised with that report that I think the staff and the
8 working group should be familiar with when putting
9 together their report.

10 The same with the IOM report on the
11 uninsured, again, truth in advertising, I was one of
12 the reviewers of that final report which is on record,
13 it's in the report, so therefore have a lot of
14 information about what was in that report, and
15 personally have some problems with how some of the
16 data were generated.

17 So we can go along that list of saying,
18 all right, let's look at the literature that is out
19 there and do the best of our ability to be critical in
20 our synthesis of it, and I'm using "critical" not as
21 the word is negative, but have critical thinking of,
22 all right, do we think that doing due diligence that
23 we could say to the American public here is what we

1 know about the hydraulics. Here's what we know versus
2 here's what we really don't know. Evidence suggests
3 that, but experts will tell us that the evidence is
4 spotty, or it's based on a very small sample size or
5 only one experiment, or it's too early to tell.

6 Yesterday, Brent, several people were
7 talking about the Clinton reform in the early '90s,
8 and one of the comments that came out was, make sure
9 we're secure about our data and our facts in our
10 report.

11 So that is where I would like some help in
12 the hearings, and also, just from talking to other
13 people.

14 And then finally for the development of
15 the report, insight and information provided at the
16 hearings. What kind of innovations, what kind of
17 initiatives are taking place that, either because of
18 where they're taking place, aren't in the popular
19 press or the published literature, or are so new that
20 we wouldn't know about them because no one has
21 evaluated them, no one has really put them out there.

22 And that's the other thing I would like to
23 get from the hearings to help us fulfill the mandate

1 of what we're supposed to include in the report.

2 We're not live yet on the computer here,
3 so Brent, you're not missing anything. You're seeing
4 paper copies like everyone else. Actually we just did
5 this on purpose, Brent, so that you would not feel
6 left out in anyway. You're not missing anything.

7 Dissemination, we're going to make this
8 available through multiple venues. And this is where
9 we are starting to work with the website, trying to
10 get it up, but also from every member of the working
11 group. Already yesterday and today you mentioned
12 newsletters you get, you mentioned email networks that
13 you're on, you mentioned websites that you go to. Boy
14 oh boy oh boy, do we want to hear more and more about
15 that over the next few months so that we can develop a
16 really nice list of places to put information about
17 the report.

18 The report will be posted on our website,
19 but we want to make sure that the word gets out to as
20 many groups as possible all over the country so that
21 they know to go to our site and look at the report.

22 We also want to use the media, and when we
23 decide as a group where we're going to have community

1 meetings, I propose that we get in contact with local
2 newspaper reporters and radio interviewers and have
3 our PR person or Randy or I or if one of you in that
4 local area preps to give the information about, gee,
5 the report is up on this website. So that people
6 really know about the report.

7 And similarly, in press, professional and
8 trade journals. And we really want to make sure that
9 the report is disseminated as broadly as possible so
10 that people do in fact look at it and have some sense
11 of what we're doing and then can contribute back to us
12 saying, well, you missed this example, or you missed
13 that example, or I'm concerned about these particular
14 issues. So we get a lot of feedback.

15 In order to do that, the next slide says
16 that we really need to present this information at
17 various levels of complexity. So we are going to have
18 a complete report on the website, which as I have on
19 the slide, will be a full consideration of the
20 materials presented that we've developed with multiple
21 tables and complete sets of data.

22 But we also have to have shorter
23 summaries, shorter summaries that are going to be

1 available on the website as well, at community
2 meetings, and in print and radio venues.

3 What I would like to see is a pie chart or
4 a histogram, or I'd like to have that presented a
5 different way for it to make sense to me.

6 And that's where we're going get feedback
7 on the report so that we then can develop our
8 recommendations.

9 Now the next slide actually calls this the
10 revised report, and I have since been told by the
11 wonderful staff members that I used the wrong word.
12 It's the recommendation, develop the recommendations.

13 So we're not just going to revise the report. We are
14 going to make recommendations based on revisions that
15 we get, input that we get, from the public on the
16 report.

17 And so those are some of the issues I've
18 listed that we need to consider from all those
19 community meetings as well as working on an Internet.

20 I talked to somebody at dinner last night,
21 we've been thinking about putting a Jeopardy-type game
22 up on the Internet for example, where we present some
23 of the information in the report in the form of

1 Jeopardy, where you have the columns, you know the
2 squares, and you have a lot of facts, or you have some
3 of the hydraulics information of where the dollars
4 come from, where do the dollars go. And people do it
5 interactively in a Jeopardy format.

6 There are a lot of different ways we can
7 try to make this user friendly to reach a lot of
8 people, and we also, a year or so from now, are going
9 to have to have an interactive component on the
10 Internet so that people can give us feedback.

11 And this goes to your comment, Pat, rather
12 then paying somebody to do a polling, a household
13 survey or whatever, which I really just don't see us
14 having the resources to do. This will not be a random
15 selection, because it's people who go to websites.
16 But at least it will give us some feedback.

17 And what Richard was talking about last
18 night, with America Speaks but didn't get around to
19 me, but I'm hoping that that material is getting
20 around, it sounded to me that one or two of the
21 community meetings could in fact be random draws from
22 the population.

23 So it's not going to be a national survey

1 of taking people from all over. But you could go to
2 several larger communities. What was the largest you
3 said they got - 5,000 people in one of these?

4 MR. PATTON: 5,000 at one site.

5 VICE CHAIRPERSON McLAUGHLIN: 5,000 at one
6 site. I mean I don't know what we can afford. But
7 part of it is, if they've done this before where they
8 say, all right, we need to have a random draw of women
9 of child-bearing age, of elderly women, of younger
10 adults, of this, in the different groups, and then
11 they pluck someone, well, that's how a survey works
12 too.

13 So it would not be nationally
14 representative, but it at least will be representative
15 across the different groupings.

16 So we're going to try I think some
17 combination of those two methods to substitute for yet
18 another survey of responses to our report.

19 MS. MARYLAND: Question. I know that the
20 National Research Corporation, for example, does
21 consumer preference surveys in terms of hospitals
22 across the country. I don't know anything about the
23 cost associated with that, but it seems to be doable.

1

2

3

4

5

6

7

Now I don't know whether or not we'd want to go in that, where they would pick randomly selected by state or city a number of individuals that would participate in the survey as their preference hospitals and answer specific questions as to why that is their preferred choice.

8

9

10

And I was thinking when I talked about survey more that type of methodology, not a national, every household type survey.

11

12

13

VICE CHAIRPERSON McLAUGHLIN: Well, some of the information like that we'll be able to get from existing surveys that are already out there.

14

15

16

17

MR. FRANK: Yeah, I was just going to say that CMS and others are now putting CAPS and NTQA into their assessments. And they have those types of things.

18

19

20

21

22

23

And there's the net website, the CMS website, which has the hospital quality ranking, quality ratings. Have you tried it? You type in your zip code, and you ask, they give you a choice of hospitals, and you can see what the cardiac mortality rate is and all that.

1 MS. MARYLAND: I'm talking about more of a
2 survey asking opinions from the public regarding what
3 they consider the major factors impacting their lives
4 and how health care ranks in terms of that, and,
5 specific to health care, what are the problems that
6 they see particularly in terms of the payment of
7 health care.

8 That's the type of survey that I'm talking
9 about.

10 MS. WRIGHT: Are you familiar with the
11 BRFSS survey? The behavioral risk factors, I think
12 they're just coming out with a new one. And it asks
13 those type of series of questions, and it gets to, the
14 last time you saw a doctor, who did you go to, and so
15 on. And most of them are dated within the past three
16 or four years, and I know they're being updated this
17 year.

18 VICE CHAIRPERSON McLAUGHLIN: And of
19 course Richard Frank's colleague, Bob London, at
20 Harvard, does these kind of surveys with Harris and
21 other people all the time of what do you think your
22 problems are. And absolutely we'll incorporate those
23 data.

1 I thought earlier, perhaps I
2 misinterpreted, I thought you were suggesting a survey
3 to get the consumers response to our report.

4 MS. MARYLAND: No.

5 VICE CHAIRPERSON McLAUGHLIN: Okay.

6 MS. MARYLAND: Understanding their issues
7 with health care so that as we start to shape our
8 recommendations, that we have more than just a town
9 hall response.

10 VICE CHAIRPERSON McLAUGHLIN: I got it.

11 MR. FRANK: I'm sure Bob would be willing
12 to come down and talk to us.

13 VICE CHAIRPERSON McLAUGHLIN: About the
14 results of the surveys he's done?

15 VICE CHAIRPERSON McLAUGHLIN: Okay, so
16 there are some comments on the report that again we're
17 going to try a form, a subcommittee of people, and
18 we're trying to hire staff.

19 And I talked to Carolyn Clancy about
20 access to those data so that we can get going on this.

21 Because there is a list of descriptive things that
22 really at this point don't take a working group
23 decision, but we need to get going so that when the

1 working group meets sometime this summer the staff are
2 prepared to give us what they've done so far, and we
3 can then make the decision of, well, I really think
4 you need to include these data. Or this is the kind
5 of question Pat raised: Why don't you have
6 information about those surveys?

7 And so at this point it's really just to
8 inform you of the overall strategy that we're taking
9 about development and dissemination, and to let you
10 know that I'm going to be calling on some of you for
11 help and input as we move along, but that the overall
12 goal is to have the staff start as soon as possible
13 getting to work on gathering the data and getting
14 organized, so that when we have a working group
15 meeting, not too far away, because we were supposed to
16 have the report ready by the end of August.

17 CHAIRPERSON JOHNSON: We're trying to buy some
18 time on that.

19 VICE CHAIRPERSON McLAUGHLIN: Yes, and as
20 Senator Wyden said yesterday, on conversations with us
21 about the reality of this, I mean we didn't have any
22 staff at all until a week ago yesterday. And so we
23 really can't meet that deadline, but could we have a

1 working draft by the end of August that would then be
2 circulated to all members of the working group and get
3 some feedback, and then to have the report ready by
4 October, is that a more realistic goal?

5 I don't know whether it is. It depends on
6 how quickly we can hire staff again, and get access to
7 things. But that is our goal for now, which means
8 that sometime probably in July, we haven't really
9 looked at calendars, we need a working group meeting
10 or in August to say, okay, this is where we are.

11 But in the meantime we have to have some
12 meetings of the subcommittee with the staff to really
13 get cooking on this.

14 CHAIRPERSON JOHNSON: My question is
15 probably a preliminary question, and we haven't talked
16 about this at all, and if you want to postpone the
17 response, that's fine, but would you envision an
18 outline to the working group in an initial stage of
19 getting input from the working group, and then a first
20 draft to the working group after you had feedback?
21 And what would be the first draft? Would it be a
22 complete report or would it be some of the key points
23 that you've indicated here earlier that would be not a

1 full detailed report.

2 What are some of the process concepts that
3 you're contemplating?

4 VICE CHAIRPERSON McLAUGHLIN: Well, the
5 outline as it exists right now is the list in the
6 statute. I mean that's how I'm starting, is to look
7 at the items that we're required to put in, and then
8 say, all right, how do we respond to each of that.

9 And so that's not really something at this
10 stage that I want input from the group on, but rather,
11 as we make those decisions about what data we're
12 looking at, what we're including, then send out
13 information to all of you and say, all right, this is
14 what the subcommittee and staff have recommended.
15 What do you think as a working group? Point out things
16 that we've obviously forgotten, give us some feedback
17 on your opinion about certain things.

18 But right now the outline is the list. I
19 just have to see if PowerPoint will give me an
20 hydraulic system picture.

21 MR. FRANK: I can do that for you in my
22 introductory lecture.

23 VICE CHAIRPERSON McLAUGHLIN: There you

1 go. I used the bucket brigade, but it's the same
2 idea.

3 CHAIRPERSON JOHNSON: Questions?

4 VICE CHAIRPERSON McLAUGHLIN: Larry?

5 MR. PATTON: Oh, no, the only thing I was
6 going to say is, you've got one heck of a challenge.
7 Because most commissions, separate from your charge,
8 most commissions have about three to six months of set
9 up time in which you can very systematically pursue an
10 executive director, and systematically hire staff or
11 seek detailees, so that when you start you are fully
12 equipped.

13 You are doing it on the run, so you're
14 trying to get dressed as you're running out the door.

15 So it's a very tough challenge.

16 VICE CHAIRPERSON McLAUGHLIN: And we don't
17 want any indecent exposure.

18 MR. PATTON: Absolutely.

19 CHAIRPERSON JOHNSON: Well, it seems like
20 we have some moments of silence here. So maybe that
21 indicates it's time to take a break for lunch.

22 And the lunch is over here. Why don't we
23 reconvene in half an hour.

1 (Whereupon, a lunch recess was taken.)

2 CHAIRMAN JOHNSON: Welcome back.

3 DR. JAMES: Hi, this is Dr. Brent James
4 trying to get into the system so I can meet with you.

5 CHAIRMAN JOHNSON: This is the old country
6 farmer or doctor, and 13 or 14 others. Actually,
7 we're here, Brent.

8 DR. JAMES: Sounds like I found the right
9 place.

10 CHAIRMAN JOHNSON: You did.

11 As we look at our agenda for the next
12 period of time that we're here, Larry Patton is going
13 to bring us up to date as to some of the legal and
14 logistical matters that we need to be considerate of
15 as we proceed as task force members.

16 So there are some slides in your book on
17 this. We invite your attention and notes as he
18 shares.

19 By the way, just another word: Larry has
20 been working with us since the day we were appointed.

21 Came up, introduced himself, and basically has been
22 very very thoughtful.

23 And sometimes he has been, as we say in

1 the Midwest, in my face, and it's all been very
2 helpful kinds of feedback.

3 So I was thinking earlier, Larry, and I'll
4 just say this aloud, that I really do appreciate
5 personally, and the working group does as well, the
6 input that you've provided to us. Even though we are
7 not going to like what you're going to say, we
8 appreciate it very much.

9 So thank you very much.

10 MR. PATTON: Thank you. The slides are in
11 tab five, and I'm not going to say every single word.

12 But what I just wanted to be absolutely
13 clear about, I'm not a lawyer, although I do play one
14 at work. And so as a result there may be things
15 related to FACA with the government and the Sunshine
16 Act and other things that from time to time we'll need
17 to seek guidance from the attorneys here at the
18 department just to be sure.

19 But what I wanted to do is walk through a
20 couple of things that you need to know about existing
21 law that governs your activities, and also raise some
22 questions about ethical rules and guidelines you may
23 want to adopt by looking at what other commissions

1 have done to govern your conduct.

2 And then beyond that, to talk just basics
3 about reimbursement, and take it from there.

4 So let me start with FACA, which is
5 government in the sunshine. Essentially FACA was
6 designed to cure some ills. There used to be tons of
7 advisory committees that were around that lingered
8 forever.

9 So believe it or not, this was partly
10 designed to make sure these commissions sunset after
11 two years or needed to be specifically extended.

12 The second was that many operated in
13 secret and led to what people thought were biased
14 proposals coming out of them. And so the notion was
15 that if you do it in the sunshine, then everyone can
16 hear your deliberations along the way, recognize
17 whether you've considered all alternatives. And it
18 provides that in fact you must accept public input
19 along the way, and I'll talk about that specifically
20 as we go along.

21 The other thing that the people at the
22 General Services Administration asked me to mention is
23 that there are currently 62,000 of you serving across

1 the government on advisory panels, some like yours for
2 the president, others to departments or to agencies.

3 And without the relatively low cost input
4 that you provide, compared to what it would cost to
5 hire consultants to do this work, the government is
6 getting a phenomenal deal and is incredibly grateful
7 for your service.

8 The basic requirements are pretty simple.

9 One is that all meetings need to be open and
10 accessible. This means that we need to have a Federal
11 Register notice published, as you'll talk about after
12 this session.

13 You'll also have a website, and it should
14 be listed there. And we should in fact try to reach
15 out to the trade press to make sure as many people
16 know about your meetings as possible. So that
17 requires 15 days advance notice.

18 Another issue is accessibility. And you
19 have to take into account limitations for those who
20 are handicapped or have other issues. So holding your
21 meeting in either a non-handicapped-accessible
22 building or in a remote location where it would be
23 very difficult for anyone to come and observe, that's

1 a problem.

2 Richard is pointing to the fact that this
3 place is definitely not as closely accessible as
4 others. And we were limited to some extent, because
5 as I mentioned this morning, you are on the fast
6 track. And given the fact that by the time the you
7 were all surveyed for schedules, there was very little
8 time to schedule the meeting so we used the agency.

9 But in the future, we'll have greater lead
10 time. I'll talk about the additional ways that will
11 affect how we organize and do the logistics for
12 meetings in a moment. You also need to, at a minimum,
13 allow public input in written form, so that at every
14 meeting people can submit written documents to you.

15 I would encourage that it be done
16 electronically, because you need to make everything
17 that's submitted to you available for public review at
18 the Commission offices. And so I think the most
19 logical thing to do is to try to have as many
20 submissions in electronically as possible, that
21 they're available on the website.

22 You also need to make sure that all
23 documents that are prepared for the working group are

1 made available. So when we were talking this morning,
2 and Brent was talking about something that would be
3 blasted out, I was thinking of something that would be
4 actually in an email but not necessarily a document.

5 A document that is prepared for the
6 working group, if Brent wrote up anything about this
7 and sent a document along - that should be posted on
8 the website. So anything, if you have consultant
9 reports, any of that needs to be up there and
10 maintained.

11 We will eventually need to have a
12 designated federal official who needs to go through a
13 series of steps just to make sure that the interests
14 of the government are maintained. But that should
15 provide no real issue for you. We'll probably make it
16 one of the detailees to the working group.

17 I'd thought I'd just mention in passing
18 the fact that we have a transcript that can be made
19 out of this since we are recording the meeting and you
20 are required to maintain detailed minutes of every
21 meeting.

22 Our national advisory council meetings
23 tend to average one day and 30 pages of detailed

1 notes. Those are required, within 90 days, to be
2 certified by the chairman of the working group.

3 Now the trend for most commissions, rather
4 than having the chairman being forced to certify, and
5 if you get into controversial issues, it's an
6 interesting thing, because on the one hand you may
7 retrench a bit from having a transcript available word
8 by word. On the other hand it does pose an issue and
9 a burden on the chairman to ensure that the summary is
10 in fact absolutely accurate and captures all points of
11 view.

12 So many commissions, rather than putting
13 that burden on the chairman, are increasingly moving
14 to posting a transcript. So that's an issue that
15 you'll need to discuss. An interesting thing that I
16 would urge you to watch is verbiage here.

17 You have basically public meetings, which
18 is, I think, when it comes to the word, meetings, the
19 only type of meeting you really can have is public. In
20 the notes here on the second page of the slides,
21 you'll see a statement about closed meetings. The
22 criteria for a closed meeting is not met by this
23 group, because you will not be getting into any of

1 those issues. So whenever you refer to a meeting,
2 it's this one, and it's open.

3 However, you can have working sessions and
4 administrative working sessions. And working sessions
5 could be the subcommittee type of meetings. And those
6 do not require public notice, are not open to others,
7 so that you do not have the 15 members. For a public
8 meeting, as I said, you need to give 15-day notice.

9 If you were closing a meeting, if you
10 qualified to do commercial trade secrets for example,
11 a group that did that would still need to give 15-day
12 notice before they could do this.

13 You have no advance notice requirements
14 for the next two types of sessions here. So a
15 subcommittee can meet as long as the issue they are
16 being asked to address comes back into a public
17 session.

18 You obviously do not have to come back to
19 the public session and say, Joe said this and Mary
20 said that. What you need to do is come back to the
21 overall recommendation.

22 Yes?

23 MR. ROCK: Larry, just a question, and I'm

1 reading the text. It says under working session, our
2 morning conversation here, it sounds like day one, our
3 education forum, could actually be a working session,
4 and what we're calling day two would actually be the
5 public hearing.

6 Is that accurate?

7 MR. PATTON: I wouldn't advise that, only
8 because you're not sure it's not really a designated
9 subcommittee to come back with something to the group.

10 I think you're best off always to err on the side of
11 having meetings open. It will raise more questions
12 than it would otherwise, particularly if it's just
13 foundational, and it will be on the subjects you're
14 addressing.

15 If you want I can ask the lawyers for a
16 ruling on it. But I'm not sure what you gain in terms
17 of public appearance. I think you lose by appearing
18 to be doing stuff --

19 MR. ROCK: Be right technically and wrong
20 in public appearance.

21 MR. PATTON: Right. The other is
22 administrative working sessions. And those, if you're
23 discussing personnel matters or other types of things

1 regarding your internal operations that don't affect
2 the substance of the recommendations that will be in
3 the interim or final reports, I think you're fine to
4 do privately, and you don't need to announce them in
5 advance.

6 Never make a decision as a working group
7 by private telephone call, by private email exchange,
8 or in a private meeting.

9 Now the tricky part here, or the reason
10 why I emphasize private in all three parts, is that
11 you could make a decision in a chat room that was
12 announced and available to the public to participate
13 using the Internet. So you could have a call-in 1-800
14 number where you had sufficient lines for anyone who
15 wanted to call in, and to make a decision on a
16 telephone call in that way.

17 What you cannot do is make a decision in
18 an email chat that's just among you to which the
19 public cannot participate. You cannot do a conference
20 call that just involves the members of the commission.

21 So that you can go and use electronics
22 later if this proves to be useful to you.

23 CHAIRMAN JOHNSON: And you're talking

1 about content here of --

2 MR. PATTON: Right, these would be the
3 content ones.

4 CHAIRMAN JOHNSON: -- the working group,
5 not necessarily decisions of, we'll meet at a specific
6 date or something like that?

7 MR. PATTON: Yes. Now you always have to
8 have copies of meeting materials available on the
9 website no later than, and the lawyers advise me, it
10 would be useful several days before so that people can
11 be knowledgeable observers.

12 But as long as they are up and available
13 on the day and they are available here as we've made
14 copies of the materials for the meeting these two
15 days, that needs to be met.

16 I have the recommendation also about the
17 transcript, but that's a matter for you to weigh
18 because obviously there are pros and cons to doing it
19 that way.

20 I think you do want to encourage the
21 written submissions electronically as I said. It'll
22 be much easier to keep them posted.

23 And I think it's useful along the way to

1 also show, since you are a citizens' working group, to
2 try to have public comment sessions where appropriate.

3 If you've just completed a review of something you
4 may want to see if anyone wants to add to it.

5 In terms of maintaining records, all the
6 records of the working group must be available for
7 review by anyone who wants to come to the office,
8 which is in Bethesda, to take a look at them at any
9 time.

10 A lot of you have probably heard of FOIA,
11 which is the Freedom of Information Act, under which
12 people can send a FOIA request to a federal agency or
13 a department and say, we want to look at X, and then
14 the agency charges them, I don't know, 10 cents a page
15 to copy it, something like that.

16 As a FACA committee, as a government in
17 the Sunshine committee, no one has to go through FOIA
18 to look at your stuff. Everything is available all
19 the time, so 24-7. So in that sense at least - I'm
20 exaggerating a bit on 24-7 - but it needs to be
21 available when the offices are open.

22 As part of the process, because you are
23 connected to the department server for email for the

1 staff, all of that will be backed up and maintained.
2 We need to maintain records - I'm blanking on the
3 number of years. After the duration, then the records
4 must be processed in accordance with the requirements
5 of the National Archives and Records Administration.
6 But I believe it's somewhere in the neighborhood of
7 three years that they need to be maintained
8 afterwards.

9 Are there general questions about FACA
10 before I move on, or government in the Sunshine? Or
11 does anyone feel that this is too onerous or too much
12 of a problem? Are people comfortable with the general
13 requirements you need to meet?

14 DR. JAMES: Sounds pretty reasonable to
15 me.

16 MR. PATTON: And Brent, you've been
17 operating under them for a long time.

18 DR. JAMES: I have, and they work out just
19 fine.

20 MR. PATTON: Okay, let me turn to ethics
21 and conflict of interest and financial disclosure.

22 There'll be a number of issues here which
23 are ones that are discretionary for how you want to

1 proceed.

2 The commission will hire two types of
3 people: folks who are employees and will in fact be
4 federal employees, and they're subject to all of the
5 rules that govern employees of the Senate.

6 In the statute as you know both those of
7 you who are members of the working group and the staff
8 are to be treated as if you're employees of the
9 Senate. So as a result it's the Senate ethics rules
10 that will apply for the staff.

11 You're in a different position because
12 you're not a full-time employee. So as a result you
13 face fewer restrictions in terms of things, and more
14 of them are actually a question of whether you wish to
15 establish rules governing your conduct.

16 The other types of people that the
17 commission would hire would be consultants no matter
18 what mechanism is used. And for consultants only
19 those rules that you as a group establish for
20 employees or consultants would apply.

21 So now examples of what commissions have
22 done to try to avoid conflicts of interest. Now Brent
23 serves on our national advisory council. And because

1 that's a commission that advises the agency, the
2 executive branch rules apply.

3 So as a result when Brent comes to
4 Washington to meet with our national advisory council
5 for the Agency for Health Care Research and Quality,
6 he is not permitted to go to the Hill to lobby.

7 Now several of you do have jobs that might
8 in fact have you going to the Hill. And the way that
9 most commissions resolve it is, they simply say that
10 on the days of meetings - so for example like today
11 and yesterday - that you would voluntarily refrain
12 from going to the Hill. Because if you're initiating
13 a lobbying visit, it might confuse people as to
14 whether you're going as a working group member to
15 lobby the Hill, or whether you're going as in your
16 personal capacity or professional capacity.

17 But that's an issue for you to think
18 about.

19 In setting salaries of employees, the
20 working group has great discretion. In general I
21 would advise that you follow the guidelines that
22 agencies would use. For example in hiring interns,
23 what does the department use as a guideline. So that

1 you don't get any questions about whether you are in
2 fact showing favoritism or paying people
3 inappropriately.

4 And in a lot of cases the more high priced
5 people probably will be coming on as consultants. But
6 if there is an employee at any pay level it's usually
7 useful to look at the executive branch standards or
8 GAO for that matter. Whoever you use as a model, it
9 will keep you on the straight and narrow.

10 The other question is whether you decide,
11 and you may choose to do so or not, but you may decide
12 to go to different firms to contract for background
13 papers to feed into any part of this process. I'm not
14 sure what you'll end up doing. If you do, some
15 commissions ask that whenever there is a firm under
16 consideration, that they, in fact, see if anyone has
17 any conflicts so that they need to recuse themselves
18 from the decision, because their wife works there,
19 their immediate children work there, they have a
20 financial interest in the stock.

21 This, therefore, eliminates the potential
22 that people think that you went to them because you've
23 got some personal tie. So it's very useful to make

1 sure that that's done.

2 I have in the notebook an example of that
3 type of disclosure form to think about, as I also have
4 background on the FACA requirements.

5 Public financial disclosure, there's - the
6 disclosure of individual assets by individuals will
7 not pertain to most of you. The criteria that kick in
8 are two: one is, and these are the legislative branch
9 rules, not the executive branch rules, is that if you
10 have a rate of pay that is in excess of 120 percent of
11 the GS-15 level, which the rate of pay you're
12 receiving is in fact at that, above that level, you're
13 paid at level four of the executive branch scale,
14 which is \$140,300. So as a result, that pay
15 qualifies, it fits the first criterion.

16 The other aspect of the pay is not total
17 pay received. It's that you're eligible at the rate.

18 So therefore you don't have to receive \$140,300. You
19 have to be eligible to receive it for each day worked.

20 The second is, whether you spend 60 days
21 on commission business per year. For purposes of
22 ethics, that's triggered by whether you are reporting
23 any time for a given day.

1 So for example, if you were seeking
2 reimbursement for half a day of work because you were
3 doing something for the commission, and the rules that
4 you establish for how you will pay yourselves would
5 justify reimbursement, then that time counts for
6 counting the days.

7 So even if the commission didn't meet, but
8 you were delegated to do subcommittee work, and you
9 spent half a day doing it, and you decided that the
10 subcommittee work was reimbursable, that counts.

11 I think the odds are that only the chair
12 and the vice chair and the executive director will hit
13 that. But if you do hit that, you hit the disclosure
14 of assets rule.

15 Now for the executive branch we have both
16 confidential disclosure, which I have to do, and then
17 for people who are at a different level, they need to
18 do public financial disclosure.

19 In the legislative branch there is only
20 public financial disclosure. And so I have shared
21 with the chair the forms that are used by other
22 commissions that hit that level. But I think that
23 that's only potentially viable for three people, the

1 chair, vice chair, and the executive director. So I
2 don't think that will hit any of you, but I wanted to
3 lay it out in front just in case you start to think it
4 through. Because one of the issues you do need to
5 figure out is, other commissions, and certainly with
6 our national advisory council, we tend to pay people
7 for the days that they are here, and we pay them for
8 one day of preparation, to prepare for the meeting.

9 And that also comes back to all the
10 comments we heard earlier that people would like
11 materials ahead of time so they can be prepared and
12 ready. So that if the chair chooses to adopt that
13 approach and in discussion with you about payment for
14 the days you're in meetings here, whether they're
15 hearings or meetings, and the day of preparation, the
16 other question that you face as a group is how do you
17 want to pay for any other time?

18 Is subcommittee time free? Or is
19 subcommittee time that you're on the phone and
20 conference calls, do you want to pay for those and
21 account for those? So that's another issue you face.

22 But do know that that will begin counting against the
23 60 days, so there is a pro and a con to it.

1 If anyone chooses that they would prefer
2 not to receive reimbursement for the salary, not for
3 travel but for salary, if any of you have any work
4 issues or any issues where you would just prefer to
5 decline, that is a possibility. I still have not
6 gotten the form from GSA to indicate what has to be
7 signed. But there is just a need for a signature to
8 indicate that at some future point you're not going to
9 turn around and change your mind. There can't be a
10 future lien against the government. If you decide not
11 to accept salary, you decide not to accept salary.

12 Let me stop there on the ethical things.
13 I was not proposing in my presentation that you
14 actually debate these now. I think that this is a
15 matter where you may want to reflect and come back,
16 either later today or come back at another meeting to
17 do this. I think you need time to think this through.

18 Are there any clarifying questions?

19 MS. STEHR: Are you paid for your travel
20 time?

21 MR. PATTON: That's a decision for the
22 commission to make.

23 MS. STEHR: At least for some of us it

1 takes at least a day to get here.

2 MR. PATTON: So those are part of the
3 rules that you can establish for how you will
4 determine that. I don't know of any restrictions on
5 that. I will double-check with GSA to be absolutely
6 sure. But I think you're free on that.

7 Other types of things?

8 Let me turn to, if you could pass these
9 up, while I had slides in the book on travel and
10 reimbursement, I thought that perhaps the most logical
11 thing to do was to walk through the basics of what
12 you're going to need to do when you walk out of here.

13 And so what this page basically says is,
14 remember that your airline travel is being covered
15 centrally so that is not being charged to you.
16 Everything else has been charged to your credit cards.

17 And so what you need is to have a receipt
18 for lodging, no matter what the lodging costs, small
19 or large, you always need a receipt. They need the
20 original receipt, so you cannot fax this in or send an
21 Adobe Acrobat file. That doesn't meet the test. So
22 you need to have the original receipt. So I hope
23 everyone kept their receipt checking out of the hotel,

1 and just make sure that you always maintain those.

2 The only other receipt that you actually
3 need is if you have for example, if someone is taking
4 a taxi from here to BWI and the cost is over \$75, then
5 that is a requirement that you need to have a receipt.

6 It used to be \$50 a few years ago as the cutoff
7 point.

8 A large part of that is that over time,
9 while the government used to require every single
10 receipt for every single ten cents you spent, it
11 became such a burden that it just didn't prove worth
12 it for trying to catch the few people who actually did
13 try to cheat on this. As a result those are the only
14 two areas where you need receipts.

15 You will be paid a flat amount for food.
16 In this area it's \$51 a day. So as a result when
17 we're at a hotel, though, we probably will be having
18 the meal incorporated within the overall contractor
19 support and won't be charging you as we did for a
20 lunch here today.

21 But whenever we have to orchestrate a meal
22 outside of a hotel setting, you will need to pay it as
23 you go and get reimbursed for it.

1 If we orchestrate a meal, let's say at a
2 hotel, there is a formula which I don't know off the
3 top of my head, but the \$51 is composed of an amount
4 for breakfast and an amount for lunch and an amount
5 for dinner, that would automatically be deducted so
6 that it would come down.

7 So there are specifics in some of the
8 other statistics material that folks put together for
9 you. But I think that is the basic overview.

10 The only other thing is that for your
11 hotel rate, when I first came into government, if the
12 federal rate was let's say \$149 and the hotel was at
13 \$149, I had to pay out of pocket the tax. It started
14 a few years ago that that's separate. But any
15 additional charges beyond one phone call for \$5 home,
16 if you have a home phone call that meets that
17 criteria, just circle it on the bill and let them
18 know, and that will be covered.

19 But the other thing is to avoid other
20 things, cost of the Internet or any of those things
21 are at your expense. I've talked to the chair, and we
22 are looking at for the hotel next time, looking at
23 Crystal City or downtown Washington, and I've asked

1 for the contractor to look for hotels that have free
2 Internet service if that's possible at all, because
3 most of you will want to be staying in touch. So if
4 we can do that, we will always try to look for hotels
5 that do that.

6 In terms of writing up your expenses,
7 there is no form. But the basic thing is to make sure
8 that whoever is handling reimbursement - and we will
9 handle it temporarily until we have someone on board
10 who can do travel at the working group offices - that
11 you just make sure that you walk it through in the
12 logical way so that the person handling it knows that
13 you've covered every leg of the trip.

14 So just basically if you got a ride with
15 family to the local airport or pickup there, just
16 indicate that, because that will make sure that the
17 person doing travel doesn't try to waste your time
18 reaching you and saying, did you forget to add this?

19 And for everyone, you want to get paid
20 fast. So if you can walk that through, that will be
21 fine.

22 CHAIRMAN JOHNSON: What's the rate for
23 mileage?

1 MR. PATTON: Does anyone know? I don't
2 know the --

3 CHAIRMAN JOHNSON: What we should do for
4 this first submission is just submit the number of
5 miles, and it will be calculated.

6 MR. PATTON: Right, so if you drove to the
7 airport and you left your car, put the miles in there
8 and back, put the parking lot fee - you don't need a
9 receipt, again, unless you're over \$75 - and we'll
10 take it from there. And we'll make sure that you get
11 accurate feedback regarding how much you get per mile.

12 CHAIRMAN JOHNSON: How are tips handled
13 and miscellaneous expenses like that?

14 MR. PATTON: For the most part, if it's
15 within like a taxi fee that's generally just covered
16 in whatever amount you're putting in for the taxi.
17 Obviously if you're putting in an exorbitant amount
18 for a tip it may get flagged, because it will seem
19 like an unusually expensive trip.

20 But I honestly, I have never submitted
21 anything for tips at hotels. I have just paid them.

22 MS. TAPLIN: And the same goes for meals?
23 It would be sort of rolled in?

1 MR. PATTON: It's rolled into the \$51. So
2 the thing is - if you're paying tips separately - the
3 other thing is that when you're out on commission
4 business, if we in fact don't have a scheduled meal
5 and you are doing anything separately, while it may be
6 very gracious to pay for someone else's meal, it's
7 probably best, since people can only get reimbursed
8 for their own meals, pay for your own meals because
9 obviously why should someone absorb it if in fact it's
10 covered by your per diem.

11 So if you pay for someone else, that's not
12 going to get covered. And we encourage people to pay
13 their own share of taxi fees. It just starts to
14 become complicated, because then they have to cross-
15 check to make sure that there's been no double
16 counting for taxis. Even if you share a taxi, just
17 divide it up. It'll be much easier in the long run.

18 Someone raised the question with me, and I
19 know it's an issue for several people, whether it's
20 possible to get advanced reimbursement. I know it is
21 as a federal employee. I don't know the question, and
22 I will check it before you leave, whether that's
23 possible if anyone needs to do that. So I'll get the

1 answer for you before you leave here today.

2 I'm trying to think if there are other
3 things. Yes?

4 MS. STEHR: Approximately how long does it
5 take to get reimbursed?

6 MR. PATTON: I'm trying to think. Oh,
7 actually, there is an issue that plays out. One is
8 that they will prepare the voucher, as the submission
9 is called. Then they will fax the top copy to you
10 that you need to sign. Probably they'll fax you the
11 whole thing. But you need to sign the top copy and
12 you need to mail that back, which is your
13 certification that what you've put on there is true.
14 And that triggers the process for getting
15 reimbursement.

16 After that, it's relatively expeditious.
17 I would say no longer than 10 days. And the sooner
18 you get your stuff back, and you don't have to type
19 this up, so if you wanted to write this on the plane
20 or however you're going back, just do it, and then
21 complete it once you count your expenses back to the
22 home or office, wherever your final destination is,
23 and get that out in the mail tomorrow so start that

1 process.

2 Catherine?

3 VICE CHAIRPERSON McLAUGHLIN: They'll
4 automatically do the \$51 a day or whatever. We don't
5 put that on our --

6 MR. PATTON: No, you don't. They will
7 calculate that based on the rules. On something that
8 Ken prepared for you earlier, and I'm not sure where
9 that went, but it talked about the fact, and this is
10 something as an employee who seldom travels, I don't
11 pay that much attention to it, but apparently on
12 travel days you get 75 percent of the amount. Why
13 that rule exists, I don't know.

14 In the old days we used to calculate
15 quarters of the day. So if you arrived back home at
16 11:59 you only got half a day, and if you arrived home
17 at 12:02 you got three-quarters of a day. I think
18 they've now just done 75 percent to simplify the
19 computation. So everything used to depend on when you
20 left your house to catch the plane, and when you came
21 back. And it seems to me that they've just gone to a
22 greater simplification of that.

23 MS. CONLAN: I'm finding that I have a

1 need for a lot of tips for all this wheelchair
2 assistance each leg of the way. So all of that is
3 covered?

4 MR. PATTON: Let me talk to Tina, and
5 we'll get you an answer before you leave.

6 Anyone else?

7 DR. JAMES: Larry?

8 MR. PATTON: Yes.

9 DR. JAMES: This is Brent. I just assume
10 that my HHS and AHRQ stuff are, I ought to treat them
11 as completely separate accounts?

12 MR. PATTON: Correct, because they're
13 reimbursed separately.

14 DR. JAMES: And it sounds like I'm under
15 different rules. I'm under executive rules when I'm
16 with AHRQ, and I'm under legislative rules when I'm
17 with the citizens working group.

18 MR. PATTON: And actually it just means
19 that most of the rules you're under are just in fact
20 less onerous. I mean they're basically more ones that
21 you decide as a group to establish for yourselves.

22 So let me go back to the example I used
23 earlier, Brent, it was that on the lobbying. On the

1 lobbying you've got an absolute prohibition from
2 lobbying the Hill while you're on a trip for us. But
3 the working group can make a decision about how they
4 want to cover it or not cover it.

5 I think it would be unwise not to have a
6 rule governing it, but it's your choice here. So it's
7 just one of those things that, the rule may not be
8 identical, may or may not be identical to what's
9 imposed on you by the executive branch.

10 CHAIRMAN JOHNSON: We'll talk about some
11 of the issues that Larry has raised when we're done
12 with the questions and answers. We'll talk through
13 some of the questions that he has put. But let's make
14 sure that we have answers to your questions right now.

15 MR. PATTON: Other things that either I
16 know or can find out?

17 Okay. I'll turn it back to the chair.

18 CHAIRMAN JOHNSON: Okay, thank you. Thank
19 you, Larry.

20 Let me go through at least some of the
21 questions that I thought I heard raised. And if there
22 are others that you have, we can address those as
23 well.

1 The first one that I thought I heard
2 raised was, would we like to put a summary of the
3 meeting online, or would we like to post a transcript
4 online?

5 You can understand some of the
6 implications of both, I think. It would seem that if
7 we put a summary online, it would take some time to
8 review that and make sure it's correct, and it's
9 subject to some potential argumentation as to whether
10 or not the summary captured everything that was
11 essential to be captured.

12 If you put a transcript online, you have
13 all the details there. Anybody can review what it
14 actually says, although it's longer, and there may not
15 be the kind of review that the average lay person
16 might do.

17 DR. SHIRLEY: We'll have to watch our
18 language.

19 CHAIRMAN JOHNSON: I've been meaning to
20 talk to you about that, Aaron.

21 By the way that's just come over the
22 transcript, Aaron, so. So that's true.

23 MR. HANSEN: A summary would be helpful to

1 me instead of reading through the whole thing just to
2 look at it. But is a summary treated like minutes
3 where they have to be approved by the committee or by
4 you?

5 CHAIRMAN JOHNSON: I would assume that if
6 we do a summary for ourselves, it has to be posted.

7 MR. PATTON: Right, anything you would
8 produce. But on the other hand, and actually I should
9 have raised this, so I'm glad you raised the question
10 Joe, is that if you do a transcript and post a
11 transcript, then probably before you leave today, we
12 should talk with the writer, who is here, about what
13 type of summary would be helpful for all of you.

14 It obviously doesn't need to be that 30-
15 page detailed summary. It could in fact be a much
16 more terse and directed summary that would be useful
17 for what decisions were made, or what other things you
18 want to capture, and we can give him direction today,
19 and this could be by the chair, it doesn't have to be
20 a group decision unless you want it to be, in terms of
21 what would be actually useful to you.

22 So it doesn't mean you wouldn't have one
23 or the other, but again, both would have to be posted,

1 but this could be framed in a way that's much more
2 direct and useful to your next meeting so you can
3 capture everything quickly.

4 CHAIRMAN JOHNSON: You may end up with a
5 transcript a lot quicker than a summary. Because
6 whoever is going to review the summary, if they're
7 going to try to make sure it captures all of the
8 essential elements, that's a review process in itself.

9 MR. PATTON: So your summary doesn't hit
10 the same legal issues if the transcript is posted.

11 CHAIRMAN JOHNSON: Correct.

12 MR. PATTON: So once that's posted, it
13 doesn't have to be comprehensive in any way. It just
14 has to be a useful working document.

15 CHAIRMAN JOHNSON: Let me ask the question
16 in a different way. Maybe this is helpful.

17 If we are to do a transcript, that
18 completes our requirements for posting a summary of
19 this meeting.

20 MR. PATTON: That's correct.

21 CHAIRMAN JOHNSON: So if we were to be
22 able to say to the person who has done the
23 transcribing or whatever, give us a summary of the

1 action points, action items, we would not need to post
2 that, or we would need to post that?

3 MR. PATTON: My understanding is that
4 anything produced for the group should be posted, but
5 on the other hand it could be much more terse. It
6 doesn't need to meet the requirements of completeness
7 or even balance because the transcript is available
8 for people to review directly. This is just a
9 document that's designed to help you.

10 So it could be one or two pages if you
11 wanted. It doesn't need to be a long document in any
12 way, shape, or form. But since it's a summary of what
13 the specific public actions are - it's not going to be
14 what Joe said, or what anyone said - my guess is that
15 you would have very little trouble posting it, because
16 anyone who sat through the meeting would have heard
17 the same things.

18 CHAIRMAN JOHNSON: Okay. Do we have a
19 proposal on transcript or summary, or transcript and
20 summary of action points, something like that?

21 MS. WRIGHT: Would there be any difference
22 if we got a summary, and then as in the public or
23 Freedom of Information Act, then someone reading the

1 summary is referred to a full transcript?

2 MR. PATTON: If we do the transcripts, the
3 transcripts have to be available.

4 CHAIRMAN JOHNSON: Brent, what is your
5 practice in the other commissions and working groups
6 that you've been on? And can you share a little bit
7 of what you think has worked well, and the advantages
8 and disadvantages?

9 DR. JAMES: I think the philosophy of
10 being generally open is a very very strong philosophy,
11 and we should think of generally open and only if we
12 have a sensitive issue should we go into - I can't
13 remember the exact name for it. That's worked pretty
14 well for us.

15 And we tend to use transcripts. We tend
16 to read through them as we come in to prepare for the
17 next meeting and then actually make corrections.

18 So when we have it just right - my guess
19 is this is a long transcript for a NAC meeting, a full
20 day national advisory committee meeting.

21 MR. PATTON: Absolutely.

22 DR. JAMES: On the airplane I usually you
23 read through it, and then one of the first orders of

1 business is, approve the transcript.

2 Now it's not at all uncommon to have
3 people do summaries, brief working summaries as
4 working documents. Frankly I can't think of a time
5 when it would have been sensitive enough that we
6 wouldn't have been willing to share those as well. At
7 least in the past it's just not turned out to be a big
8 issue.

9 CHAIRMAN JOHNSON: Thank you.

10 MR. HANSEN: Are we making the rules for
11 all the meetings, not just yesterday and today?

12 CHAIRMAN JOHNSON: I think we are probably
13 trying to set a precedent.

14 MR. HANSEN: I'm comfortable with just a
15 transcript, and leave the summary for our own.

16 CHAIRMAN JOHNSON: Okay. Pat?

17 MS. MARYLAND: I'm comfortable with the
18 transcripts also if we have a chance to review them
19 before having them made available.

20 CHAIRMAN JOHNSON: Okay, thank you. Okay
21 any comments to the contrary of those two?

22 MS. HUGHES: Can I just ask something?
23 This is Therese. Pat, do you mean before it's made

1 available to the public or before it's made available
2 to us for the next working group?

3 MS. MARYLAND: To the public.

4 MR. PATTON: You have, just as a
5 guideline, you have 90 days from the meeting to post
6 either the summary or the transcript. So that would
7 give plenty of time to meet Pat's suggestion that we
8 make it available electronically to you, or in fact,
9 potentially, if the website permits, there may be a
10 section of the website where things could be reviewed
11 before they go public.

12 So either way it could be made available.

13 VICE CHAIR McLAUGHLIN: I would skim
14 through for when I was the person to make sure that it
15 captured the words I used, and not different words.

16 MR. PATTON: You couldn't make substantive
17 changes.

18 VICE CHAIRPERSON McLAUGHLIN: I would rely
19 on everybody to do the same for when they're talking,
20 and I would just look for my name and then what it
21 says I said. And you can't change what you said,
22 right, Larry?

23 MR. PATTON: Correct, you can't make

1 substantive changes.

2 VICE CHAIRPERSON McLAUGHLIN: But if they
3 wrote down the wrong word because you didn't
4 articulate well --

5 MR. PATTON: Which is a problem for all of
6 us.

7 VICE CHAIRPERSON McLAUGHLIN: -- which is
8 a problem for all of us, that you can in fact make
9 those kind of corrections. But that is really the
10 only correction you can make.

11 So for our approval, Pat, just means you
12 look for mistakes in a transcript, not your desire to
13 sound more articulate or smarter.

14 MR. PATTON: And you certainly can't
15 change the substance. So that if you said something
16 and you regret you said it in public, you've said it
17 in public.

18 VICE CHAIRPERSON McLAUGHLIN: So if you
19 have a dangling participle, it's still there.

20 DR. JAMES: We nearly always have a few
21 small changes, but they are of a nature of, the word
22 was actually this not that. And sometimes they can
23 be, they can recapture transmissions pretty well, and

1 it just means that on the transcription it wasn't
2 clear, and they didn't get it quite right.

3 But it comes up, one or two of them,
4 almost every time.

5 CHAIRMAN JOHNSON: And you are recording
6 this meeting so the tape is the foundation or the
7 basis for the transcript.

8 MR. PATTON: Foundation for the
9 transcript.

10 CHAIRMAN JOHNSON: Okay, can we move to
11 another subject? Are we comfortable with that?

12 DR. SHIRLEY: I can see some academic type
13 reading through the transcript and wondering how this
14 group wasted the taxpayers' money.

15 (Laughter)

16 CHAIRMAN JOHNSON: Okay, another question
17 that Larry raised was the subject of lobbying. Is
18 there a statement that we might make regarding
19 lobbying by this group. And he suggested that some
20 other groups have come to a conclusion and agreement
21 that they would not lobby on the dates of meetings.
22 They would not go to Capitol Hill or the White House
23 to lobby on days of meetings.

1 Let me ask you for your thoughts on that.
2 Is there anyone who would feel heart burn with that?
3 Otherwise if you don't, we'll kind of take that as an
4 accepted recommendation for our consideration.

5 DR. SHIRLEY: I recommend that.

6 MS. BAZOS: I don't have a problem with
7 that - this is Rosie. I just think we need to be
8 clear, because I think at some point yesterday we
9 discussed about building consensus as we moved forward
10 with the recommendations and the community meetings as
11 we went forward to keep people abreast of what was
12 coming out with the senators, Orin Hatch and - I'm
13 blanking on the name. So I just think we need to be
14 clear once we get to that point.

15 CHAIRMAN JOHNSON: Thank you.

16 MR. PATTON: And that does not count as
17 lobbying.

18 CHAIRMAN JOHNSON: Okay, thank you very
19 much. We'll take that as a recommended action.

20 Then Larry, you had a comment on salaries
21 and conflict of interest.

22 MR. PATTON: Primarily on salaries, just
23 in setting salaries, because the working group has no

1 history in terms of hiring folks. And probably one of
2 your first hires will be some interns as well as then
3 starting to think about staff, that we just use
4 guidelines either from GAO what they would pay,
5 because they are a legislative branch organization, or
6 the executive branch, just so you have some guidelines
7 for a comparable level job, so that it eliminates the
8 potential of anyone coming back later and saying, oh,
9 you just gave them money because you like them.

10 Other groups have tended to go in this
11 direction for setting salaries when I talk to other
12 commissions, and most thought it was a prudent move.

13 CHAIRMAN JOHNSON: So what you're
14 suggesting, as I understand it to put it into
15 practice, if people from HHS or Department of Labor
16 would be employed by this working group --

17 MR. PATTON: No, this would be people you
18 hire directly. If they are people from HHS, they will
19 be on detail to you and remain paid at their current
20 salary.

21 CHAIRMAN JOHNSON: Okay, thank you, that's
22 a good clarification. So that people we would hire
23 directly would, we'd look for equal or a comparable

1 job at comparable pay?

2 MR. PATTON: Right, and I'm not applying
3 this to consultants. Consultants, a lot depends on
4 the overhead or what have you. That's a separate
5 issue.

6 This is just direct hires who become
7 federal employees under your supervision.

8 CHAIRMAN JOHNSON: So let me now ask you
9 again in a different way than the first, but similar
10 is the second question: Do any of you have heart burn
11 regarding that recommendation? Seems fair?

12 DR. JAMES: Yes.

13 CHAIRMAN JOHNSON: Okay, I think we have
14 an agreement there.

15 The next item that I have that Larry
16 mentioned was, should we be paid for the following
17 things: reading of information; subcommittee work; and
18 travel work?

19 And I'm wondering if you would like to
20 reflect on that and come to a conclusion next time, or
21 if you'd like to discuss it right now?

22 First, would you like to discuss it right
23 now? Is that your preference?

1 MS. STEHR: I'd like to discuss it now.

2 CHAIRMAN JOHNSON: Okay.

3 VICE CHAIRPERSON McLAUGHLIN: Well, I have
4 a question about the time, travel time, for example.
5 If it takes some people two hours, do you submit two
6 hours? It wasn't clear to me how we submit our time.
7 Say it's based on some Senate salary, grade, level,
8 blah blah blah, that's an annual salary. But does
9 that boil down to an hourly rate?

10 MR. PATTON: I want to separate this
11 discussion from the one about staff. Staff would be
12 paid at different levels. You are statutorily paid at
13 level four of the executive scale, which is \$140,300 a
14 year, and that's then pro rated.

15 VICE CHAIRPERSON McLAUGHLIN: That's what
16 I'm asking if it's pro rated on an hourly basis or a
17 daily basis?

18 MR. PATTON: Well, those numbers can be
19 determined. And that would be a matter for the rules
20 you wish to adopt.

21 VICE CHAIRPERSON McLAUGHLIN: Okay.

22 CHAIRMAN JOHNSON: Richard?

23 MR. FRANK: I guess my pleasure would be

1 to say, we pay you for one day of preparation, and
2 whether you prepare on a plane or whether you prepare
3 sitting at home, it's up to you.

4 CHAIRMAN JOHNSON: Let me ask a question
5 of those of you who are in the academic community, and
6 then I'll share what the experience is in the business
7 world.

8 For those of you who are in the academic
9 community if you work extra hours in your salary - I
10 don't know what your salaries are - but if a person at
11 a \$140,000 level would be working extra hours, would
12 they be paid? Or if a person would be traveling would
13 they be paid for travel?

14 MS. MARYLAND: No.

15 VICE CHAIRPERSON McLAUGHLIN: No.

16 CHAIRMAN JOHNSON: You would not be? In
17 the business world the person at that level is
18 considered an exempt employee, and they are not paid
19 for travel.

20 If they are a non-exempt person they would
21 be paid for travel.

22 Is it the same thing in the hospital
23 situation?

1 DR. JAMES: Yes.

2 CHAIRMAN JOHNSON: Is there any
3 compatibility of those rules with what we would be
4 doing here? That's question number one.

5 And then we can address Richard's
6 potential recommendation regarding preparation being
7 allocated for maybe a day or something like that.

8 But your thoughts - and before we get
9 response from others here, Brent, can you share what
10 your experience has been on other commissions with
11 which you are affiliated?

12 DR. JAMES: I have a bit of a unique
13 circumstance, Randy. I prefer to not be paid. And
14 the reason is, for the amount of money that it brings
15 in it's just too much hassle, and I'd just rather be
16 clean.

17 CHAIRMAN JOHNSON: But I'm not talking
18 about you personally, I'm asking about other
19 commissions on which you serve. And I'll ask Larry
20 the same thing in just a second.

21 DR. JAMES: For most of us, the way it
22 works is, they pay for an extra day's preparation time
23 and the preparation time includes all travel. So I

1 would get paid, say this Friday at the NAC meeting if
2 I were accepting a salary, I'd get paid for Thursday
3 and Friday. I'd get two days' pay, and that two days
4 would include all of my travel, if you see what I
5 mean.

6 MR. PATTON: That's our policy, is the day
7 of meetings or hearings you get a full day's pay, and
8 then one day of prep time as Brent says that covers
9 travel and prep, so it's kind of a combination extra
10 day.

11 CHAIRMAN JOHNSON: And when you have been
12 in subcommittees in the past, Brent, first the
13 question for you, and then Larry, question for you and
14 anybody else who has also been on similar types of
15 committees.

16 DR. JAMES: With some of the
17 organizations, for example for IOM we tend to pay a
18 flat rate and say, okay, we're going to ask you to do
19 this paper and here's what you'll get. For IOM we
20 always contribute time anyhow, so we don't get paid at
21 all.

22 I was trying to think of our
23 subcontractors, how we handle them. I think that is

1 contributed time.

2 I think for the other committees where
3 we've commissioned work it's always on a subcontract
4 basis, and I've seen it done, it's usually an agreed
5 amount based on an estimate of the total amount of
6 services which will be provided, with a follow-up to
7 show that the services or the time was spent, you see
8 what I mean?

9 MR. PATTON: And Brent, correct me if I'm
10 wrong, but I don't think we have experience with
11 actual meetings of subcommittees separate from the
12 full NAC, although they may be speaking by conference
13 call, correct?

14 DR. JAMES: That is correct. We've had
15 quite a bit of activity that happens offline, but
16 we're not reimbursed for that.

17 MR. PATTON: Right.

18 CHAIRMAN JOHNSON: So if we were to have
19 telephone meetings of subcommittees that would be
20 comparable to some of the experience in the past which
21 have not been reimbursed?

22 DR. JAMES: That is correct.

23 CHAIRMAN JOHNSON: Thank you.

1 Richard, you have been on some other
2 subcommittees? Comments?

3 MR. FRANK: Well, I mean the IOM is
4 definitely, you don't get paid for.

5 Let me make a point about what I think
6 might be different here, which is that I think because
7 we don't have the usual sort of cast of characters,
8 that is, academics, feds and things like that, we have
9 people whose circumstances are different. And
10 therefore you're taking people away from a different
11 set of circumstances.

12 For example Harvard thinks it's wonderful
13 that I do these things, and they encourage it. I get
14 brownie points.

15 MS. HUGHES: Where do you cash them in?

16 MR. FRANK: Right. But there are other
17 people who have day jobs where it's really a loss,
18 that they're gone from whatever it is, whether it's a
19 formal labor market or informal activities. And I
20 think that perhaps we need to recognize that, or at
21 least poll the people who are not in these sort of
22 typical circumstances to find out this affects them.

23 VICE CHAIRPERSON McLAUGHLIN: I absolutely

1 agree, Richard. I'm glad you said it. That's where I
2 was headed that for somebody like Richard or for me,
3 this is a service to your state government, to the
4 federal government, that's expected. It's a part of
5 your job. You're supposed to do it.

6 And also serving on some of these IOM
7 committees or an NIH review committee, it's not like
8 it's part of your job, but while you're there you're
9 networking, you're finding out new information that
10 enhances your job.

11 Richard is absolutely right. That's not
12 true for many of us around the table, neither of those
13 things are true. And so therefore, although it's
14 informative to find out how other commissions work, I
15 don't think it should dictate the decision that we
16 make.

17 And I feel that way particularly for the
18 subcommittees. I'm not going to feel comfortable
19 asking some of these people to take a lot of time to
20 work with me on a subcommittee unless I think that
21 that falls under the same rules as prep time for the
22 working group meetings.

23 In other words, I would recommend that if

1 we have a two-hour conference call where we discuss
2 different things, that again there's a day of prep
3 time. You're just not traveling.

4 And in fact we may travel. We may want to
5 meet somewhere. But I think that we need to keep this
6 in mind that in order for certain people to really
7 take away time, even for a conference call, we have to
8 recognize and value that time. And I'm not sure how
9 to do it. I'm just saying, I do think we have to
10 think about this more carefully.

11 DR. JAMES: I think that's a very good
12 argument.

13 MR. PATTON: What I would suggest at this
14 point is that you resolve the issue of how you're
15 going to deal with meetings at this meeting, because
16 people need to be paid right after this meeting. And
17 think about the issue of how you want to do the
18 subcommittees and come back.

19 And if you tell us what you want to do, we
20 will have it done, unless you expect that there'll be
21 extensive meetings. I forgot that you're planning to
22 have subcommittee meetings before the next meeting. I
23 withdraw the comment.

1 I was just trying to think through the
2 prep time for a subcommittee two-hour conference call
3 versus prep time for a two or three day meeting. I'm
4 not sure one day would be the right amount.

5 VICE CHAIRPERSON McLAUGHLIN: The Reports
6 Subcommittee may be unique, because that is just going
7 to involve a lot more work, because we're going to be
8 sending a lot of data, a lot of information, and
9 saying, give us feedback - us being the staff -
10 feedback on what you think et cetera. I could easily
11 see each request bundled into a day's worth of work.

12 That may not be the case for every
13 subcommittee, Larry. But I guess I would feel more
14 comfortable asking people to give that amount of time
15 if I knew that there was going to be some kind of
16 compensation and recognition.

17 MR. HANSEN: My union background will show
18 through in this, and I'm going to decline pay for
19 myself in this. But we have the concept for lost time
20 you get paid for it.

21 And I think that what Richard said and
22 what you're saying I agree with completely, and to
23 figure out a fair way of doing this, the work that

1 they're doing, the preparation time or the travel time
2 if it's more than a day.

3 CHAIRMAN JOHNSON: Other questions or
4 comments?

5 VICE CHAIRPERSON McLAUGHLIN: So Larry's
6 first thing, full working group meetings, right? He's
7 asking if we can come to closure on that one.

8 CHAIRMAN JOHNSON: We're now talking about
9 subcommittees, so let's stick to subcommittees.

10 MS. HUGHES: This is Therese. I guess I'd
11 like to say that I think I agree with Catherine and
12 Joe's and Richard's remarks. I don't think we need to
13 go around the table and ask what is each individual's
14 situation. But I would just like to suggest that we
15 pay for the day. We get the day preparation which can
16 be travel and/or preparation.

17 And then where the subcommittee goes, I
18 would like to suggest rather than looking at it as a
19 full day value, it may add up to a day value, look at
20 it at an hourly value. So if we're two hours on the
21 phone call and then we have two hours preparation,
22 then that is what we need to --

23 MR. PATTON: Submit.

1 MS. HUGHES: Submit, thank you, that's
2 what we need to submit as something that would be
3 workable for people.

4 So that's what I'm proposing.

5 CHAIRMAN JOHNSON: Let me see if I
6 understand your comment. You're saying that just like
7 we assume a day's preparation for a full day meeting,
8 for every hour that a subcommittee meets they would
9 assume an hour preparation?

10 MS. HUGHES: No, no. So I'm on your
11 subcommittee, and we're going to discuss whether we're
12 buying apples or oranges next time, and it takes us an
13 hour. We've allocated an hour.

14 I may need an hour. If I need any time, I
15 take an hour. I may need an hour.

16 MR. PATTON: She's suggesting submitting
17 actual time, actual time that a person spends, they
18 submit that.

19 MS. HUGHES: Thank you. Fee for service.

20 MR. PATTON: So it's an hourly rate. So
21 for example one person who's chairing the subcommittee
22 may in fact spend three hours preparing. The members
23 of the subcommittee may only spend two hours

1 preparing.

2 And whoever spends three hours, submit
3 three hours. Whoever spends two hours submits two
4 hours. So it's just actual time spent as opposed to
5 saying it's always going to be eight hours.

6 MS. HUGHES: And the reason that I'm
7 suggesting that is because we have a limited budget,
8 and we don't know where the budget is going to go.
9 And it seems to me that by doing it on an hourly basis
10 for subcommittee work that we are able to control some
11 of the costs somewhere.

12 CHAIRMAN JOHNSON: I think you're correct,
13 and that's in the back of my mind. We do have a
14 limited budget.

15 And by the way the budget this year
16 probably will be a little more plush comparatively
17 speaking to next year when we have the town hall
18 meetings and lots of travel time.

19 So I think we have some serious questions
20 that we're going to have to look at. And here's what
21 I'm hearing, and then I'd like to propose something.

22 What I'm hearing is that for travel time
23 and reading time, we combine one day of meeting or we

1 combine travel time and preparation time together and
2 give credit for one day of travel time for each
3 meeting.

4 Is it for each meeting?

5 MR. PATTON: It's for each meeting. It's
6 not for each day of meeting.

7 CHAIRMAN JOHNSON: Thank you, for each
8 meeting.

9 For subcommittee time what I'm hearing is,
10 we have a self report of the number of hours worked
11 for each subcommittee meeting. And that that will be
12 until we address it again, if we do. And that we try
13 that and see how it works. But for the foreseeable
14 future we try to do that.

15 But we take a look at the budget as we go
16 along to see if in fact we can continue to do that.
17 We're going to have to live within a budget, and we're
18 providing more open-ended opportunities to payment for
19 us than what I see for exempt people for most
20 organizations.

21 And in this particular focus we are exempt
22 people. So I'm open to trying it for the foreseeable
23 future. But if we find that it's running our budget

1 up, if we perceive that, and we'll come back [we
2 won't change it without bringing it back to you. So
3 we won't make any changes until we bring it back to
4 you.

5 But I want to just make sure that we
6 understand. We have to follow a budget, and we don't
7 know what our expenditures are going to be yet.

8 MS. HUGHES: Randy, I would even say that
9 in terms of maybe for the travel day to a meeting, 75
10 percent of the stipend or the per diem. I understand
11 the restraints of budgets, and I'm just trying to look
12 at it in a way that would be amenable.

13 I support the comments that were said
14 earlier by Richard. I can't think of what I'm saying.

15 VICE CHAIRPERSON McLAUGHLIN: Because
16 there is a difference between salary level, full year,
17 full time, being exempt, versus salary level 12 days a
18 year being exempt.

19 And I think that's the confusion, that the
20 salary level that we're talking about, \$140,000, is
21 normally considered exempt, and people who earn that
22 amount of money do not get this kinds of payment.

23 But we're not talking about full year -

1 the executive director will be full year, full time -
2 but the members of this working group I hope are not
3 going to be full time, although it's beginning to
4 sound like we may be.

5 And therefore the level on which the
6 compensation is based is not really relevant in the
7 decision-making of this in my opinion.

8 CHAIRMAN JOHNSON: Okay, well, that's a
9 point of difference between those of us around the
10 table here.

11 Richard, you were going to comment?

12 MR. FRANK: I had something similar to
13 Catherine, which is, one analogy is the exempt
14 employee; the other one is the consultant. And even
15 people who are exempt employees by day, they do
16 consulting on weekends and stuff, and they charge you
17 for every hour they work.

18 CHAIRMAN JOHNSON: That's true.

19 VICE CHAIRPERSON McLAUGHLIN: And this is
20 more of a consultant.

21 MR. FRANK: This might be more like that
22 than the other.

23 CHAIRMAN JOHNSON: Okay, thank you.

1 MS. CONLAN: I just wanted to mention that
2 when I worked on a contract basis as a teacher I was
3 paid for the actual time that I was working with
4 students, and all the other preparation, whether it be
5 gathering materials or developing lesson plans or
6 whatever, that was I guess figured into what I was
7 paid, but I wasn't paid extra for that

8 So I'm familiar with that, and on my part,
9 I'm comfortable with that.

10 And also, unless we make a recommendation
11 that there is a Medicaid buy-in and it's accepted, I
12 don't want to earn too much money, because I'm working
13 against myself.

14 CHAIRMAN JOHNSON: Okay, another comment
15 and then we'll summarize.

16 MS. STEHR: I'd like to have the one day,
17 full day travel time, because of my circumstances.
18 It's an entire day of travel. Plus I'm missing my
19 work of caring for my son, and I'm paying out of
20 pocket a considerable amount of money to hire a nurse
21 to care for my son. So I need that full day.

22 So because of budget restraints, those of
23 you that don't feel you need that full day, then don't

1 take it, is what I'm proposing.

2 CHAIRMAN JOHNSON: Let me summarize what I
3 think we've heard.

4 Number one, full travel day, preparation
5 time is included. We'll pay for subcommittee work on
6 an hours-spent allocated basis, okay?

7 VICE CHAIRPERSON McLAUGHLIN: As
8 submitted, if the person wants it.

9 CHAIRMAN JOHNSON: As submitted. Any
10 further comments regarding this?

11 One day of travel for each meeting.

12 MR. PATTON: And that includes prep as the
13 chairman said.

14 I think that is a perfectly justifiable
15 decision. The only thing I would just say, and this
16 is just for people to keep in mind as they put their
17 time in, is remember you've got the 60 days hanging
18 out there.

19 So if you put two hours in on a given day,
20 because we said if you choose to submit it, that two
21 hours for that one day is going to start ticking
22 against the 60. So just note that for each day that
23 we start adding up it might trigger for someone who

1 gets very active in subcommittee business the 60-day
2 financial disclosure requirement.

3 That's just making sure you remember it,
4 that's all.

5 CHAIRMAN JOHNSON: Okay, we're ready to
6 move to a different subject unless you would like to
7 stay on this one for a while longer.

8 Okay, we have 15 minutes left before we
9 conclude our meeting. Here are the subjects that we'd
10 like to run through.

11 Number one, we'd like to just briefly talk
12 about some subcommittees.

13 Number two, a comment about future
14 meetings.

15 Number three, attendance at our meetings.

16 And number four, the use of electronic
17 technology in attending our meetings.

18 So those are some subjects that we need to
19 discuss. Are there any other subjects that you'd like
20 to get on the table before we proceed into that
21 discussion?

22 DR. BAUMEISTER: I have a cab coming at
23 2:30 because I've got to catch a plane over at BWI.

1 website up and running quickly where we can post the
2 bio sketches and the comptroller general's
3 announcement, where we can put the announcement of the
4 hearings in May, we can put a description of our
5 charge, what we did today. Just to get something up
6 the next few months to use as a communication tool to
7 the public.

8 We don't expect a lot of Joe and Jane
9 Public to come on, but we hope that this will make it
10 easier for some interest groups and people interested
11 in what we're doing to see.

12 As such we have not hired a web
13 development team. We don't have time to do that. But
14 as I pointed out earlier, we just had our first
15 meeting last Monday. Ken and Caroline and Andy's
16 first day on the job was last Monday. And in fact it
17 wasn't a full day on the job, because they're still
18 detailees, they're still closing up stuff from their
19 previous jobs here at HHS. Friday was your first full
20 day, and Caroline still hasn't had her first full day
21 I guess.

22 Actually we were on the phone at 7:00
23 o'clock Friday night, all of us, still trying to get

1 things ready for the meeting today.

2 But there also have been a couple of
3 wonderful people here at AHRQ who have been working
4 with us to try to get up a website in the short run.
5 And as I said in that slide earlier, it's to be
6 considered an interim website.

7 And several of you sent back some feedback
8 that totally echoed ours, which was wonderful, which
9 was, we don't want this to look like the AHRQ website.

10 We want it to look different. We want it to be the
11 citizens, and have it be friendly.

12 So we have been working with them to try
13 to make a different design. And one of the things
14 that is going to guide us is actually more this style
15 of the lines on the left, a triangle, a very clean
16 easy-to-read style.

17 And they have in a very short amount of
18 time laid out a template, but it's still in
19 development, so we don't have it to show to you. But
20 it's going to be more similar to this.

21 There are certain regulations. They have
22 to have the HHS seal up there. They have to have --
23 you know, there are certain government regulations

1 that have to be up there. But to the degree possible
2 we're going to make it fairly simple to navigate.
3 We're going to make it look different, have sort of
4 our signature that will fit across, and try to make
5 sure that just simple things like the colors are
6 different, the logo is different, so that it's not
7 confused as being just another part of ARRQ.

8 So those of you who haven't sent feedback
9 to email, I guess last week from Randy, we're still
10 open. But we really want to get this up in the next
11 seven to 10 days so that we can put information up.

12 But I just wanted you to know that there
13 are two people here at AHRQ web design who have been
14 in communication with Larry and now all of us, now
15 that we're on board, and trying to get something that
16 is fairly simple at this point, knowing that some time
17 over the summer we're going to have to change it to
18 make it more interactive, et cetera, ready for the
19 October hard launch, as they say in the business of
20 the website, where we really do publicize it heavily
21 and get citizens to come on board.

22 So it's a two-stage process.

23 MS. STEHR: Will it be accessible for

1 people with disabilities?

2 VICE CHAIRPERSON McLAUGHLIN: Absolutely,
3 and different languages - that's what has to come down
4 the pike.

5 What it's going to be now, it's going to
6 be fairly simple, fairly straightforward. But what
7 we're going to start doing is start working now on
8 putting up the more permanent site, which will be
9 accessible and much more sophisticated.

10 CHAIRMAN JOHNSON: Other comments or
11 questions?

12 Okay. In addition to that, one of the
13 other subcommittees that we've considered establishing
14 is a general communications subcommittee. And we
15 haven't proceeded with that, but it's just one that
16 we've talked about the potential of, and we will come
17 back to you with more information on that as we
18 proceed.

19 We've already talked with you about
20 scheduling for May 11th, 12th, and 13th and we've
21 received blackout calendars for you, and we've even, I
22 think, shared some dates with you for June.

23 What we're experiencing is a very

1 difficult time getting everybody together. In fact as
2 I mentioned earlier I think there is no date between
3 now and July 1st where everybody is available.

4 In fact in almost every case we have two
5 people at least who are not able to make it based on
6 what you've told us.

7 So we're going to try our best to schedule
8 around your schedules as a first priority, and then
9 around other schedules as we meet, such as speakers
10 and so forth.

11 But the scheduling is going to be a real
12 challenge, and let's just try to do our best to meet
13 your needs and our needs as a group.

14 MS. BAZOS: One thing we did talk about at
15 dinner last night for the future, perhaps maybe you
16 have to wait until next year to start that, but
17 thinking about structuring committee meetings so that
18 they're on a specific day of a specific week of the
19 month, you know, so that they're standardized.

20 CHAIRMAN JOHNSON: Well, hopefully we'll
21 be able to get a calendar of events out earlier than
22 what we are right now, but if we look at the dates,
23 Dotty, we're really jammed until July, and then

1 there's more openness, but we have, even in July, some
2 of us, July through the rest of the year, have quite a
3 significant schedule, and so that's our reason for
4 wanting to schedule in advance. Maybe a certain day
5 of the month would be helpful if it fits with
6 everybody's schedule.

7 VICE CHAIRPERSON McLAUGHLIN: That's what
8 Dotty last night was saying, and several people echoed
9 this, that on committees that they, working groups
10 that [] other working groups that they're on, the third
11 Friday of every month. And so, when we now get
12 requests for giving talks or whatever we can say, "Oh,
13 I can't come that Friday in August 2006 because
14 there's predictability, and I agree with Randy, I
15 don't think we can do that for at least the next four
16 or five months if, even starting in October, but
17 certainly 2006 we might be able to, in the next month,
18 figure out, you know, a day that basically works so
19 that it doesn't conflict with your regularly scheduled
20 meetings, Brent, or Richard's or Pat's or whatever,
21 other committees that we're on, and then we can get in
22 the book.

23 CHAIRMAN JOHNSON We'd like to ask all of

1 you to attend all of the meetings, and we'd like it to
2 be you who is here, so if, I'll pick on you, Chris, if
3 you have someone that you think would be a good
4 substitute for you, well, first, they're not able to
5 sit at the table, but we'll miss your input, even if
6 you were to have them come and take notes.

7 So we would urge you to make it to the
8 extent that you can, and, again, just picking on you
9 because you're closest.

10 Now, one of the things that we've done
11 today because we wanted to introduce him to you over
12 the phone is Brent James, and, Brent, we're glad
13 you're here. One of the things we need to discuss is
14 the extent to which we're going to have attendance by,
15 I'll just call it electronic communication, whether it
16 be telephone, conference call, or where there's a
17 camera in the room taking pictures of us and so forth.

18 How do you feel about that, pluses and
19 minuses? Let's just have a few minutes of discussion
20 regarding that.

21 DR. JAMES: I've done a ton of that.
22 Number one, face-to-face is always better. The number
23 two thing to be said is there's a two-way interactive

1 video. While a step down, it's the closest, and I
2 know that the main AHRQ building is wired for it, but
3 many people won't have it.

4 In that regard there's another technology
5 that we've been playing with a little bit out here.
6 If you have high-speed Internet connections, you can
7 actually communicate in multi-way interactive video
8 over the Web, but you have to have high-speed
9 connections. But you get a picture of everybody and
10 then can share documents, and then you have sound
11 through the telephone or through web-based telephony.

12 And then the third level is
13 teleconferencing. Teleconferencing is the weakest
14 usually, although I think it's a really good way for
15 subcommittees to meet. Now it's interesting if you've
16 already met each and know each other the
17 teleconferencing and the TWIV work better,
18 substantially better.

19 CHAIRMAN JOHNSON: TWIV?

20 DR. JAMES: Two-way interactive video.

21 CHAIRMAN JOHNSON: Thank you. Okay,
22 comments?

23 MS. HUGHES: This is Therese. I'd like to

1 say I'm restricted to being here in person or on the
2 phone.

3 CHAIRMAN JOHNSON: You can only be here on
4 the phone or in person, you don't have the other
5 technology?

6 MS. HUGHES: I don't have access to the
7 other technology.

8 UNIDENTIFIED SPEAKER: Same thing with me.

9 CHAIRMAN JOHNSON: Okay, another person,
10 same thing.

11 MR. HANSEN: Well, I've done all three.
12 This is Joe. I've done all three things, and I agree
13 with Randy, the teleconferencing, especially with
14 large groups, really is not very productive for that.
15 I find when it goes on for a long period of time, and
16 if we're going to do it, you almost have to have a
17 land line because if you start using cell phones you
18 get static and all types of other things

19 And so, face-to-face is the best, if we
20 manage it, the best.

21 CHAIRMAN JOHNSON: Other comments?

22 I think what we want to really ask you to
23 consider is, do we want to say we will only do in

1 person meetings? Or do we want to say we'll encourage
2 doing in person meetings and use alternative
3 technology whichever would seem to work best at the
4 time?

5 Richard.

6 MR. FRANK: I guess the way that I would
7 proceed is, I think we need to get to know each other.

8 I think a lot of things we need to hash out. And I
9 think, I agree with Joe, that for that there is
10 basically no you can't do better than face-to-face.

11 Maybe a year from now when we're going to
12 spend a lot of time together, maybe after we've spent
13 a bunch of time together, after awhile you sort of get
14 to know how everybody's speech and thought processes
15 work, then maybe some of these other technologies
16 become more feasible.

17 Until I felt that everybody certainly
18 started to understand at least the bizarre way that I
19 think, and I get to return the favor.

20 CHAIRMAN JOHNSON: Okay. More input?

21 MS. BAZOS: Can I just ask what drives the
22 question? Were you thinking that you'd like to have
23 the meetings or does it have budget implications?

1 CHAIRMAN JOHNSON: Well, there certainly
2 are budget implications. If we for example were to do
3 the TWIV, that has certain cost implications if we do
4 multiple sites.

5 Let's just say that half of us decided
6 that we weren't going to attend in person, we were
7 going to do the TWIV instead. Well, what does that do
8 to the content of our meeting? What is the impact on
9 the expense of our meeting if we were to do something
10 like that?

11 And we're just trying to get your input on
12 that right now. We'll go back and look at expenses,
13 but just have some preliminary comments on that.

14 VICE CHAIR McLAUGHLIN: I think it also
15 may change, Doty, though, the availability of dates
16 in the near future. You know, maybe people can't take
17 the whole day of travel, the whole day of the hearing
18 to get back, but they could in fact participate for
19 four hours, five hours, over the phone. And I think
20 that's basically what your situation was, Brent.

21 DR. JAMES: Yeah.

22 VICE CHAIRPERSON McLAUGHLIN: The amount
23 of time it would have taken to get here, you just

1 couldn't □ you would have been here for an hour and
2 have to turn around and go back.

3 So I think that is what precipitated our
4 thinking to some degree was in fact Brent's example,
5 because originally he was going to be here. But
6 because of things that changed he realized there was
7 no way he could get here.

8 So do we want to allow that possibility if
9 we really need to have another meeting to decide this
10 and that, blah blah blah, but only eight people can
11 come on any given day, do we want to explore this as
12 an alternative for flexibility in scheduling?

13 DR. JAMES: I've attended NAC meetings by
14 TWIV, and frankly it's not as good as being there in
15 person, no question about it. But it's better than
16 teleconferencing for example. And just in passing
17 it's substantially cheaper than flying, at least from
18 out in the West.

19 MS. BAZOS: I think using alternative
20 means to help people attending parts of meetings if
21 they can't get there in person is an excellent idea.
22 And the cost seems like it would be flat or less. So
23 for that I think it would be worthwhile certainly to

1 pursue those options.

2 CHAIRMAN JOHNSON: Okay.

3 VICE CHAIRPERSON McLAUGHLIN: But I tend
4 to agree with Richard's comment that this first year,
5 and Brent, I'm sorry you're not here, because it has
6 been wonderful getting to know each other, just in
7 these two days, and see facial expressions.

8 DR. JAMES: Yeah.

9 VICE CHAIRPERSON McLAUGHLIN: It really
10 makes it so much better.

11 DR. JAMES: Yeah, it really does.

12 CHAIRMAN JOHNSON: And by the way, I think
13 it's a loss because you're not here, actually.

14 DR. JAMES: You may be further ahead than
15 you think, guys.

16 CHAIRMAN JOHNSON: Okay, do we have any
17 further thoughts on that?

18 What I'm hearing, and let me just
19 articulate so we can see if we have it. What we're
20 going to do is do our best to be here in person.
21 Full court effort to do that.

22 But if it's absolutely necessary we will
23 look at alternative methods of communication.

1 Okay, we have five minutes left. Is there
2 anything else that any of you would like to bring up
3 before we adjourn?

4 DR. JAMES: Could I ask just one question,
5 Randy?

6 CHAIRMAN JOHNSON: Yes, and then we have
7 two others when you're done, Brent.

8 DR. JAMES: Okay, you may have already
9 discussed this, if so just instruct me on the policy,
10 I've so far been contacted by three individuals out of
11 the clear blue sky because they have heard that I've
12 been appointed to this committee. And they want to
13 just sit and chat and talk. How should we handle
14 those sorts of things?

15 Just so you know, the way I've been
16 thinking about it is to learn all I can from them
17 about their viewpoints, the things they want to do.
18 Maybe down the road if we start to pull things
19 together, to test ideas on them, maybe. But how
20 should we think about those things?

21 CHAIRMAN JOHNSON: What Catherine and I
22 have been doing so far is saying something like this.
23 We're in the process of getting organized. We will

1 be developing a website, and there will be information
2 on the website that you'll be able to access.

3 And also there will be an opportunity for
4 you to submit your thoughts and ideas to the website.

5 So that's the media that we've
6 contemplated. Now if you feel, anybody here, feels
7 like you'd like to sit down and hear their
8 perspective, I'm not aware of anything that would
9 preclude you from doing that, except that could be
10 time-consuming for all of you, especially as we move
11 forward and the working group becomes more well known.

12 So that's an initial response to your
13 question, Brent.

14 DR. JAMES: Okay, great.

15 VICE CHAIRPERSON McLAUGHLIN: Three people
16 are getting ready to leave.

17 CHAIRMAN JOHNSON: Therese looks like she
18 has some thoughts on her mind.

19 MS. HUGHES: Well, I thought that
20 yesterday, and I could be wrong, Larry suggested that
21 everything should come to the website, or this
22 morning, it should just be submitted electronically.

23 DR. JAMES: Just so we have a record of

1 it.

2 MS. HUGHES: Right, and so I don't know if
3 he's not here, I don't know where he went but I don't
4 know if this is the same measure of conversational
5 openness.

6 CHAIRMAN JOHNSON: So what you're
7 suggesting is that maybe that even amplifies the need
8 to send something to the website?

9 MS. HUGHES: Right.

10 DR. JAMES: Yeah, that's a good
11 clarification.

12 CHAIRMAN JOHNSON: Okay, Pat, were you the
13 one who had a question?

14 MS. MARYLAND: My question was exactly
15 Brent's.

16 CHAIRMAN JOHNSON: Okay, thank you. And
17 Aaron.

18 DR. SHIRLEY: I've noticed here outside of
19 Washington in June, when and if a decision is made
20 about the possibility of having a hearing in
21 Mississippi, it would be good if we knew that as soon
22 as possible.

23 CHAIRMAN JOHNSON: You're singing to my

1 friend here on my right, and to the staff as well.
2 And one of the things that we're going to do is kind
3 of sit down and think through after you all leave some
4 of our scheduling challenges and issues and begin to
5 look at that.

6 So not only in your location but our other
7 locations where we're going to do hearings.

8 Anything else? Well, thank you very much
9 for your participation in the last two days. You've
10 been great to work with. We look forward to seeing
11 you on May 11th.

12 Have a good day. And thanks, Brent, for
13 joining us.

14 (Whereupon, the meeting was adjourned at
15 2:30 p.m.)

16

17

18

19

20

21

22

23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Submitted by Cygnus Corporation, Inc., for the Agency for Healthcare Research and Quality under Contract No. 290-01-0001.