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# ***Public Hearing***

of

## ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

*“Testimony concerning the operations of the Bergen Regional Medical Center  
and the privatization of its operations”*

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**LOCATION:** Bergen County Administration Building  
One Bergen County Plaza  
Hackensack, New Jersey

**DATE:** June 23, 2004  
10:00 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Assemblywoman Loretta Weinberg, Chair  
Assemblyman Upendra J. Chivukula  
Assemblyman Louis M. Manzo  
Assemblyman Robert M. Gordon  
Assemblyman Gordon M. Johnson  
Assemblyman Robert Lewis Morgan  
Assemblywoman Joan M. Voss  
Assemblywoman Charlotte Vandervalk



### **ALSO PRESENT:**

David Price  
*Office of Legislative Services  
Committee Aide*

Wali Abdul-Salaam  
*Assembly Majority  
Committee Aide*

Tasha M. Kersey  
*Assembly Republican  
Committee Aide*

***Hearing Recorded and Transcribed by  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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**ASSEMBLYWOMAN LORETTA WEINBERG, (Chair):** Good morning, everyone.

I'm assuming that the sound system is working.

First of all, thank you very much for coming here. We are very pleased that the Assembly Health and Human Services Committee is able to leave Trenton and have a hearing in Bergen County, and make it more convenient for Bergen County residents to come before us to testify, and even make it more convenient for three of us, who are regular members of the Health Committee -- Assemblywoman Charlotte Vandervalk, Assemblyman Bob Gordon, and myself -- so that we didn't have to go to Trenton this morning.

And then a thank you to the substitute members who are here, also, from Bergen County: Assemblywoman Joan Voss and, my colleague from District 37, Assemblyman Gordon Johnson. And Assemblyman Bob Morgan, who came the farthest, will win the bottled water in front of you, in lieu of the centerpiece. (laughter)

ASSEMBLYMAN MORGAN: I came here, and all I got was this T-shirt.

ASSEMBLYWOMAN WEINBERG: Did you get a red T-shirt?  
(laughter)

ASSEMBLYMAN MORGAN: No.

ASSEMBLYWOMAN WEINBERG: Oh, okay. Well, I'm sure somebody will give you one.

Our staff, who is also here from Trenton -- our Office of Legislative staff Committee Aide is David Price. Our Democratic Assembly Office Committee Aide is Wali Abdul-Salaam. And the two folks from -- who have to

sit here from OLS, and usually have to sit for long hours at hearings to record all of this, so that the public has access to it afterwards -- and that's Rebecca Sapp and Michael Salberta.

Thank you for coming, and thank you for your usual good work.

And we have also with us, who is waving from the end because I didn't see him, from neighboring Hudson County, another regular member of the Committee, Assemblyman Lou Manzo. And here's another one of our substitutes just having arrived, Assemblyman Upendra Chivukula.

Thank you all for coming.

I would like to first request-- First of all, I'd like to thank the County Executive, the Board of Freeholders, and the taxpayers of Bergen County, who have arranged for us to use this terrific room for this hearing. And I know that our County Executive, Dennis McNerney, has some comments he'd like to make.

I'd like you to come up first.

**COUNTY EXECUTIVE DENNIS McNERNEY:** Thank you, Chairwoman Assemblywoman Weinberg. Welcome to the Freeholder Board Chambers, even though you used to be clerk here. I didn't have to-- I actually--

**ASSEMBLYWOMAN WEINBERG:** Not in this, I was in the old building.

**COUNTY EXECUTIVE McNERNEY:** That's right, but it's still the same chambers.

And I want to welcome the other Assembly members: Lou Manzo, Upendra Chivukula to Bergen County, and Assemblyman Morgan, as well.

Actually, this is, I guess, perfect timing to have these meetings. As you know, the nurses did sign their new contract. At the end of the day, I guess we're both -- we're all glad to see that they really reached a consensus. Now we can go back to doing what the nurses do best, which is really providing quality health care to the patients of Bergen Regional Medical Center.

I'm glad that the Committee is actually here in Bergen County to discuss the quality of patient care at private-run hospitals. This issue must be addressed, not just for what happened at Bergen Regional Medical Center over the last two-and-a-half to three weeks, but really addressed at the State level. So what you hear today is a lot from Bergen Regional. It's glad that you can incorporate that into discussions on private-run hospitals at the State level, to really ensure that all New Jersey residents have access to the best patient care in the country.

So I look forward, again, to your extensive discussion today, and I want to thank you all for coming as well.

Thank you.

ASSEMBLYWOMAN WEINBERG: Thank you very much, County Executive McNerney.

Is Freeholder Chair Valerie Vainieri Huttle here?

**FREEHOLDER VALERIE VAINIERI HUTTLE:** Yes.

ASSEMBLYWOMAN WEINBERG: Oh.

FREEHOLDER VAINIERI HUTTLE: All ready for comments?

ASSEMBLYWOMAN WEINBERG: I'm not used to-- I'm used to looking at you here. Did you want to make -- you want to wait?

FREEHOLDER VAINIERI HUTTLE: I'd prefer to-- I'll wait.

ASSEMBLYWOMAN WEINBERG: If you have the time, we'd appreciate it.

FREEHOLDER VAINIERI HUTTLE: I'll wait.

Thank you.

ASSEMBLYWOMAN WEINBERG: Thank you very much.

I know Freeholder Randall is here. If you have some comments you'd like to make--

Freeholder Elizabeth Randall.

**FREEHOLDER ELIZABETH RANDALL:** Good morning.

ASSEMBLYWOMAN WEINBERG: Good morning.

FREEHOLDER RANDALL: Thank you for hosting this Committee hearing.

I'm here in my capacity as a member of the Board of Chosen Freeholders. But of course, as a resident of Bergen County, we're all very, very interested in this issue.

I would like to commend the Committee, and specifically you, Assemblywoman Weinberg, for driving this issue to this point. In my personal opinion, your willingness to hold this hearing on this date, and schedule it, was, in no small way, responsible for achieving a resolution of the labor dispute. And I think you should be commended for that. And I am glad that we are also now at a point where, I read in this morning's paper, we now have a new three-year contract covering '04, '05, and '06. And that's the good news.

Well, I'm here to learn and listen. I'm here for, really, two reasons: to try and understand what led to the strike itself -- how did we get to that point? And I'm sure there will be people who point to numerous issues that

would motivate people to have to do something they did not want to do -- and that is, walk off the job.

The other point I hope to learn a little bit about today is how we can make things better in the future. I know that is your focus, the focus of the Committee. And everyone who's in attendance here really just wants to make this situation better.

I think, when we look at what happened over the last 20 days-- My observation is, that we need to go back and understand the business, and financial, and legal arrangement that was made back in 1998.

I will share with you, of course, what we all know, which is that many of you on this Committee were not in the Legislature, perhaps, back in '96, '97, and '98 when this deal was put together. Many of the current members of the Bergen County Board of Freeholders were also not serving as freeholders back in those years.

I think it behooves us, as a board of freeholders, to go back and understand the dynamics of what happened, and to understand what the deal is, as we look at it today. And as we know, there are two major documents -- lengthy, complex, legal documents -- but they are public documents. And there should be nothing secretive about those documents. We have two documents: one, which governs the relationship between the county of Bergen and the Bergen County Improvement Authority; and the other, of course, which governs the relationship between the Bergen County Improvement Authority and Solomon -- Bergen County Regional Medical Center -- as entities who run the hospital.

We have to understand what those documents say, as freeholders. And, of course, lawyers can explain them to us, but I think we all need a plain-language type of approach to understanding how things work.

The other thing I would like to -- hope we can do in the future, and accomplish, is to develop a better synergy, a better working relationship as freeholders, with the members of the Bergen County Improvement Authority. Now, they too are a new group. I don't know-- It may well be that of the five commissioners, maybe none of them were here back in those years. I know that that group has been reconstituted, as well. I am sure they are extremely conversant with, and understand the terms of, the arrangement. It is their job to work, on a daily basis in terms of oversight, with the hospital. But the dynamic I'm talking about improving is the dynamic between the Board of Freeholders and the Improvement Authority commissioners.

When we were sitting in our seats during the last two public meetings over the last 20 days, there were two public meetings at which the issue was discussed. Many members of HPAE came and voiced their concerns about what was going on. And the freeholder board passed two resolutions in the course of the last 20 days. And as I looked at those resolutions and read them, I was looking for some teeth. And we weren't really able, in my view, to really give our freeholder resolutions a whole lot of teeth. And I was personally of the view that if this labor dispute had not been settled -- which, fortunately, it has been -- by today, that we as freeholders should be not just convening a special public hearing to deal with the issue, but convening a joint public hearing with the Bergen County Improvement Authority to just cut to the chase and get to the heart of some of the issues that are of such great concern to all of us.

So on a positive note, I'll just conclude by saying that I'm very appreciative of this opportunity. I think your willingness to delve into these issues will bring a lot of positive things to the fore. And I thank you for the opportunity this morning.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Freeholder Randall.

And just some housekeeping business, which I skipped over: if anybody has not previously signed up to testify, and wishes to do so this morning, please fill out one of the white slips on the table there.

And, David, would you take the official roll call?

MR. PRICE (Committee Aide): Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: Here.

MR. PRICE: Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: Here.

MR. PRICE: Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: Here.

MR. PRICE: Assemblyman Morgan.

ASSEMBLYMAN MORGAN: Here.

MR. PRICE: Assemblyman Manzo.

ASSEMBLYMAN MANZO: Here.

MR. PRICE: Assemblyman Gordon.

ASSEMBLYMAN GORDON: Here.

MR. PRICE: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Here.

MR. PRICE: Assemblywoman Weinberg.

ASSEMBLYWOMAN WEINBERG: Here.

MR. PRICE: A quorum is present.

ASSEMBLYWOMAN WEINBERG: Thank you.

And, Freeholder Randall, you give me a great segway into the opening statement that I would like to make this morning, which has a lot to do with understanding the contract that was signed between the Bergen County Improvement Authority and Solomon Health Care (*sic*), back in March of 1998.

I'd like to take this opportunity to outline the purpose of this hearing. I realize that this current County Executive, Board of Chosen Freeholders, and BCIA members did not execute the March 1998 contract with Bergen Regional Medical Center. In fact, to make it clear, let me list the public officials who participated in the privatizing of this hospital in 1998: County Executive William "Pat" Schuber. The 1998 Board of Freeholders: the late James J. Sheehan, who was, at that time, the Chair; Anthony Cassano, Vice Chair; Freeholder Richard Mola, who I believe is the only member of that group who is still in public office; Freeholder Barbara Chadwick; Freeholder J. William Van Dyke; Freeholder Todd Caliguire; and Freeholder Richard H. Kelly. The 1998 BCIA members -- I don't believe any of them are still on the BCIA -- Executive Director Nancy Macedo. Members: D. Anne Wolfe, Robert Marshall, Dr. Nancy Mueller, Dr. Earl DiPirro, and the late John J. Steuert.

The purpose of this meeting is to help the Legislature learn what we might do if similar leases are executed between public bodies and for-profit companies in the future.

Our goal today is to explore possible legislative remedies that could enable a governing body to gain certain rights during the duration of a lengthy

contract. Specifically, disclosure rights regarding financial aspects of this contract that could benefit Bergen County taxpayers, as well as scheduled reviews of the management's overall performance. It appears that having a 19-year contract for a public health-care facility with a for-profit management company has already created questions and recent litigation battles for disclosure of crucial financial information, which required court intervention to protect the public's right to know.

We wish to explore highlights of what we understand to be in the contract, or maybe not in the contract and in some kind of side agreements, so that members of the BCIA or their staff here may choose to comment on them.

The first-- Most of you have copies of this chart in your folders, and we have a rather hastily prepared large chart there -- refer to loans that were made to Bergen Regional Medical Center, \$33 million in loans. Not part of the lease operating agreement, there are two loans that seem to have been made to the hospital or one of its many affiliates.

The two loans, which were made by the then BCIA members to Bergen Regional at about the time of the March 1998 contract, total approximately \$33 million. They are not mentioned in the lease and operating agreement between the BCIA and Solomon Health Group, and do not appear to be mentioned in any of the supplements to the lease and operating agreement. They are mentioned in notes accompanying the 1999 final report of Bergen Regional Medical Center.

The first loan of \$6 million is designated as a "working capital loan." We understand the promissory note bears no interest through March 2006, and thereafter bears interest at an annual rate of one-half of the year's

increase, if any, in the urban consumer price index. Principal payments on this loan will commence during 2007, in installments of \$500,000 per year through 2011, with a balloon payment of \$3.5 million due on March 14, 2012.

The second loan, totaling \$27 million: This is the second loan to the Bergen Regional Medical Center by the BCIA, which was the aggregate amount of revenues, receipts, and other payments received from Medicaid, Medicare, and other third-party payers for the provision of services at the old Bergen County hospital, prior to the contract date of March 15, 1998 -- and therefore, in my opinion, the property of Bergen County taxpayers. This long-term promissory note bears no interest at all until March 2015, and thereafter bears interest, again, at a rate of one-half of the year's increase in any of the urban consumer price index. Repayment is not due until March 2020, three years after the contract expires: \$27 million that was due to the taxpayers of Bergen County, loaned at no interest, and not to be repaid until three years after the contract expires.

We understand-- And now I'm talking about some of the way the financial arrangements were made. We understand that, as of the end of 2002, the combined principal balance of both loans was approx \$32.9 million.

And we have questions that we are hoping the BCIA, if they're not prepared to answer this morning, will find us answers to; and perhaps Bergen Regional staff will be able to answer. Why were the loans made, and why were they not included in the contract? How were the loans guaranteed? Was there any collateral involved in the securing of these loans? Are the current BCIA members aware of these loans? How is repayment being monitored? And if the BCIA chooses not to renew the contract with Solomon, how do we hope to

collect the \$27 million loan when the repayment is due three years after the contract expires?

I also intend to seek an Office of Legislative Services and/or Attorney General's opinion on the constitutionality of these loans. The New Jersey State Constitution has a provision which prohibits the counties from lending public funds for private use. That's Article 8, Section III of the New Jersey State Constitution.

Now we're looking at Chart 2. In addition, we would like to use 2002, the latest year for which figures are available, as a sample of the way funds are handled in this contract. You will see on Chart 2 that, although Bergen Regional, for 2002, only shows a net income of \$1.5 million, it pays large sums of money to various, commonly held affiliates.

And we have questions about that. Does the BCIA know what services these large sums of money are purchasing? Does the master contract allow Bergen Regional to pay itself, through its own affiliates, using public money? Should we have legislation to require -- when private, for-profit businesses take over public entities -- their books should be open to public scrutiny?

I hope our questions are clear. I also know we will be hearing testimony and we will be asking questions on general patient care and issues from the unfortunate strike at the hospital, which has happily been settled.

We also have, present, representatives here from the New Jersey State Health Department, who have been closely monitoring the situation at Bergen Regional during the strike. We thank them for the work that they have done. We know that reports will be released at the appropriate time after the

hospital has its opportunity, as is required under the law, to review those reports.

But I can make one general statement: At least one unit that was highlighted, which had inadequate staffing before the strike, had adequate staffing during the strike.

I'd now like to welcome all of you here, officially again, and ask if any of my colleagues have any comments to make before we open this. And I think Freeholder Huttler has been very patient, so I'd like to call her first. But does anybody have any comments they'd like to make? (no response)

Thank you.

FREEHOLDER VAINIERI HUTTLE: Thank you, Madam Chair.

On behalf of the Bergen County Board of Chosen Freeholders, I also want to welcome you, Madam Chair and members of the Health and Human Services Committee, to our Freeholder Chambers. I was going to welcome you to Bergen County, but most of you are Bergen County natives. But welcome to Bergen County, as well.

I also want to thank you for taking the time to hear directly from the people of Bergen County about the operation of Bergen Regional Medical Center and its history of privatization. The timing of the hearing is most appropriate. As many of you may be aware, as been repeated this morning, the strike between Bergen Regional Medical Center and the Health Professionals and Allied Employees has been resolved. Thank God, because the last 20 days have certainly been trying not only for the parties involved in negotiations, but for the patients and families at Bergen Regional Medical Center, the BCIA, the Board of Freeholders, and the residents of Bergen County. But I applaud the

negotiating team. And a special recognition must go to Freeholder Jim Carroll, who worked tirelessly on behalf of the public good of this county. (applause) And I would also like to recognize my colleague on the freeholder board who is here this morning, Freeholder Bernadette McPherson. (applause)

And now, Madam Chair, if I may, I would like to provide some additional comments.

ASSEMBLYWOMAN WEINBERG: By all means.

FREEHOLDER VAINIERI HUTTLE: Bergen Regional Medical Center is considered a safety net, a special place among county residents, because its behavioral health and long-term care divisions often care for residents in the county who can afford no other form of health care. The dedicated staff -- and I applaud them here today -- at Bergen Regional selflessly cares for these patients, many of whom have no families in their time of need, and offers the best quality care possible.

But let me say this: It is well-documented that during the previous administration -- and let me respectfully remind everyone here, of which Freeholder Randall was part of, as well, as county counsel -- the former leaders of Bergen County government handed the keys of the day-to-day operations at the then Bergen Pines Hospital, over to a private company with the hope that the county would be able to save money. This was one of the largest one-stop budget gimmicks in the history of this county.

Whether it is a shortage of nurses on staff or forced overtime, the problems confronted by our caregivers have mounted at this medical facility. The strike may not be -- the strike may be over, but the concern is still present.

Unfortunately, though, the contract was designed by the previous administration to tie the hands of the county's elected officials. The fine print is long and deep. But the truth is, that even as members of the Board of Freeholders, we are not empowered to make any changes to the contract, nor did we have any power to help settle the strike. The Bergen County Improvement Authority, an independent agency, is commanded with the charge to oversee the execution and adherence to the contract by the hospital's management firm. So remember that this contract was adopted and approved by the former Republican administration.

We are now stuck in a situation that needs to be resolved. As an elected official, my primary concern is the health and welfare of the patients in the hospital. Since my first day in office, I have said time and again that patient care is our number one concern.

And so in this case of privatization, public good versus one-shot cash infusion, the Freeholder Board's power of oversight is all but gone. This Freeholder Board became powerless, and this should never happen again.

So, therefore, I am requesting that if a public or non-profit hospital is ever privatized, that the State step in and provide extra oversight for these hospitals for the term of the contract, and hold the elected body accountable, and give them power over the contract.

I also want to mention and support your patient ratio bill, which certainly is significant to the quality of patient care. But along with that, we need more career nurses and less per diem nurses. The high number of per diem nurses creates, in my opinion, a lack of continuity of patient care, and could create a lesser grasp of hospital policies and procedures.

Therefore, I am also requesting an increase in State funding to provide training for nurses and health professionals. There certainly is a need to create more schools of nurses. Perhaps we can look into our county colleges throughout this great state to better equip and give the tools for better nursing schools within the state and our counties.

I appreciate that you, the members of the Committee, are listening to all of our concerns. And I know you will take the necessary steps to keep us from finding ourselves in a situation as has just occurred. Because, I must say that as elected officials, we all walk shoulder to shoulder with our professionals. But, again, I want to remind you we were powerless in doing anything.

I want to restate that the State needs to look, again -- if this situation occurs throughout the state again with privatization -- that you do step in, increase the oversight. And may this situation never happen again.

With that, I thank you for listening to my comments.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Freeholder Director.

Does anybody have any questions? (no response)

Just a comment. I thank you for your excellent suggestions and for mentioning Freeholder Jim Carroll. He also made a suggestion that we pass a piece of legislation -- which we intend to have drafted from this Committee -- which says: if a long-term contract is signed -- such as what took place between Bergen Regional and the then-county administration -- that there be an automatic reopener in that contract at some halfway point, so that there can be an evaluation, number one, of the services being provide; and secondly, of how carefully the taxpayers are being protected.

We are also looking into legislation that will require private businesses who are doing this kind of work in the public to open their books to scrutiny so that the taxpayers can, again, protect their investments.

And I'd like to thank you for coming forth this morning and for all the work that you've put into this issue.

FREEHOLDER VAINIERI HUTTLE: Thank you.

ASSEMBLYWOMAN WEINBERG: Thank you. (applause)

I know that we have representatives from Bergen Regional hospital here who've put in written testimony. Are you going to come forth to -- representatives in the public relations department of Bergen Regional. I thought that we would be hearing from somebody who understands the finances.

But are you coming forth to testify?

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

ASSEMBLYWOMAN VANDERVALK: No?

ASSEMBLYWOMAN WEINBERG: The answer is, no.

I did have a discussion with the Executive Director of Bergen Regional, Joe Gallagher, a couple of days ago. I did tell him it would be perfectly all right if he put in a written statement, as long as somebody from his financial office came to deliver it and answered any questions. I understood that was the agreement that I had, but apparently the public relations department somehow got involved and, obviously, are not prepared or able to answer questions like that.

I'm sorry about that, and I would like to point out that this Committee has the perfect right to ask the Speaker for subpoena powers. And if that is necessary, that's what we will do. (applause)

I'm going to-- I know it's hard, but we usually have rules in the State Legislature, and we don't encourage applause, because it only takes time from the work we're trying to do. I know I have many friends out there, and sometimes it's a release of our own hostility, but if you would, keep that to a minimum.

I would like to call on Gene Bruskin.

ASSEMBLYMAN MANZO: Madam Chair.

ASSEMBLYWOMAN WEINBERG: Oh, I'm sorry. Yes, Assemblyman.

ASSEMBLYMAN MANZO: I had questions and information that I would like to request from the hospital. Would that be pertinent to put in the record?

ASSEMBLYWOMAN WEINBERG: By all means, you may put that on the record now. And I hope the public relations department is taking notes.

ASSEMBLYMAN MANZO: Number one, what I'd like to -- the information I would request is: the staffing levels at the hospital from 1998 on up, year to year, to the present; the patient numbers from 1998 on up to the present. I'd also like to know who any of the hospital's attorneys, principals, bond counsels might be, people who worked on, and have since worked on, the loan agreements, and have since been employed by the hospital; any private contracts that that hospital has, ever since the privatization. I'd like that information.

Thank you, Madam Chair.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Assemblyman.

Any other questions?

Yes, Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: I am absolutely appalled that someone from the hospital is not here to make a statement to us today, absolutely appalled.

ASSEMBLYWOMAN WEINBERG: Thank you, you expressed much more succinctly what I was feeling. (laughter)

Gene Bruskin, from the AFL-CIO.

**GENE BRUSKIN:** Thank you, Assemblywoman Weinberg. It's a pleasure and an honor to speak here to your Committee.

My name is Gene Bruskin. I work with the Food and Allied Service Trades division of the AFL-CIO. We are a research operation, primarily. And my particular expertise is health care, nursing homes, hospitals, etc.

So on behalf of this effort, I have been examining the company involved, and I'd like to share a little bit of information about them.

For many citizens of Bergen County, it might appear that the current labor dispute is between the Bergen Regional Medical Center and the nurses and professionals represented by the HPAE, the health professional and employees union. In fact, while a series of recent contract settlements between the union and area hospitals were local disputes, this one is not. It is a dispute between the union of Bergen County nurses and professionals, and three Colorado business partners: real estate investors, financiers, and health-care entrepreneurs.

Solomon Health Group LLC, also known as Solomon Health Services LLC, or I'll refer to here as Solomon, which has managed the Bergen County medical center since 1998, is one of literally dozens of companies, some of them nursing homes, owned by the same three partners: V. Robert Salazar, David Sebbag, and Ari Hersch Krausz. BRMC is the only hospital of its size and complexity that Solomon Health Group or any of its related companies has ever managed.

Aside from their bad track record in New Jersey on patient care, they have left a trail of alarmingly poor patient care in both Connecticut and Colorado, the two other states in which they have owned and managed nursing homes. An analysis of the record of the facilities owned and operated by the partners raises serious questions as to their commitment to the patient care performance of their facilities, as opposed to the bottom line.

If you look at the background on the companies and the partners, you'll see that V. Robert Salazar is a certified public accountant, and he began his business as a consultant on Medicare reimbursement for health-care companies in 1989. He founded Solomon Health Group with partners Sebbag and Hersch in '96, as a spin-off of his health-care consulting firm which was Salazar and Solomon. In 2000, Salazar started Capital Management, which has holdings in commercial real estate and health-care properties.

Another partner, David Sebbag, started out as an assistant vice president in charge of systems and programming at Seamen's Bank for Savings in New York. Sebbag and Krausz started buying, selling, and managing nursing homes in Colorado in the early '80s. In '91, they purchased five homes that were left in the hands of the Federal Deposit Exchange Corporation as a result

of the savings and loan debacle in the late '80s. In 1996, they began working with Solomon Health Services and Salazar, and built a network of companies that bought, sold, owned, and managed nursing homes, and within two years had created an operations worth \$300 million.

In discussing their business strategy of buying out nursing homes and hospitals that are in financial trouble, Salazar told the *Denver Business Journal*, "We usually look for bargains. We don't try to incur a great deal of debt." And certainly, the earlier testimony today shows that their strategies are very effective in Bergen County.

When challenged on the poor patient care performance at their Colorado facilities, managed by Solomon, the partners answered through their attorney, Nathan Davidovich, that, "They had no management role in any of these companies," although they were managed by Solomon Health Care.

Solomon currently operates nursing homes in Connecticut, as well as BRMC, here in New Jersey. The partners sold their nursing home facilities in Colorado in 2001-2, and are not currently managing or operating facilities in that state at all.

They own a host of real estate investment and financial businesses in various combinations including: Central Street Development, LLC; LatinFusion Restaurants, LLC; Salazar Family Investments, LLP; Benton Financial Services, LLC; Financial Comprehensive System, Inc.; Premier Venture Investors, Inc.; Valuations Investment Group; and Global World Investors; etc., etc.

Although many in Bergen County know of Solomon's mismanagement at Roosevelt Care Center in Middlesex County, few know of

the partners' records in Colorado and Connecticut. And I think the details here are important, because in the end, we're talking about human beings that go into these facilities. And while we've got a lot of numbers flying around, which are also important, it's important to see what the actual impact of these partners' businesses have been.

O'Hara Regional Center for Rehabilitation: Perhaps the most egregious example of abuse and neglect occurred at a Solomon-managed home in Colorado named O'Hara Regional Center for Rehabilitation. These problems resulted in the death of six patients and endangered many others. The facility was owned by Sebbag and Krausz, and managed by Solomon Health Services starting in '96. It closed in December 2000, when the Federal Government decided to terminate its contract with the facility. The Department of Justice had initiated investigations into the poor care and possible fraud. During this period, Bergen County completed its first contract with Solomon to operate BRMC.

In 2000 and 2001, O'Hara settled class-action lawsuits for \$37 million dollars, covering 23 patients. The facility was designed to treat seriously ill patients who needed intensive nursing care. O'Hara charged \$85,000 a year per patient, more than double what Medicaid charged for normal nursing home care. Although its brochure claimed 70 percent of its residents left the facility to live independently and that it strove to be the premier long-term rehabilitative service in the Rocky Mountain area, the lawsuits against the facility and the state inspection reports revealed a different reality.

From March '97 to March '98, 159 complaints were filed against O'Hara by patients and their families. State inspectors threatened repeatedly to

close the facility, but Solomon promised to fix the problems and the facility has remained open. The problems at O'Hara, as with most Solomon-related facilities, stemmed from chronic short staffing. An internal company document that turned up in court revealed that O'Hara management knew that the facility was staffed at "dangerously low levels." The class action complaint charged that patients were warehoused without therapy, left lying in their own waste for hours, and some went weeks and months without being bathed. Patients were described as having their limbs frozen in place for lack of physical therapy.

For example, the court documents revealed that German Rivera, 29 years old, was observed having violent convulsions for 90 minutes before an ambulance was called. And he died 20 minutes later after arriving at the hospital. Rivera's breathing tube had been only suctioned once in the 10 months he was at O'Hara. Jack Vigil, admitted to O'Hara with severe muscle contractions, developed serious bedsores, due to neglect, that resulted in fatal blood poisoning. James Wooten, who had multiple sclerosis, serious multiple sclerosis, was left untreated with urinary infections, severe bedsores for months, lost 25 pounds, many of his teeth, and died. David Rose's pulse stopped because the ventilator he was on wasn't hooked up, and neither was the alarm, hastening his death. Matthew Hunter came to O'Hara with severe brain injury and left three months later in an ambulance suffering from severe dehydration and starvation.

From '96 to '98, Sebbag and Krausz personally took \$3.2 million in Medicaid funds out of the O'Hara home. The lawsuit claimed it was a loan; the owners said it was mortgage payments and profits. The Colorado nursing home cost reports show \$3,284,401 paid to "officers and stockholders" in '98

for “notes and mortgages.” During this time, Solomon Health Care also made \$700,000 in management fees.

Lakeridge Care Center: During the same period that O’Hara residents’ lives were in jeopardy at a Solomon home, the Lakeridge Care Center in Colorado was undergoing serious patient care problems, another Sebbag and Krausz owned home managed by Solomon. Solomon cut its ties in 2000.

In 2001 -- still owned by Sabbag and Krausz -- a brain-injured woman lay for six days without treatment for bedsores. One of her wounds turned black with dead tissues, according to the inspection reports. Again in 2001, a man who couldn’t move his own legs was left alone in a bathtub of hot water, feet were scalded, and only 12 hours later was he sent to a hospital, according to the health department. In 2001, Colorado issued a notice to terminate Lakeridge’s Medicaid funding. Colorado health department officials hadn’t closed a nursing home since 1988. But without Medicaid funding, Lakeridge would have to close. In 2002, the home was sold.

These examples don’t include all of the serious patient-care problems at homes owned by the partners in Colorado. Cambridge Care Center, for example, also in Lakewood, was cited eight times in an 18-month period for causing actual harm and immediate jeopardy, with the worst example being a patient who left his unit, or the home, on 58 occasions before he was finally killed walking on an interstate. There are many, many more examples of what happened in their Colorado facilities.

Recognizing this pattern of endangering patients’ lives at the partners’ homes, the state denied a license to Leisure Park Senior Living Center

in Denver, a new assisted living center, because the proposed manager had connections to Solomon and his nursing homes -- and their nursing homes.

By 2002, the partners had sold all their interests in nursing homes in Colorado, and Solomon was not managing any facilities in the state. When asked why he was leaving the industry by the *Rocky Mountain News*, Solomon (*sic*) talked about litigation, regulation, competition, and low reimbursement. He said, "It was not the type of industry I wanted to participate in."

In Connecticut, a similar pattern of care can be found today in the five homes currently managed by iCare, a Connecticut company owned by the same three partners that own Solomon Health Care. iCare bought its first five homes in 1999, and at the time, all of the facilities were in financial receivership at the same time that they continued to have serious patient care problems. iCare purchased more homes recently, but we don't have a track record on these newer homes. Of the five homes that have been operating for the last few years, they were cited 126 times for Federal violations between 2001 and 2003, a dozen of them found to cause actual harm or put patients' lives in jeopardy. Many of these violations, such as failure to prevent accidents, happened repeatedly.

The same pattern of chronic understaffing appeared in these homes, with all five of the homes staffing below national average staffing levels, including Nathaniel Witherill, which was 31 percent below national average; and Chestnut Point Care Center, 48 percent below the national average. All five of the iCare-Solomon homes in Connecticut are now on the National Watch List of a respected nursing home advocacy group called Members of the Family.

In conclusion, one of the weaknesses of regulation in the nursing home industry across the country is that states frequently do not review the out-of-state patient care performances of companies that apply for licenses to operate in that particular state. This certainly must have been the case in rewarding the contract to Solomon Health Services in New Jersey.

In light of the recent conflict between Solomon and the health professional employees at BRMC over staffing and quality care issues, it seems clear that the leopard has not changed its spots here in New Jersey, or as cited above, in Connecticut.

In Colorado, they were essentially driven out of the business by their atrocious patient care record. Their business strategy of buying facilities cheap -- or in the case of BRMC, getting a favorable contract -- while making money by keeping costs and staffing down, seems likely to continue to produce problems at BRMC. It's a strategy geared toward maximizing profitability rather than patient care performances.

I believe that this Committee and Bergen County officials are faced with the choice of taking preventative action or standing by to see if BRMC, despite its dedicated employees, deteriorates into a Colorado-style patient care crisis. Will Solomon push BRMC in the same direction as it did Roosevelt Hospital? In that case, Middlesex County Board of Freeholders ended the 10-year contract with Solomon in 2000, after a year of poor operations, two patients' deaths, and \$70,000 in fines.

To prevent these problems, in my opinion, a thorough review of the management contract between Bergen County Regional Medical Center and

Solomon Health Services LLC is in order, including the sections dealing with financial disclosure requirements. New Jersey citizens deserve nothing less.

Thank you. (applause)

ASSEMBLYWOMAN WEINBERG: Thank you very much, Mr. Bruskin.

Assemblyman Manzo.

ASSEMBLYMAN MANZO: Mr. Bruskin?

MR. BRUSKIN: Yes.

ASSEMBLYMAN MANZO: What employees do you represent?

MR. BRUSKIN: I represent the AFL-CIO, which we have a dozen affiliated unions in Washington, D.C. One of our affiliates is the American Federation of Teachers. And we provide research on behalf of that organization, which HPAE is affiliated to, when we're asked.

ASSEMBLYMAN MANZO: Do you represent any of the employees in the hospital?

MR. BRUSKIN: They're not our members. We don't actually have members. We are a research organization.

ASSEMBLYMAN MANZO: Okay, so a research--

MR. BRUSKIN: And we work on behalf of national unions.

ASSEMBLYMAN MANZO: Did you do any research on this hospital in particular?

MR. BRUSKIN: In this hospital in particular?

ASSEMBLYMAN MANZO: Yes.

MR. BRUSKIN: Yes.

ASSEMBLYMAN MANZO: Have you noticed a shift of employees, as far as hirings or staffing levels during the time of JCAHO inspections and other times when the hospital has already passed a JCAHO inspection?

MR. BRUSKIN: I have to say, in all honesty, that I think that there will be testimony from the local people who can speak more directly to that experience.

ASSEMBLYMAN MANZO: Okay.

MR. BRUSKIN: It's a good question though.

ASSEMBLYMAN MANZO: Thank you.

ASSEMBLYWOMAN WEINBERG: Any other questions from the Committee members?

ASSEMBLYMAN CHIVUKULA: Yes, I just have one question, Madam Chair.

ASSEMBLYWOMAN WEINBERG: Yes, Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: Did you testify-- I mean, was there a hearing held when this was privatized in 1998, when they were going with this health care--

MR. BRUSKIN: I believe there was, but I wasn't present at the time.

ASSEMBLYWOMAN WEINBERG: I can actually answer that question, Assemblyman.

There were a couple of hearings held, but very few, very little input taken. In fact, there were some people who, I remember, were on some kind of

a citizens' advisory board. When they gave negative testimony, they were removed from the citizens' advisory board. And because a 20-year lease is considered a sale, and requires much more public input, this was executed as a 19-year lease, an odd number for a lease to begin with. But that is why it is not a 20-year lease. So public input was kept at a very minimum. I think there were, maybe, two public hearings, if I remember correctly. And, obviously, not a great deal of research into the references, if I may, of this company.

And I would just like to point out, as we attempted to understand the finances, you will see on Chart 2 that's still up there, that, obviously, iCare, who did such a good job in Connecticut in 2002, was paid \$1,650,000 by Bergen Regional for "consulting services," probably to bring their Connecticut experience to us in Bergen County.

And, again, I want to point out that they show a net income of \$1,500-and-some-odd-thousand, but vast amounts of money being paid to their solely owned affiliates, Global Employee Benefit Management, which got \$18 million, and at the end of 2002, was still owed another \$7 million for management health benefits; Solomon Health Services, for consulting services, got paid \$7.8 million and was still owed another \$3.5 million; and then, of course, the famous iCare.

Mr. Bruskin, thank you.

And I would like to call somebody who has been very cooperative in--

ASSEMBLYMAN MANZO: If my previous request for information wasn't clear enough, I'd also like to request the same information for those

subsidiaries, the contracts with any private attorneys, any consultants -- anyone who has a contract with, also, the affiliates, I'd like that information on.

MR. BRUSKIN: If I could just point out, also, I included, at the back of my testimony for your review, a partial list of their entities, which I won't -- cannot say this is a definitive list. And it's, sort of, a revolving door of limited liability companies that are created and are folded, many of whom have nothing to do with nursing homes. But I think there's a lot of-- My sense is, from what our experience -- and we're still looking at this closely -- there's a lot of movement in and out of all these different entities. There's no other reason to create 40 corporations if you're a health-care business, most of which aren't even health care.

ASSEMBLYWOMAN WEINBERG: Assemblyman Morgan, do you have a question?

ASSEMBLYMAN MORGAN: I think this is not the appropriate--

ASSEMBLYWOMAN WEINBERG: Assemblyman Doctor Morgan.

ASSEMBLYMAN MORGAN: It's Bob, okay?

In New Jersey, do we have a licensure or a certification process for hospital executives and nursing home executives that they have to go through and maintain, as we do for other professions?

MR. BRUSKIN: Nursing home administrators, we do. And I don't know about hospital administrators.

ASSEMBLYMAN MORGAN: We don't. We certify and license beauticians and hearing aid dispensers, but--

MR. BRUSKIN: It's a minimal kind of requirement.

ASSEMBLYMAN MORGAN: It's interesting. Our Legislature just passed, this year -- requirement that all physicians and other health-care workers take a certain amount of continuing education hours in ethics each year to maintain their annual licensure. So, anyway, we can have someone from out of state -- an out-of-state corporation come in and run one of these facilities, and we, as a State, have no overseeing, essentially, of their credentials and their abilities to do a good, quality job.

MR. BRUSKIN: And I think, particularly, the point that I'm making here -- that these companies must be looked at in their entirety in order to make an evaluation, not just what they present at -- across the table.

ASSEMBLYMAN MORGAN: It's important we hold the companies accountable, but it's even more important that we hold the individuals accountable for their behavior.

ASSEMBLYWOMAN WEINBERG: Assemblywoman, and to be fair, Doctor Voss.

ASSEMBLYWOMAN VOSS: Joan.

I would like to know, are there any records -- and there should be minutes -- from the meetings that were held at the time that we were thinking, in the county, of privatizing? I would like to see what information was put forth by the Solomon Group to show how effective they were.

I would also like to know what questions were asked, from the citizens' group, because, obviously, people did not do their homework when they were considering privatizing this. And I'd like to see the testimony that was given, because, obviously, it was not the truth.

ASSEMBLYWOMAN WEINBERG: Assemblywoman Voss, we are going to be hearing from Ron O'Malley, who is the current Chairperson of the Bergen County Improvement Authority. What happened in March of 1998 is, the license to operate the hospital was given to the BCIA who, in turn, signed the contract with Bergen Regional, removing the then freeholders to be able to say, "Not my job." So it was done in this, kind of, convoluted way. And maybe there are minutes of BCIA meetings and such, but we can certainly put that to the Chairperson. He will be called next.

ASSEMBLYWOMAN VOSS: But we should definitely look at it, because, obviously, credentials were not being presented in the true light.

ASSEMBLYWOMAN WEINBERG: Thank you again, Mr. Bruskin.

Ron O'Malley, who is Chairperson of the Bergen County Improvement Authority -- new--

How long have you been Chairperson?

**R O N A L D J. O' M A L L E Y:** About three months, four months.  
(laughter)

ASSEMBLYWOMAN WEINBERG: Okay.

MR. O'MALLEY: And I haven't been there much longer than that, either.

ASSEMBLYWOMAN WEINBERG: So we welcome you. And I appreciate your coming forth. I know that this was, for your schedule, rather short notice, and that unlike some other folks we asked to come forth, you were able to rearrange your schedule.

Is Quentin Wiest--

MR. O'MALLEY: We have a message in to him. He's actually out at a meeting. We're hoping he's going to be back before the end of the hearing. If he is, I'm going to wait here, and I'll let you know.

ASSEMBLYWOMAN WEINBERG: Okay, because he is the staff person who's been most directly involved and, perhaps, could answer some of these questions.

MR. O'MALLEY: If he's not back, we'll get some information. I'm going to take some notes on any questions you have.

ASSEMBLYWOMAN WEINBERG: And if, in fact, anything -- we've misstated anything, in terms of the financial arrangements, in our attempt to make it short and clear, please feel free to correct us, Mr. O'Malley.

MR. O'MALLEY: I'd like to thank everybody for the opportunity to be here. I know some of you for a very long time. And I'm glad to be here.

To begin, what I thought I would do is, basically, just answer questions, because I've spent a lot of time over the last few months going through some of these things. So rather than preparing written testimony, I thought I would just be available to answer any questions that you have.

To begin, what I did -- and I think Chairwoman Weinberg, obviously, has this -- I brought copies of the resolutions from 1997, both from the BCIA and the Board of Freeholders, with copies of the contracts here that show the original documents. These are the documents that the BCIA works off of currently. And I brought the 16 copies of each as requested.

ASSEMBLYWOMAN WEINBERG: Thank you very much.

MR. O'MALLEY: These are actually the best type of documents to work.

ASSEMBLYWOMAN VANDERVALK: Madam Chair.

ASSEMBLYWOMAN WEINBERG: So you are now prepared to--

MR. O'MALLEY: I'm ready. I figured -- unless you would like me to give some general-- I thought it would be best if I just answered some questions.

ASSEMBLYWOMAN WEINBERG: No, I wondered if you could comment on these side loans, if you know anything about them, where they are written, and where there are records of them.

MR. O'MALLEY: Actually, Mr. Rizzi was here to get me a copy of something. If I can help with this for just one minute. And we have a piece of documentation that will be here in a few minutes. I just asked him to run down and get it.

ASSEMBLYWOMAN WEINBERG: Okay.

MR. O'MALLEY: I think we have some confusion, in terms of the amounts of the loans. I think the total amounts of the loans are closer to \$38 million or \$39 million.

ASSEMBLYWOMAN WEINBERG: Oh, then we underestimated them.

MR. O'MALLEY: Let me just tell you what transpired.

He's going to confirm it, but it looks like the total numbers may be different.

But to give you general comments on the loan, from what we can see from the records, is as follows: These were loans for, basically, working capital and operating capital at the time that the hospital was privatized. From the documents and some of the work papers that we've seen from the BCIA, an

independent consultant at the time had estimated to the BCIA that these should only total about \$6 million, \$7 million in total.

The issue was, the previous administration misestimated -- basically did not have good estimates as to what these receivables were going to be. The contract that was signed allowed for these receivables to be part of this loan, and it wound up being a \$32 million total, because, basically, there was \$27 million in receivables that came in during that time period.

ASSEMBLYWOMAN WEINBERG: So that was money that was owed to the county of Bergen--

MR. O'MALLEY: It was receivables coming into the hospital, correct.

ASSEMBLYWOMAN WEINBERG: --prior to Solomon taking over the operation of the hospital.

MR. O'MALLEY: Correct.

ASSEMBLYWOMAN WEINBERG: And that money was merely handed over to Solomon at no interest.

MR. O'MALLEY: Correct.

My issue, when I first--

ASSEMBLYWOMAN WEINBERG: I think I might hire one of these people as my accountant. (laughter)

ASSEMBLYMAN MORGAN: And there wasn't a cap on that?

MR. O'MALLEY: To help you understand-- Because the question that you have -- and I think I can put the loan into perspective for you -- the question that I had when I first arrived there, as well, is, how-- And the

previous administration -- I need to be honest with you -- did a very bad job, in terms of analyzing these numbers.

But here's the issue: They hired people to give them numbers to determine what these receivables would be. And, basically, they underestimated them by almost \$20 million. So they had no idea, when they signed the contract, that they were giving away a total of \$32 million. They had bad information that they made a decision on. So they basically thought they were only lending \$6 million or \$7 million at the time. So that's really where the problem came in. And since they didn't have the proper estimates, it wound up being a \$32 million loan.

ASSEMBLYWOMAN WEINBERG: Is there a written record of this, Mr. O'Malley, someplace?

MR. O'MALLEY: There's some minutes that are back in -- that we will dig up for you, that are back in -- from the time period, from (indiscernible).

ASSEMBLYWOMAN WEINBERG: I would greatly appreciate it. And these promissory notes are not mentioned in the contract at all?

MR. O'MALLEY: To my knowledge, they are not, no.

ASSEMBLYWOMAN WEINBERG: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Is the consulting firm mentioned in the minutes that gave this advice?

MR. O'MALLEY: Assemblyman Johnson, I'm not certain, but I think there are documents that indicate the analysis. So I'm going to guess, probably, yes, but we're going to get copies of those.

ASSEMBLYMAN JOHNSON: Would there be a liability to the consulting firm for this misinformation that was inaccurate?

MR. O'MALLEY: I'm not sure. All that I've seen, in terms of reviewing the previous information, is that they had estimates that these receivables were in the \$7 million range. And, basically, they made a decision based upon that information.

I mean, I'll get you additional info on that if I can.

ASSEMBLYWOMAN WEINBERG: Assemblyman Gordon.

ASSEMBLYMAN GORDON: In what form were these receivables? Were they notes of some kind, or were they just bills that were unpaid by patients or--

MR. O'MALLEY: Accounts receivable, yes, everything. Accounts receivable due into the hospital from the time period that the county owned the hospital. And then at the transition period, these moneys were allowed to go to Solomon management.

ASSEMBLYMAN GORDON: And there weren't records in the financials of what the accounts receivables were?

MR. O'MALLEY: There were estimates as to what they would be. And, obviously, they were under-- The previous administration underestimated the numbers.

ASSEMBLYMAN GORDON: Because accounts receivable usually aren't a feature of a financial statement that's subject to guess work. People owe you *X* amount of dollars, and it is due at a certain point. So I fail to understand why there was a problem estimating this, unless someone wasn't keeping records.

MR. O'MALLEY: They just didn't estimate it properly. I didn't look into it in that much detail. I mean, the thing that I can tell you, to help put--

ASSEMBLYWOMAN WEINBERG: We don't want-- I just want to point out again that this is a messenger. Not everybody who was involved in this--

ASSEMBLYMAN JOHNSON: Madam Chair, we understand that.

ASSEMBLYWOMAN WEINBERG: Excuse me, go ahead.

Are you finished?

ASSEMBLYMAN GORDON: Yes, I am.

ASSEMBLYMAN JOHNSON: Well, I'm just following up on Assemblyman Gordon's comment. I hear the word estimate, but accounts receivable-- That's a specific number, normally.

MR. O'MALLEY: I just got some help. Somebody just helped me with this. And again, as the Chairwoman keeps helping me here to remind everybody-- I only got there in March of '03, and then I became the Chairman this year. So this was a lot to absorb, and I thank you for that.

I just got some help from somebody who is familiar. Basically, some of these payments were accounts receivable, so they could have been insurance things, Medicare things, etc. The information -- and we'll get what we can to you from this time period -- was, there was a misestimation of the receivables. They may have had proper accounting of what was due, but they didn't properly estimate what the collectability of this was. And, obviously, the manager was able to collect in excess of \$27 million of these total amounts of money. So that's where I think some of the problem came out.

ASSEMBLYWOMAN WEINBERG: Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: Let me state, up front, I'm appalled about the loans. But having said that, I want to respond to the statement that we should know what the amount of the receivables are. That's not really true. In the hospital business, in the hospital world, there are many, many complex formulas for reimbursement. It was probably true, even more so, back in those days.

When I was involved with Bergen Pines Hospital, before this-- I had nothing to do with the privatization.

ASSEMBLYWOMAN WEINBERG: I'll attest to that, too, Assemblywoman. (laughter)

ASSEMBLYWOMAN VANDERVALK: But before that, I was very much involved with the hospital. And I got into some of the complexities. And I know at the time, there were -- that I knew of -- 13 different formulas as to how they can collect on the patients. And to me, it was mind-boggling that it was that complicated.

So I can understand why the numbers were not true numbers. But on the other hand, I am concerned why the consultants who prepared the documents to go forward-- It would be very interesting to see the analysis made by the consultants.

MR. O'MALLEY: We'll get that information to the Committee as soon as we can.

ASSEMBLYWOMAN WEINBERG: Assemblyman Manzo.

ASSEMBLYMAN MANZO: How are you, Ron?

MR. O'MALLEY: Nice to see you.

ASSEMBLYMAN MANZO: Ron, how good is the record keeping at your agency for those -- that time? I mean, are there records and transcripts of those meetings that occurred then?

MR. O'MALLEY: Truthfully, since basically the last year-and-a-half since most of the BCIA has changed, we tend to keep more comprehensive minutes at this point in time. There are records from that time. Are they as good as the current records? I'd have to say to you, no.

ASSEMBLYMAN MANZO: In other words, they wouldn't be transcript records, just the secretary making notes?

MR. O'MALLEY: And they didn't take meetings or anything.

ASSEMBLYMAN MANZO: Okay.

If I could, I would like to request any written notes of those meetings. And did they have, like some boards do, regular public meetings and then work session meetings?

MR. O'MALLEY: Yes.

ASSEMBLYMAN MANZO: I'd like to request those notes and any closed session meetings -- notes from those, anything related to the contract with the hospital and the one, also, with the county.

MR. O'MALLEY: There are minutes from work sessions and regular meetings during that time period.

ASSEMBLYMAN MANZO: And to save myself time, I'd also like to make a request of the freeholder minutes when they were discussing -- the transcripts, meetings, closed session notes -- when they were discussing their contract with the BCIA back in '98.

ASSEMBLYWOMAN WEINBERG: Do we have a representative of the Board of Freeholders?

ASSEMBLYMAN MANZO: Is someone making a note?

And the other question I have, Ron-- Do you know who it was that might have underestimated the receivables -- whose job that was at BCIA?

MR. O'MALLEY: I don't, no. But I will try to get you that information. It's back about seven or eight years ago.

ASSEMBLYMAN MANZO: The point on this is that -- and this happened in Hudson County, folks, too -- that, usually, if a government entity is involved in a complex issue as this, they should have, at their table, someone who knows the hospital business.

ASSEMBLYWOMAN WEINBERG: Well, let me again remind you of what I said in my opening statement. We're not even sure that this whole loan was legal, since the constitution prevents public--

ASSEMBLYMAN MANZO: I don't want to get into that.

ASSEMBLYWOMAN WEINBERG: --facilities from loaning -- making loans to private businesses. And we are going to seek that kind of an opinion.

ASSEMBLYMAN MANZO: I think you see why.

ASSEMBLYWOMAN WEINBERG: Assemblyman Gordon.

ASSEMBLYMAN GORDON: Most contracts that I'm familiar with -- I'm not a lawyer -- have a termination clause which spell out the conditions that would allow either party to get out of a contract. Is there any such termination clause to this contract? Could the BCIA get out of this contract?

MR. O'MALLEY: The only way that the BCIA -- and actually, it is the BCIA, not the Board of Freeholders. See, the Board of Freeholders have even less authority than we do. However, our authority, again from the previous administration, is significantly limited. All the BCIA is tasked to do in this contract is to oversee patient care and to make sure that patient care is not in jeopardy.

The only way the contract can be terminated is if the BCIA can make a comprehensive determination that patient care is not adequate. That's the only way to terminate the contract. There are no interim provisions in there for us to do anything other than that one final step.

ASSEMBLYWOMAN WEINBERG: And, again, if I may -- as I remember the history of this -- sometime in '98 or '99, probably, a group called Excellence in Caring was hired to do just that, to look over patient care at the newly privatized hospital. And they issued a scathing report. So the BCIA -- again, predating you and the current members -- could have canceled the contract at that point. But what they did was, they fired Excellence in Caring and found a new consultant.

So there really is a lot here for the public to be looking at; for we, as elected officials, to be representing them; and there is a lot in the history of this that should not be overlooked by current public officials.

And I do not know if you have any comments about what all this money is that is paid to their wholly owned subsidiaries, or whatever they call all these corporations that they're involved in.

MR. O'MALLEY: The financials that we look at-- Again, the contract-- If you look at what the previous Board of Freeholders and previous

county executive did-- All that we are allowed to look at, in terms of the financials at BCIA, is to make sure -- we are required to get certifications that the manager is solvent and able to provide the money for patient care. That's all.

ASSEMBLYWOMAN WEINBERG: Well, you can see how the manager can stay solvent, obviously.

MR. O'MALLEY: But that's all we really are required to look at, and all we're allowed to look at.

ASSEMBLYWOMAN WEINBERG: Well, didn't -- I don't know whether the HPAE or even the *Bergen Record* -- didn't they take this matter to court?

MR. O'MALLEY: It's in litigation right now, actually. And it's before the Appellate Division to try to get the financial release-- Then, basically, the BCIA -- the current administration, the current people at the BCIA, earlier this year, allowed -- turned it over and allowed the courts to decide it, because we weren't really able to get the information, based upon the requirements from the previous administration. So we allowed the courts to decide it.

ASSEMBLYWOMAN WEINBERG: While we're bringing the whole history out and I'm sharing all the information I have, there is even a question of the tax status of this organization. Currently, they are enjoying a tax-free status because, although they are a for-profit company, they claim that they're really public, although they don't release their books -- they're really public and running a public hospital.

We have checked with the State tax division, who has informed us that there is another very similar case going through court. The lower courts decided, on behalf of the State, that, in fact, these types of entities should be taxable. That company, unrelated to Solomon, is appealing that up through the courts.

But the Department of Taxation pointed out to me that the United States Supreme Court has ruled in similar cases. And the quote they use -- I don't understand the legality of it -- is, "The only way you can get a derivative exempt tax status is if you have" -- what they call -- "a *master-servant* relationship." You have to be able to tell the subsidiary what to do, how to act, etc., according to the U.S. Supreme Court.

So I would say that this company might very well, when these cases run the gamut through the court system -- might very well be liable for much in the way of back taxes for all the equipment they've bought, and maybe even property taxes to Paramus for the operation there. So I would suggest that they look very closely. Maybe they'd like to get out of the contract. (laughter)

Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: I just had a question about the BCIA's oversight of the hospital. During the course of the strike, which I followed very carefully, there were inspections made to make sure that patient care -- this is what we're very concerned about, patient care--

MR. O'MALLEY: That's our main priority, as well.

ASSEMBLYWOMAN VOSS: But the question that I have is, that one of the concerns I had, in terms of the nurses, was the patient-nurse ratio. I had heard terrible statistics, especially on weekends. They brought in nurses.

And from your observation, obviously there were more nurses -- the per diem nurses being hired than the regular nurses, when they were--

MR. O'MALLEY: Are you talking about pre-strike -- are you talking about prior to the strike?

ASSEMBLYWOMAN VOSS: I'm talking to -- prior to the strike, the patient-nurse ratio was very, very high. I've heard as much as, on weekends, 60 patients and one nurse having to take care of everybody.

During the strike -- for lack of a better term -- scab nurses were brought in. They were paid more than the nurses that are regularly on staff. And when your people went in to check to see that the patients were being taken care of, there were more nurses from the per diem, or the scab nurses, than there would have been if the regular nurses were working. How can this be an accurate assessment of patient care if that is the case? And that is what I got from the newspapers.

MR. O'MALLEY: The issue during the strike was, all we were able to do at that point was to hire-- What the BCIA decided to do, and we actually did it in an emergency meeting two days after the strike began -- is, we hired an outside, independent consultant, who happened to be a nurse, to go in there and do the evaluations. Some of your comments--

ASSEMBLYWOMAN VOSS: How accurate can an evaluation be if they haven't seen what was before? And then all of a sudden everything looks great because of all of these--

MR. O'MALLEY: In all fairness, our role, or our responsibility during the strike was only to make sure that it was running. I mean, we're still

getting final reports from the consultant at this point, obviously, because we have reports that have come in.

ASSEMBLYWOMAN VOSS: I read in the paper everything is going great at Bergen Regional. I can't see how that could have been the case.

MR. O'MALLEY: Well, the reports didn't indicate any significant issues. The hospital was properly staffed during the strike.

ASSEMBLYWOMAN VOSS: Yes, they were properly staffed with extra people which, under normal circumstances, they would not have had. I mean, this is a false situation. And we're told the patients are getting great care.

ASSEMBLYWOMAN WEINBERG: Assemblywoman, I think we will-- I alluded to that a little earlier. We will get a report from the State Health Department. They have been very vigilant in monitoring.

ASSEMBLYWOMAN VOSS: I want numbers, statistics.

ASSEMBLYWOMAN WEINBERG: And, in fact, we do know at least one unit, that was highlighted, that was understaffed prior to the strike and was fully staffed during the strike.

ASSEMBLYWOMAN VOSS: That's my point.

Thank you.

MR. O'MALLEY: Just so you know, we have seven reports from our independent consultant -- probably eight by the time it's done. And we'll get those over to you.

ASSEMBLYWOMAN VOSS: But we need to know before -- what was, and what--

MR. O'MALLEY: But we have data from the Urban Health Institute that will give you the before. We can get you this information. We

have data from Urban Health that will give you what the staffing levels were before.

ASSEMBLYWOMAN VOSS: I think this is a very significant point, in terms of patient care.

MR. O'MALLEY: But I can get you the before and after.

ASSEMBLYWOMAN WEINBERG: Assemblyman Manzo.

ASSEMBLYMAN MANZO: One other piece -- some pieces of information I'd like to also request, now that I'm reading into this a little bit more is, the RFP that was submitted by them, the competing RFPs that were competing against them, and that project team -- the members of that project team that made the recommendation.

ASSEMBLYWOMAN WEINBERG: Hopefully we're not going to be charged \$.50 a page for this. (laughter)

ASSEMBLYMAN MANZO: Well, this is important information. And the project team that reviewed that, and any notes--

MR. O'MALLEY: Assemblyman Manzo, I'm going to have to double check that for you, because BCIA records that I've looked at since I've been there for a year-and-a-half didn't indicate-- I think some of those discussions and those project teams went on at the freeholder level and with former County Executive Schuber. I think some of that may be more in the freeholder-- We'll get you whatever we have, but I think you're going to need to make the request from--

ASSEMBLYMAN MANZO: I'll do that.

MR. O'MALLEY: I think most of that -- the project teams-- And, I think, there doesn't seem to be any records at the Improvement Authority level

of the different information, or the different vendors that were being looked at, at the time. I think that was done at the freeholder level.

ASSEMBLYMAN MANZO: And the other thing, Madam Chair, that I would question, which is a legal question-- If the RFP was violated, is that an avenue for an action to be taken by the Improvement Authority or the county? And, secondly, can anyone else, or any other entity outside the Improvement Authority, sue for a breach of that contract, since it relates to the care of indigent, needy people?

ASSEMBLYWOMAN WEINBERG: That's probably a legal opinion we'll have to get.

ASSEMBLYMAN MANZO: That's why I'm bringing that up. So if OLS can do some research on that--

In other words, Madam Chair brought up the fact that there was a report that said there was incidents of poor patient care at the hospital. Can some third-party entity, can the freeholder board, can Joe Citizen come up and sue, as a breach of contract, or does it just have to be the Improvement Authority? I'd like that question answered.

ASSEMBLYWOMAN WEINBERG: Assemblyman Morgan.

ASSEMBLYMAN MORGAN: And perhaps, if I could add to Lou's request-- With that RFP, if there was any disclosure from the consulting firm that won the contract, essentially, to do this -- disclosure of any previous or current business relationships with any of the parties involved, to the agreement?

MR. O'MALLEY: We'll try to get that.

Just also, to help you in terms of requesting the information from the freeholders, it was at some point in 1998 that the Bergen County

Improvement Authority was given the license for the hospital. So a lot of these discussions that went on prior to the privatization were really done at the county executive level and then with the freeholder. The license was, basically, charged to the BCIA at some point in 1998.

ASSEMBLYMAN MANZO: Who did the RFP process, BCIA or the--

MR. O'MALLEY: I think it began with former County Executive Schuber. I think it was spearheaded at that level, and I think that there are probably some freeholder minutes that will address that.

But we'll get you whatever BCIA records are available.

ASSEMBLYWOMAN WEINBERG: So it would be freeholder minutes, probably, from 1997, 1998, because the contract was signed in March of 1998.

ASSEMBLYMAN MANZO: The other thing I'm confused about is how the county government entity does the RFP and another autonomous agency awards-- I just need that clarified, if we could.

ASSEMBLYWOMAN WEINBERG: Mr. O'Malley, have you ever asked Solomon why they pay their subsidiaries this kind of money out of Bergen Regional moneys?

MR. O'MALLEY: We have not. We actually just noticed it. I just noticed for the first time on the information that had come in earlier this year. But, again, unfortunately, the contract with Solomon, prior, allowed subsidiaries to be paid. The contract specifically allows them to pay subsidiaries.

ASSEMBLYWOMAN WEINBERG: The contract specifically allows them to pay their--

MR. O'MALLEY: The previous administration allowed subsidiaries to be paid, correct. And it was always set up that way, so there was basically nothing we could do about it. They're given specific permission to do that in the contract.

ASSEMBLYWOMAN WEINBERG: Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: Thank you, Madam Chair.

I'm just looking at the 1997 Bergen County Board of Chosen Freeholders resolution that actually shows the chronology -- the events, chronologically, what took place. I think--

MR. O'MALLEY: Can I just see which one you're looking at?

ASSEMBLYMAN CHIVUKULA: The one that you just handed.

MR. O'MALLEY: Let me just see, because you have two or three.

ASSEMBLYMAN MORGAN: Upendra, where are you on that?

What page, about, is that?

MR. O'MALLEY: He's on resolution 21-28 from 12/17 of '97. It's about three or four pages into--

ASSEMBLYMAN CHIVUKULA: Just a quick read through this tells me that the county Board of Chosen Freeholders had come to the conclusion that they cannot get involved in the -- they're not able to efficiently manage the quality care services. They wanted to strengthen and enhance the safety net. It goes on. It says that in order to do that, they commissioned a Blue Ribbon Panel in 1995. And then in 1997, there was a report that was related by the Blue Ribbon Panel -- report on the future governance and operations of the Bergen Pines -- report. And then on February 27, 1997, the county executive formally accepted the report and then convened a project team

to pursue the implementation of the Blue Ribbon Panel's recommendations regarding the future governance of the Bergen Pines.

And then they had to obtain detailed financial contractual terms for such management options through a competitive procurement process that issued -- I think they came up with a repositioning plan. And then I think that's when they transferred the authority from the county freeholders to the BCIA. And so the BCIA and the manager, which is Solomon Health Care, subsequently after the RFQ -- there was an RFQ that was issued on April 4, 1997. And also there was one on July 3, 1997. So there were some recommendations that were made -- and goes on. And then they had chosen -- they had a negotiation -- the project team negotiated with Bergen Health Network and Solomon Health Group LLC, and the Bergen Pines real property and the Bergen Pines business assets. And I think it goes on.

There's a lot of documentation trails along the way. My question -- also there were some -- the Valley Hospital and the Horizon Mental Health management, or the subcontractors, along with the Solomon--

MR. O'MALLEY: They were providers of service to the private company, correct.

ASSEMBLYMAN CHIVUKULA: My question is that there must have been some reason to -- why there might have been -- because I'm totally new. I don't even live in the county, so -- I was not even in political office in 1996.

My question is that, there must have been some reason that must have motivated for this privatization, which is not clear from the documentation that I have.

ASSEMBLYWOMAN WEINBERG: You mean what motivated the privatizing to begin with?

ASSEMBLYMAN CHIVUKULA: Right.

ASSEMBLYWOMAN WEINBERG: What was expressed at the time, by the then administration, was that they were-- This was a public hospital run by the public, by the Board of Freeholders, through a board of managers. They didn't directly run it. And what was expressed was that they were very concerned about the reduction -- in what they perceived to be a reduction in reimbursements in the future -- and that the taxpayers would be saddled with augmenting too much money. That's what was publicly expressed. But since they didn't even know what the receivables were-- They thought there were \$6 million, when, in fact, they were \$28 million. You can understand why they might have worried about what the financial impact of this hospital-- Now, that was their public reason for going through this entire exercise.

ASSEMBLYMAN CHIVUKULA: My question is, the complexity of health care, since that time, has increased. I mean, post 9/11 -- the whole thing has changed, in terms of the health-care premiums, and health-care reimbursements, and the issue of charity care, and the whole bunch of complexity there. What is-- I'm just trying to ask this question -- a naive question -- what--

How can I be assured that the freeholder -- the new freeholder board can handle this thing? I don't know if that--

MR. O'MALLEY: The new freeholder board has no authority to do anything, and this contract runs for a very long period of time.

The freeholders are in a very-- The current majority of freeholders are in a very difficult spot. There's absolutely nothing-- They can do less than-- The BCIA can do very little, and the freeholders can do even less.

ASSEMBLYMAN CHIVUKULA: Now, in terms of BCIA-- I was just looking at this report that was given. There was some benchmark information about--

MR. O'MALLEY: Which one is that, because I didn't give that to you?

ASSEMBLYMAN CHIVUKULA: --recently by the chief CEO, Joe Gallagher.

MR. O'MALLEY: Yes.

ASSEMBLYMAN CHIVUKULA: They have a benchmark of various things like acute care, mental care. I was just looking at it -- long-term care.

If you look at the charts -- the way they are shown -- from 1995, I guess the quality of services from 1995 -- improvement to year 2002. And then you go into the long-term care, also improvement from 1999 to 2002.

MR. O'MALLEY: Right.

ASSEMBLYMAN CHIVUKULA: My question is that, are you able to verify any of this information?

MR. O'MALLEY: We verify it, yes.

ASSEMBLYMAN CHIVUKULA: This information is very--

MR. O'MALLEY: We do our own sets of reports with the Urban Health Institute. And let me be perfectly honest with you. Most of the people that are in this room, especially the HPAE workers -- they work at the hospital.

They do a very good job. A lot of the good statistics that you're reading in those reports are coming from most of these people that are in this room. And that's-- The data in that report is good.

ASSEMBLYMAN CHIVUKULA: That means--

MR. O'MALLEY: But it's the care being given by these people here.

ASSEMBLYMAN CHIVUKULA: Right, but managed by this company.

MR. O'MALLEY: Correct. But that particular report is assessing care, and satisfaction surveys, and things along those lines. And that has to do with these folks in here. And I'm glad that those are good.

ASSEMBLYMAN CHIVUKULA: Any care that is provided, I think, has to be managed by somebody. Basically, if these are good, that means they're doing something--

MR. O'MALLEY: Just so you understand -- which we'll try to help you -- we are not charged with anything than overseeing patient care. I understand the manager's there. The manager runs the hospital. But most of the reports and the data we get concerns the work that folks that are in this room do. And we get very good reports. That's all we're charged to do -- is to make sure that they are taking care -- that they-- I understand that their managers are responsible for them, but that's what we're charged with. And the type of data that you're looking at is the hard work of the individuals in this room. And yes, we get-- They do a very good job. And the satisfaction surveys are high from the evaluations of -- especially some of these HPAE folks that are here.

The manager is-- The previous administration gave the manager, basically, authority to do whatever they want. We're not involved in the management of the hospital. We can't make any comments about the management of the hospital, nor can we really evaluate their management. They have authority to make their own decisions. So we can't--

ASSEMBLYWOMAN WEINBERG: Well, one of the issues, Mr. O'Malley and Assemblyman Chivukula, that we have to look into is, don't forget this private, for-profit firm gets millions of dollars of public money in the form of charity care, Medicare and Medicaid.

ASSEMBLYMAN MANZO: It's due Bergen County.

ASSEMBLYMAN CHIVUKULA: Yes, I know.

ASSEMBLYWOMAN WEINBERG: So we have a responsibility here, too.

ASSEMBLYMAN CHIVUKULA: I already had a disclaimer that I know very little about this stuff.

ASSEMBLYWOMAN WEINBERG: Well, this is a good learning experience for you.

MR. O'MALLEY: And I understand your question, but I just want to be clear -- especially that report you're looking at -- that's a testament to the folks in here. It's not necessarily a testament to the management of the hospital. We have no idea what the inner workings of the management of the hospital are, because then County Executive Schuber took that ability for us, to evaluate that, away from us.

ASSEMBLYWOMAN WEINBERG: Assemblyman Manzo.

ASSEMBLYMAN MANZO: In chronological order, what happened first? Did the county come to the -- and I know you weren't there, but if you could recall this--

MR. O'MALLEY: I checked it out though, Assemblyman.

ASSEMBLYMAN MANZO: --did the county come to BCIA and say, "We want you to run the hospital?" Is that what happened here?

ASSEMBLYWOMAN WEINBERG: No. The county went to the BCIA and said, "We want somebody else to run the hospital. You take the license and sign the contract."

ASSEMBLYMAN MANZO: So the BCIA took the license, okay?

ASSEMBLYWOMAN WEINBERG: Right.

ASSEMBLYMAN MANZO: And then the county turned around and did an RFP?

ASSEMBLYMAN CHIVUKULA: No. No. The county was done by the project team.

ASSEMBLYWOMAN WEINBERG: Right.

ASSEMBLYMAN MANZO: The project team -- they did the RFP first?

ASSEMBLYMAN CHIVUKULA: Yes, a repositioning team -- conduit.

ASSEMBLYWOMAN WEINBERG: The BCIA was used as a shadow conduit, for want of another word.

ASSEMBLYMAN MANZO: But who did-- Was the RFP done first?

ASSEMBLYMAN CHIVUKULA: No. The county freeholders commissioned the--

ASSEMBLYWOMAN WEINBERG: Project to the Blue Ribbon Panel.

ASSEMBLYMAN CHIVUKULA: --Blue Ribbon Panel in 1995.

ASSEMBLYMAN MANZO: Right.

ASSEMBLYMAN CHIVUKULA: And the report came out in 1997, in a couple of months -- April and July.

ASSEMBLYMAN MANZO: Right.

ASSEMBLYMAN CHIVUKULA: And then it is based on the recommendations of the Blue Panel. They said, "Okay," they'd turn it over to the BCIA to manage this project.

ASSEMBLYMAN MANZO: So the county entity turned around and said, "This is our recommendation that this company run this," and they gave it to an autonomous agency--

ASSEMBLYMAN CHIVUKULA: BCIA -- Improvement Authority-

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ASSEMBLYMAN MANZO: --and said, "And you stamp the decision that we made," and didn't give any--

ASSEMBLYMAN CHIVUKULA: Assemblyman, I think the issue is, the BCIA members are appointed by the--

ASSEMBLYWOMAN WEINBERG: By the freeholders.

ASSEMBLYMAN CHIVUKULA: Freeholders. So, even though they are from the public --

ASSEMBLYWOMAN WEINBERG: Or by the county executive with the consent of the freeholders.

ASSEMBLYMAN CHIVUKULA: They're autonomous. Yes, they're autonomous. But they have the rules and regulations they have to follow. They are responsible to the average public members. The issue is that they went out and they issued the RFQs. And then they processed the order. I think that's how-- The RFQs -- the number of quotations -- they came back and then they chose this particular group.

ASSEMBLYMAN MANZO: That's what I'm trying to get to. Who chose this company?

ASSEMBLYMAN CHIVUKULA: The BCIA.

ASSEMBLYMAN MANZO: The BCIA or the county?

MR. O'MALLEY: The BCIA, at the time, but basically the BCIA that was appointed by then County Executive Schuber. Correct. That's who finalized.

ASSEMBLYMAN MANZO: But who did the--

MR. O'MALLEY: But the freeholders also approved the transfer of the license over to the BCIA.

ASSEMBLYMAN CHIVUKULA: Right. Final approval has to be approved by the freeholders.

ASSEMBLYWOMAN WEINBERG: One at a time now.

Through the Chair, please.

ASSEMBLYMAN CHIVUKULA: Through the Chair. (laughter)

ASSEMBLYWOMAN WEINBERG: Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: I have a question, because I read legislation all the time about highly qualified professionals and Blue Ribbon Panels.

ASSEMBLYWOMAN WEINBERG: Why do you think you're here?

ASSEMBLYWOMAN VOSS: I would like to know -- and again -- who constituted this "Blue Ribbon Panel"? What were their qualifications for going out and finding this company?

MR. O'MALLEY: They were appointed, I think -- yes--

ASSEMBLYWOMAN VOSS: No. That's what I want. I want to know, specifically, who were the people on this Blue Ribbon and who were they really representing? Okay, that's--

MR. O'MALLEY: We have to get that, actually, from records from the then county executive.

ASSEMBLYWOMAN VOSS: Because these very ambiguous, highly-qualified professionals -- who are they?

MR. O'MALLEY: The BCIA has no records on this Blue Ribbon Panel. There's no records.

ASSEMBLYWOMAN WEINBERG: That was done by the county executive in the then Board of Freeholders.

ASSEMBLYWOMAN VOSS: Yes. But I want to know who was on that "Blue Ribbon"--

ASSEMBLYWOMAN WEINBERG: We will attempt to get that information for you.

ASSEMBLYWOMAN VOSS: Okay, because they're the ones.

ASSEMBLYMAN CHIVUKULA: Through the Chair, I don't think the Blue Ribbon Panel chose the--

ASSEMBLYWOMAN VOSS: They made recommendations.

ASSEMBLYMAN CHIVUKULA: No, they did not. All they did was--

ASSEMBLYWOMAN WEINBERG: They made the recommendation to privatize the hospital.

ASSEMBLYMAN CHIVUKULA: I think a combination of the professional subject-matter expertise, and the health-care professional -- they were appointed by the Board of Chosen Freeholders, and they went and studied the hospital and looked at what kind of quality care is needed. And then they made the recommendations how -- what kinds of things you need to do to reposition this whole thing, and the need to privatize.

ASSEMBLYWOMAN WEINBERG: For somebody who is very new at this, you've picked this up very quickly.

ASSEMBLYMAN CHIVUKULA: Well, you know, Madam Chair, thank you. (laughter)

So then what happened is that, then, part of that Board of Chosen Freeholders turned it over to the BCIA. And they in turn-- Of course, they worked together. The Freeholders, ultimately, they have to make the decision. They are the elective body. And so what they have done is, they went out for RFQ, they got a couple of RFQs, and they chose the manager -- I guess this is the Solomon Health Care and the two subcontractors, the Valley and the Horizon -- and they put it together.

MR. O'MALLEY: But Valley and Horizon were chosen by the manager.

ASSEMBLYMAN CHIVUKULA: Subcontractors, yes.

MR. O'MALLEY: Right. But the BCIA at the time, even though it had nothing to do with that selection--

ASSEMBLYMAN CHIVUKULA: Right. Right. That's part of the team.

ASSEMBLYWOMAN WEINBERG: All right. We will get this-- I know this is confusing for everybody here and probably the audience, too.

MR. O'MALLEY: It's even confusing for me, and I've read it 10 times. So we'll get it for you. (laughter)

ASSEMBLYMAN CHIVUKULA: No. I understood it. I'm telling you, it's not that complicated.

ASSEMBLYWOMAN WEINBERG: We will get this chronology. We will certainly get the chronology spelled out for this Committee. But you can see it's obvious why this needs some public hearings. And hopefully, there might be something we can do about it currently, and if not, certainly, to learn not to let anything like this happen in the future.

And by the way, our colleague, Assemblyman Conaway -- who is a regular member of this Committee, was not able to be with us today -- has dropped in a bill, which will be assigned for a hearing to this Committee, which requires, when you get over a certain percentage of temporary per diem nurses of your employee workforce, that there be much more further oversight by the Department of Health. So there are a lot of issues that we are looking into here, in terms of legislation.

Are there any other questions for Mr. O'Malley? (no response)

Ron--

I'm sorry. Yes.

MR. O'MALLEY: No. I just wanted to thank the Chair, Madam Chair, and everyone for having me, and to just let you know that -- can we be of any help at all at the BCIA, please get us in. We will start working on getting you boxes, and I'll deliver them to you.

ASSEMBLYWOMAN WEINBERG: Thanks a lot.

We really appreciate your openness and your willingness to come forth--

MR. O'MALLEY: My pleasure. I'm honored to be here.

ASSEMBLYWOMAN WEINBERG: --and speak on behalf of this agency, which whatever power it has, is the only one that has any real power over what is going on there. So, again, thank you very much.

MR. O'MALLEY: And I thank you for the opportunity. Thank you very much, if I can help at all. Thanks.

ASSEMBLYWOMAN WEINBERG: Okay.

I would like to call on Alan Kaufman, from the CWA, for some brief remarks, and then Ann Twomey, from HPAAE, who will talk more about patient care there, I guess.

But Alan -- I asked Mr. Kaufman to come here today, because I've worked with him on a whole series of legislation governing privatizing of any kind of public entity. So I know we've got a working relationship in that area.

Alan.

**A L A N K A U F M A N:** I'm very happy that you asked me to come. And I'm very glad to be in a room with the Union and workers who really stood up and did what was necessary to get a contract, and then set out on a course to reverse what was done back in 1998. And I really applaud them for their efforts, because this is the type of effort that's going to be required to provide a backdrop for addressing the greater problem of privatization.

For the record, CWA did represent, at one time, a small unit at Bergen Pines Hospital Professional Unit, which we made arrangements with HPAE, through a vote and everything, to turn that unit over to HPAE. It was a small unit, and they'd be better served within a larger unit and in a union that we consider a really wonderful union in representing health-care workers.

We also represent the workers at Roosevelt Hospital, which in 1997-- It seemed a lot happened in 1997. Roosevelt, Middlesex County, signed a contract to take in Solomon Brothers as administrator for the Roosevelt Hospital, a county hospital, in 1997. That's when the freeholders decided to go down this course in Bergen Pines. It was also a year that the not-for-profit HMO, HIP, was turned over to an outside-of-the-state, for-profit health-care provider, PHP, which ran HIP into the ground. And the taxpayers of New Jersey had to bail it out for \$150 million.

So I think -- and what we see here is just one example of a very general phenomenon of privatization. It not only goes on at a county level, it goes on at a State level. It goes on at a national level. It goes on at an international level. The notion that somehow, for some reason, private sector can do better in terms of providing health care, and protecting the water and protecting the environment, to protecting the rights of the average person than

the public sector. This is a pernicious notion that is going to lead to the decline of the quality of services and the quality of life that the people of the county, of the State, of the nation, of the world get.

There is absolutely no evidence that privatization, which is basically letting the corporations, unregulated, run the society -- they run the nursing home; they could run a water department; they could run whatever, prisons; they're running the military, whatever it is -- that somehow this is beneficial to the public or beneficial to the workers. So what we have in this room here is a prime example of how it is not a good thing to do. And so what the example here -- is the same as an example in a lot of other areas, whether it be in nursing or in other areas that I've talked about.

This has been an issue that -- privatization at the State level has taken place with the -- back in '95, '96, with the DMV agencies. The Governor actually said at that point that the women working in those agencies were making too much money, at \$20,000. She actually said that -- "\$20,000, too much for that job." That's what the Governor said.

Well, that was followed by the privatization of the inspection station, which the State itself says cost the taxpayers \$250 million more than if the State had continued to do it. So the examples of the high cost to the public, the examples of decline in services -- are all throughout the issue of privatization. And as a result of a lot of these examples and hearings that were held by Assemblywoman Weinberg, a bill was drafted back in the last legislative session for both the county and the State to provide a cost analysis of privatization contracts. So what the bill basically does is say that before a privatization contract can be issued, that there has to be an analysis of the cost

of that to the public, and that substantial savings have to be shown after this analysis. And the substantial savings cannot be made assuming that, in any way, that the wages or benefits of the workers is in any way less. So you have to hold the total benefit package constant. You also have to hold the level of services constant, so you would have to show that no savings -- that a company wanting to come in, with an RFP showing that they could make savings -- could make any savings by lowering the quality of services.

So, to go to the question that I've heard a couple of times here about staffing, you couldn't say, "Well, I'm going to make savings, because I'm going to increase the number of patients or lower the staffing ratio," in any way. So you would have to do that. The company would have to disclose any kind of prior records of suits or allegations, on their contracts, of misdeeds in any way. So the person from the AFL testified about all the problems that were -- existed elsewhere. That would all have to be made public right up front.

During the Parsons deal, we provided evidence to the Legislature -- the thing got rammed through anyway -- but we provided evidence that, from California, that the Parsons Corporation was involved in allegations of fraud, in terms of building a subway in LA County; plus there were other suits against the company. So all this would have to be made public, so that you would have a process with hearings -- if that was called for by the Legislature -- that in the event of a privatization contract, you would have to show savings holding, wages constant, quality of services constant, any other kind of expenses you'd have to factor in if they had to be continued. Oversight by the facility or the agency contracting it out, you would have to put that in. So you have to show savings with maintaining qualities of services, and you would have to pass a test

that would say that it was in the public interest. There would have to be some statement that somebody would have to say that it's in the public interest to do this.

The example I would use -- the most dramatic example: Was it in the public interest to privatize, even though they might show a savings, is it in the public interest to privatize a police force? Is it in the public interest to privatize prisons? They're some more dramatic examples. I don't think it's in the public interest to do that. I don't think it's in the public interest to privatize facilities like Bergen Pines.

So that's the guts of the bill. It did go through with a lot of amendments, unfortunately, but that's a matter of power and things we need to do more at this end, that came out of the bill, that weakened the bill somewhat. But it's still a very good bill. Any fight against privatization -- it's a big lift, in general, to pass a bill like that, because there are very powerful interests. Sometimes the interests are -- a lot of times or most of the times, a lot of the interests are right in the state. So, this one, this is a Colorado firm with egregious examples of misconduct here. So a lot of times, and maybe the political connections aren't as tight-- So frankly, bills that are anti-privatization bills are to control the privatization, to try to make it in a way that you'd have to really go through a number of hoops that would protect the public -- runs up against the powerful interests that get contracts, contribute money, and do all that, which is a whole subject in itself.

But I think that fights like this -- I think Solomon should be sent packing, and I think that we do need legislation that, in the future, would force a rigorous examination of what exactly is being done, so we're not scrambling

after the fact to try to undo what never should have been done in the first place. And if you have the bill in place, it probably wouldn't get that far; because a lot of evidence could be brought out of why it wasn't in the public interest. You'd have time to do that in the public light.

So Assemblywoman Weinberg should be commended for the efforts there, which did grow out of the same Bergen Pines struggle here. And that's why I think she ended up taking on that bill at the county level and at the State. The Legislature did pass it, but we have to get it through again. And I hope that we can do that.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Mr. Kaufman.

Any further questions? (no response)

All right. Ann Twomey, who--

I'm sorry. Yes. Assemblyman Morgan.

ASSEMBLYMAN MORGAN: Just quickly, you raised a good point about, like, what can we learn from this situation. And we know that in the southern part of the state, we've had similar issues with privatization. But are you aware of any ongoing hospital privatization projects, going on in the state right now, that we may apply lessons learned towards?

MR. KAUFMAN: I'm not. There may be other people in the room. I'm not aware of--

ASSEMBLYWOMAN WEINBERG: In checking, the only other place I've learned that has been privatized to a -- in health care, like this -- to a for-profit entity, is a small acute-care hospital in Salem County. But this was the first time, I believe -- as anybody could tell, I have a bias -- an egregious

error, and it was done to a large public hospital. The largest hospital, I think, in New Jersey, beside being a public hospital, with three distinct units -- psychiatric, or behavioral health it's now known; acute care; and one of the best, long-term care facilities in the state, which used to have a waiting list. The first thing the private, for-profit company did -- because I don't think you need a master's degree in economics to figure out how to make money on Medicaid patients in long-term care beds. You cut nursing staff-- And they even went -- there was one brief period there, as hard as it is to believe, where they cut food to the long-term care patients, because food was coming back on the trays uneaten. Of course, it was because the people who were responsible for feeding the patients were no longer there.

And by the way, the county does contribute \$300,000 to pastoral care. Part of that goes to the jail, but the county taxpayers are paying for the Pastoral Care Department at Bergen Regional Medical Center.

So, Assemblyman.

ASSEMBLYMAN GORDON: Yes.

Do you find a pattern, from what you've seen, of increasing staffing in homes and hospitals at times of inspection?

MR. KAUFMAN: I'm sorry.

ASSEMBLYMAN GORDON: Do you find a pattern of increasing staffing levels at hospitals and nursing homes during times of inspections and then--

MR. KAUFMAN: I think the people in the room that can talk to levels of--

ASSEMBLYWOMAN WEINBERG: We will ask Ann. You may ask Ann Twomey those questions, I think.

ASSEMBLYMAN MORGAN: I believe the answer is yes.  
(laughter)

MR. KAUFMAN: You're going to get that question answered.

ASSEMBLYWOMAN WEINBERG: From another expert.

Alan, thank you again.

Ann Twomey, who is President of the Health Professionals and Allied Employees.

**A N N T W O M E Y:** Good afternoon. I want to say thank you to Assemblywoman Weinberg for conducting this hearing and for all that you do to protect not only the health-care workers but -- and the patients. And I want to thank each and every member of this Committee for conducting this hearing and being here. You have been asking the right questions, and it's clear that you get it, and it means a lot to us.

I am the President of Health Professionals and Allied Employees, and we represent about 10,000 nurses and health professionals throughout the state. We've been part of this struggle with Bergen Regional Medical Center, previously known as Bergen Pines, since the conversion, which was like in 19-- The struggle started in '97, when the county wanted to privatize the hospital.

I guess, the recent struggle that we've just had -- we just settled a 21-day strike at Bergen Regional. That has certainly raised awareness. The underlying cause of the strike, to us, was not just the issues, whether -- and they were the correct issues of staffing or conditions to keep experienced nurses and health professionals at the bedside, but also to attract people. But it was the

fact that even -- almost, like, to the 24-hours before the settlement, the employer took a position that a third of the people shouldn't even get a raise for three years.

So we're dealing with a whole different mind-set when we talk about Bergen Regional and a for-profit company. And I just want to mention that we had five other contracts -- five other hospitals that we're negotiating -- in a similar time frame, which was this spring, and each and every one of those hospitals-- There was a settlement in each and every one of those hospitals, because there was reasonableness on both sides, and there is also an understanding as to what needs to be done in health care on both sides. And so it was pretty significant that a strike took place at Bergen Regional Medical Center.

I'm not going to repeat a lot of the things that have been said by other people. But this contract which was entered into, the privatization, did come under the prior administration of Pat Schuber and the freeholders at that time, which were all of one party, which were the Republicans. And the BCIA, as well, as you pointed out, were all different individuals. The hospital itself is -- I know that many times it's been told to us, across the table and reading about it in the press, it's just a big nursing home; or it has a little psychiatric component; and it's a small, acute-care unit. Well, this is the largest public hospital in the State of New Jersey. And it's unique in so many ways. It's not just a nursing home. They have 500 patients, elderly patients, many of which are diagnosed with Alzheimer's and dementia. But they're generally the patients that most nursing homes cannot accommodate, because they-- Some of them

also have underlying psychiatric histories, or difficulties, or frailties that they can't be managed in a typical long-term care facility.

There's also the detox unit and the forensic unit. So caring for people who would normally be -- who would otherwise be in jail or prison. So that's not your typical institution as well. And certainly the large portion and division, which is the psychiatric care, which many of our most frailest of citizens are in need. And this hospital was set up to provide that care, that safety net, and that is a service that Bergen Pines provided and, certainly, Bergen Regional should be providing as well.

Now, we've also heard a little bit of history about the Solomon Health Group owners. And from what we have seen and we have looked into, we can't seem to find much about them in terms of what experience they had prior to -- of running a hospital of any size, particularly the largest hospital in the State of New Jersey. We do know about their real estate holdings and those types of interests. I think even one included a -- I think it was a restaurant. But we don't seem to find any real history and experience in running a hospital of this size.

Yet when, in 1998, the county sought and issued an RFP, I do recall that there were three candidates: One, Hospital Corporation of America; and because of the scandal that they were undergoing at the time for, I believe, Medicare fraud, they pulled out. Then there was another competitor, who was Magellan. And Solomon won the bid over Magellan. And I do believe that it was the county that made the final determination. But the records will bear out whether I'm correct or not.

But under the terms of that agreement, Bergen Regional and Solomon pays the BCIA rent on an annual basis of \$5.5 million. At least that's what they paid them in 2002. And the BCIA, in turn, guarantees Bergen Regional \$9 million a month to fund the cash-flow obligations of the hospital. And revenues in excess of that \$9 million are retained by Bergen Regional. In 2002, Bergen Regional had a net patient services revenue of \$135 million. The BCIA also provided Bergen Regional and Solomon with a \$6 million working capital loan, which we discussed, as well as that \$30-plus million loan, which I guess represented the unpredicted amount of revenues that were due to the hospital at the time.

Now, clearly the contract that was entered into was well thought out in terms of Solomon's interests. It is unfortunate that the BCIA and the county don't seem to have real oversight into the care and the operations. There doesn't seem to be any mandated accountability. And if there is some action or negative action, egregious or not, it doesn't seem to be, at least from what we're hearing, that there's a way for these violations to be dealt with.

But I guess, just like anything, the question is, we've got to follow the money. I mean, in terms of -- Assemblywoman Weinberg, you talked about the loans. I do believe that if these loans were made by a public entity, we need to know to whom they -- who actually received the money, and actually where did that money go. And that will tell us a lot about not only accountability, but it will, I think, help answer the questions on whether or not there was any authority for those loans to be given in the first place. And so that would be a very important aspect and information to be requested, as to who the money went to and where the money has gone since, and what it has been spent on.

One of the other things which you may or may not know is that -- I think it was mentioned here -- that we have asked for copies of the audited financial statements that Solomon, Bergen Regional is required to give to the BCIA. And initially we were told we could not have them. And so, we, and in this case, the *Record* as well -- the *Record* newspaper -- have also filed a lawsuit to obtain those records. And we are still in the process of pursuing that. And in fact, I guess it was just in June -- June 1 there was a hearing before Judge Contillo, and we haven't gotten the final decision of that appeals decision. In every case, we are prevailing on that. But I guess the disappointing part is that there had been, since then, an agreement that involves the county and the BCIA not to have those audited annual statements to be considered public documents in the future.

So we are anxiously waiting the financial statements, and I think that that will be a very important aspect of seeing what moneys are going to be -- where moneys have been spent and what actually--

ASSEMBLYWOMAN WEINBERG: Ann, if I may interrupt you for a moment. Going through court now are the -- whether or not you and the newspaper will have access to the audited financial reports of the past number of years, or--

MS. TWOMEY: It is the past. It's not the future.

ASSEMBLYWOMAN WEINBERG: And the BCIA signed an agreement that for whatever period of time in the future--

MS. TWOMEY: I believe there was-- I think there was a settlement of -- it's another agreement, separate and apart from this, that relieves

the Bergen Regional Medical Center or blocks the disclosure of this information from the public for the future.

ASSEMBLYMAN MANZO: Wait a minute.

ASSEMBLYWOMAN VOSS: How can that be?

ASSEMBLYWOMAN WEINBERG: One at a time. (laughter)

ASSEMBLYMAN GORDON: I've got to get something straight here.

ASSEMBLYMAN MORGAN: We all got hit in the gut at the same time there.

ASSEMBLYWOMAN WEINBERG: That audible gasp from the audience.

Assemblyman Gordon -- spoken less than Assemblyman Manzo--

ASSEMBLYMAN GORDON: It's just incredulous that information and the public interest is being withheld by a conscious decision. We can't let that stand. (applause)

ASSEMBLYWOMAN WEINBERG: Assemblyman Manzo.

ASSEMBLYMAN MANZO: I echo his sentiments, but let me get to the root. Who are you suing to get the information, the Medical Center or the BCIA, or both?

MS. TWOMEY: Well, actually it's the BCIA, at this point.

ASSEMBLYMAN MANZO: Well, I'd like to request that information from the Committee, and I'd like to-- If we don't get it, I'd like to get a subpoena to get it.

ASSEMBLYWOMAN VOSS: Absolutely.

ASSEMBLYWOMAN WEINBERG: We certainly will request it.

(applause)

Remember -- please, everybody, the applause, we know how you all feel. I guess you can guess how some of us up here feel also, but--

Does anybody have--

Oh, I interrupted Ann, so I don't know if anybody has any other --

ASSEMBLYMAN MORGAN: It's just interesting that this clause is put in, in the first place, beforehand. I mean it's -- they're anticipating the situation, unfortunately.

ASSEMBLYMAN GORDON: Assemblyman, that's why I have the problem with the whole idea of the government turning around, doing an RFP process, and then turning around and handing over to an autonomous agency all their decision making. Where is the tracking for sunshining meetings that are held between consultants who simply make these side deals, all these decisions, aside from the people who actually vote on them? And that's exactly what the problem is here.

This whole -- what it looks likes to be -- process -- I don't want to call it a scheme -- was put together in many different rooms, in many different quarters, away from public sunshining, and then just pushed forward to a team, which supposedly was looking at, in their vision, legitimate RFPs. And then the process came to Company XYZ to handle it. And then it's taken from this entity and thrown over to a group of people at BCIA, who knew nothing about the beginning of the process. How could they possibly vote on and make a decision without having the information that the project team had?

ASSEMBLYMAN MORGAN: Lou, the RFP process -- I mean, I don't understand how they could even look at their RFP, how they were a qualified applicant with an RFP, if they had no experience managing a hospital of any size.

ASSEMBLYMAN GORDON: That's the point, yes.

ASSEMBLYMAN MORGAN: Step one was red flags everywhere, essentially, before we even go on to the cascading problems.

MS. TWOMEY: If I just may-- The reason we wanted these records is because it's clear that, I think from prior individuals who have testified, that it's not just the money going to Bergen Regional. It's going out, back to all the subsidiaries that seem to be owned by the same people. So we need to track that. Again, it's follow the money. And we believe that the money, instead of going back to the patients, going for the purpose that it's intended, is not staying in New Jersey and is going outside of New Jersey. It's not going to patient care as it should be. And we can best know that if we can get the information. And so that is why we're seeking that information.

But I also want to make mention that in terms of Bergen Regional not wanting to disclose this information, it's not just to us. It's also -- on June 9, 2003 (*sic*) -- and this is on the Internet -- the Department of Health just issued a notice of penalty for Bergen Regional Medical Center. They've been charged the penalty of \$30,100 for failing to submit their quarterly cost results in a timely fashion. And they're still not submitting them. So this is as recent as June 9 of this month.

I guess another thing I wanted to mention -- and I'm kind of skipping around a bit, but I'm just-- Mr. O'Malley talked about the monitors

going in during the strike. And that was important to do, and we applaud them for doing that. And we do understand that the people that were hired from this outside, out-of-town, temporary agency did provide, at the request of Bergen Regional Medical Center, more staff on the units than what normally is provided. And actually, we don't mind that either, because it was not our intention that patient care would suffer.

But I think Assemblywoman Voss was pointing out that it obviously would take two or three nurses from the outside to come and to replace one of the nurses on the inside, which-- And again, I commend Mr. O'Malley for pointing out the fact that the quality reports, whether it's Department of Health or Joint Commission, which are pretty-- The Joint Commission looks at policies. They don't actually look at direct care given. But, even though they do get high ratings or passable ratings, but it is because of the people like those who are sitting behind me, who are keeping it all together. And the reason that they went out on strike -- it wasn't just because they can get a percentage raise here and there, it's because they believed that quality care conditions have dropped, and they have to take that stand. And that is another reason why these hearings are so important, because they believe, and I think rightly so, that they have been shouldering the burden of the impact of the privatization of Bergen Pines, and the impact of a for-profit company who is not properly funding the operations of this hospital.

So that's why we applaud you for conducting these hearings, and we applaud the freeholders who have stood up, such as Valerie Huddle. And a special hug and thank you for Jim Carroll, who has stayed with us, even during negotiations. And I do believe that the intention of the BCIA leadership

is to look into the contracts and do as much as they can about that. And we're certainly going to hold them to that.

The other thing I think you should ask for is -- well, if you have these subpoena powers; and if you don't, ask for it anyway -- and that is the cost of what these replacement people, nurses and professionals, cost from out of state, to see what moneys they actually had. And then also find out who is going to pay for them. Because it would not surprise me if Bergen Regional believed that that's something that the BCIA or the county would be responsible for paying, even though-- Because they tend to try to shift the cost -- and so that it becomes just another red herring in the mix, and there'll be less for those who really need the funding in the future.

We do have some recommendations. We've gone to the BCIA, and -- who, as I mentioned, have been very open to us. And we've gone to the county exec and the freeholders, who also have been very open and receptive to us. And we have asked them to do a couple of -- several things. We always have a long list for people who will listen to us.

Of the county and the BCIA, we've asked them to review the history of Solomon's patient care violations. And I know there's some representatives of both of these groups here today, so we've given them a head start on that. In terms of their patient care violations, their staffing reductions, their contract violations, I think that's important to stay up-to-the-minute on. Because they're very serious and they do have an impact on the existing care at the hospital. To conduct a financial audit of Solomon and its affiliates, review the outstanding loans, and open up the books to the public on all of Solomon affiliates, that would be very important. Again, track that money. Conduct an

analysis for the total cost for the county of using Solomon Health Care to manage Bergen Regional for the past six years, including reimbursements, consultants, oversight, capital improvements, and all loans, and lost income from interest-free loans. Bring in outside experts to review care in the behavioral health unit.

I think you, Assemblywoman Weinberg, mentioned that a couple of years ago, a group called Excellence in Caring was brought in to look at the long-term care division. This was an independent entity that was brought in. And their findings were remarkable in that -- I think the word you used was *scathing*, and I think that was an accurate word. We're asking that a similar group, meaning an independent group, be brought in to look at the behavioral health unit as well, to replace the BCIA outside monitors with an independent consultant.

We also ask you for a few things to consider, and that is for the broader issues -- which were raised here by Alan Kaufman, from CWA, and by some of the others -- that-- Consider legislation and policy which mandate periodic review of privatization contracts, to determine whether the public interest and the mission of the public agency is being served. Secondly, to eliminate the ability of public entities and their private partners to use public dollars, including charity care, Medicare and Medicaid funds for labor disputes. We know that in this case-- Again, we know that the Bergen Regional brought in a lot of out-of-state nurses and other professionals. And when I say other professionals, we not only represent the registered nurses, but the physical therapists, occupational therapists, social workers, mental health specialists in Bergen Regional. Prevent privatization of health-care services, unless there is a

compelling public interest. Maintain workers' salaries, pension benefits, health insurance, and other contract terms and rights held prior to privatization.

Some of you may know that when Bergen Pines became Bergen Regional, the health-care workers were able to maintain their hourly rate. And some of them got a little bit of credit towards their pension. If they were, like, on the cusp of 25 years -- if they had 24 years, they might have been bridged to 25 years. But a lot of them lost their entire pension because they weren't vested. They might have been there eight or nine years, but 10 was the magic number, and they lost that pension credit and they lost their pension plan. And also to require public disclosure of financial data for all recipients of contracts, and all affiliates and subsidiaries.

Again, our contract was settled, and we're pleased that it was settled. The strike was not needed, because-- But everything that was included in the settlement wasn't available or offered to us prior to the strike. That we know, also. But in terms of the settlement, it's a reasonable settlement. It should have been offered and made well before the strike. But there are different interests here. And we're dealing with a different mind-set. The people who are responsible for the finances of Bergen Regional Medical Center -- it appears to be, their keen interest is what the profits are to them, not in terms-- And they don't measure the proper funding for the hospital, what it takes to retain and keep good health-care workers. The shortage of health-care professionals doesn't seem to phase them. And yet, these are the issues and the things that we are fighting for and have fought for, for every single minute. We had to fight for every single minute, and we'll continue to do so.

So we see this, our contract, as just one piece of this. Our goal is to return our public hospital back to the public. And to do that, to us, means to break the contract with Solomon Health Group.

So I'm open for any questions.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Ann. Are there any questions?

Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: I had that look on me. I had that look, huh?

ASSEMBLYWOMAN WEINBERG: Yes, you had the look on your face.

ASSEMBLYMAN JOHNSON: Madam Chairwoman, I have a question pertaining to the pensions that were lost by those employees. Is there a way that we could, somehow in the State Legislature, fix that, because now it's a private corporation that's running this?

ASSEMBLYMAN GORDON: There is legislation.

ASSEMBLYWOMAN WEINBERG: Yes. There is -- well, it's legislation about a study commission for pension reform for health-care workers, a statewide -- just at Bergen Regional.

ASSEMBLYMAN JOHNSON: Special legislation? Is that special legislation?

ASSEMBLYWOMAN WEINBERG: But there was a unique problem here, since they were a part of the public pension system. And if they were less than 10 years, they lost their vesting rights, which is what happens when one leaves employment--

ASSEMBLYMAN JOHNSON: Yes.

ASSEMBLYWOMAN WEINBERG: --by virtue, by voluntarily or not voluntarily. So a lot happened here when this was privatized. What I am fully confident of is that we have put a spotlight on what is long overdue -- to have a spotlight put on it -- and might help us solve the particular problem, and then certainly help us to prevent similar problems in the future.

Assemblywoman.

ASSEMBLYWOMAN VOSS: I'm reading your paper about your contract settlement. Some of the things that bothered me were your pensions and also your health plan, and were these addressed? I'm not asking you for specifics, but were these also addressed in your--

MS. TWOMEY: We were not able to make any headway with the pension. And we, in terms of the health insurance, let me just speak a little bit to that. Again, that's something that is a Solomon subsidiary.

ASSEMBLYWOMAN VOSS: It's a horror story, from what I have heard.

ASSEMBLYWOMAN WEINBERG: If you look on your chart, that's Global Employee Benefit Management. They pay themselves--

ASSEMBLYWOMAN VOSS: Right, exactly. A prescription plan and everything.

ASSEMBLYWOMAN WEINBERG: --for the health plan. And then I understand spend a lot of time denying claims.

ASSEMBLYWOMAN VOSS: Right.

MS. TWOMEY: Well, there's a combination of things. I mean, the employer took the position that there should be cutbacks, higher copays,

deductibles, which fortunately we were able to prevent. One of the problems is -- and someone just sitting here handed me a bill, which I should have it with me, I just shoved it in my other case -- but of a bill. And this is, fairly, too often a problem: that the bills are incurred, they're submitted to the insurance, and they don't get paid. And so that now, our members are getting notices from collection agencies.

Barbara Rosen is here. And I think she'll be coming up to speak. She has, actually, a figure of people -- a number of people who this affects. But this person just handed me this bill like 20 minutes ago. She's like -- we're talking about, like, close to 200 people who have been cited by collection agencies for failure of the health insurance company to pay the claims. And so, again, you might say, "Well, you get insurance and you're able to stave off the increases and deductibles and the copayments." And I think that is something that was very important for us to do. But no one should be placed in a position where, even -- they go to their doctor, and the doctors are saying, "Well, we've got to know that you're going to pay our bills, that it's going to happen." And this is unfortunate. So it's not the doctors' fault; it's not our members' fault. But it's not the best of systems, to say it mildly.

ASSEMBLYMAN MORGAN: Are they licensed to be an insurance agency in New Jersey, to be a insurance product holder?

MS. TWOMEY: I'll let Barbara answer that. I'm assuming they're licensed. Yes.

ASSEMBLYMAN MORGAN: Does our Commissioner have any leeway over this?

MS. TWOMEY: They're self-insured.

ASSEMBLYMAN MORGAN: But still, don't they have to adhere to the State's standards?

ASSEMBLYWOMAN WEINBERG: No. They're covered under ERISA then, under Federal standards, if it's self-insured.

ASSEMBLYMAN MORGAN: So our Commissioner Bakke can't--

ASSEMBLYWOMAN WEINBERG: I don't think so.

MS. TWOMEY: Well, we'll pass that information on, what we have.

Do you have any other questions?

ASSEMBLYWOMAN WEINBERG: That's something else we should inquire about to the State Insurance Commissioner.

MS. TWOMEY: One more comment. If you keep me up here, I'll probably talk forever. But you mentioned about the taxation issue and the exempt status. I do believe if that tax exempt status is to be extended from the BCIA to Bergen Regional, and you mentioned the term *master-servant*, I guess the question would be, if the BCIA does not have a say in control over violations of patient care, of delivery, how-- It just seems incomprehensible to me that they could have such a master-servant and meet that standard when it comes to a tax-exempt status. Or I think in this case, it's State taxes, sales tax is what was in question. So I would imagine if you say on one hand, if you don't have that authority and control over-- BCIA doesn't have the authority and control over Bergen Regional Medical Center, then I imagine that they can also claim to have that control when it comes to giving the--

ASSEMBLYWOMAN WEINBERG: Yes.

Let me read a paragraph from -- in answer to my inquiry to the Division of Taxation, from Robert K. Thompson, Director of the Division of Taxation, of the State of New Jersey. And he says -- he's talking about the other case -- "By way of background, the Division was before the New Jersey Tax Court last August on another agency matter. The Court followed a United States Supreme Court decision holding that, in order for a government contractor to receive a derivative tax exemption, a 'master-servant' relationship between the parties is required. The principal must have control over not only what is done by the agent, but also how it is done." That's a U.S. Supreme Court decision. The New Jersey Tax Court held that "Such an agency did not exist in this other case." And last November, that person filed an appeal of the Tax Court decision, and that's what-- They are awaiting the results of that appeal. But, in fact, "The BCIA, in order to give a tax exemption" -- the way I read this, and I very often practice law without a license, but I am reading the plain language -- "They either have control over everything that Solomon does, and therefore, Solomon can use their tax exempt, or they don't have control over anything Solomon does, and therefore, they are not tax exempt." You can't be a little bit tax exempt--

ASSEMBLYWOMAN VOSS: Like a little bit pregnant. (laughter)

ASSEMBLYWOMAN WEINBERG: --to coin a phrase from another area of our collective lives. (laughter)

ASSEMBLYMAN GORDON: A little bit pregnant.

ASSEMBLYWOMAN WEINBERG: So -- thanks, nobody would have caught that if you hadn't said it, Gordon.

ASSEMBLYWOMAN VOSS: I said it. (laughter)

ASSEMBLYWOMAN WEINBERG: Oh, it was you, Joan. I'm sorry.

ASSEMBLYMAN GORDON: It was the other Gordon.

ASSEMBLYWOMAN WEINBERG: The other Gordon.

So I am anxiously awaiting this. Because, as I said, this is a very important issue, and I am delighted that the State of New Jersey is taking it so seriously. So if, in fact, they are not tax exempt, they are going to owe all that sales tax on anything that they have bought at that hospital. And, gee, Paramus's tax rate is going to go way down.

MS. TWOMEY: Well, let me just again thank this Committee. I know that the freeholders-- It's a different makeup of freeholders than -- none of them are responsible for the decision. None of the freeholders, the county exec, or the freeholders were responsible for the original decision, as well as none of the members on the BCIA. And I think that, along with you, as three groups looking at this together, if there is a will, I believe there is a way. And I do believe that the-- I know that you're genuine and sincere about this interest, as I believe our freeholders and the members from the BCIA. So we look forward to working with you, and we look forward to seeing that this problem gets resolved.

Thank you.

ASSEMBLYWOMAN WEINBERG: Ann, thank you very much.

And I'd like to call Barbara Rosen, who is the head of the local Health Professionals and Allied Employees directly involved with Bergen Regional.

**BARBARA ROSEN, R.N.:** Thank you.

I just want to, on behalf of all of our members today, truly thank you for bringing this attention to this public issue, to us, that we've been plagued with for the last six years.

The strike that we recently came out of wasn't just the result of contract negotiations. This strike has been the direct result of the conditions and the quality of care at our hospital -- and I am saying our hospital, because we do believe it's our hospital -- for the last six years.

In a lot of ways, we felt like we were staging a strike that really took on a fight for the whole state, the whole county, for taxpayer accountability, for quality patient care, and the rights of all of our health-care workers.

I don't want to be redundant on anything that has gone on so far. You've spoken on contract terms and Solomon's records in other states. But what I can tell you is that Solomon's record in other states is consistent at Bergen Regional. According to the New Jersey Department of Health and Senior Services, our long-term care division ranks 28 out of 29 among Bergen County nursing homes.

Inspectors found 25 violations of Federal nursing homes standards at Bergen Regional between 2001 and 2003, with 15 of the 25 violations occurring in the year 2003. The state average for a nursing home in New Jersey is six violations a year. Citations included repeated failures for proper treatment of bedsores; providing clean, safe food; and to provide each resident with the highest quality of life possible.

Staffing data reveals why. Since the privatization of Bergen Pines, we've had a 42 percent reduction in registered nursing staffing, and that cut has been consistent among the hospital, not only of professionals, but of our

ancillary staff as well. As a result, Bergen Regional, on the average, provides 15 percent less hands-on care for each resident than do other New Jersey nursing homes, and on an average of 22 percent less care for each resident as do other nursing homes nationally.

In addition to providing fewer staff, Solomon has also reduced the skill mix at Bergen Regional. In some of our long-term care units, there is only one licensed nurse for 60 patients. There have been cutbacks in resources and programs as well.

For example, a budget for art therapy supplies, which was once only a modest \$500 a year prior to Solomon takeover, has been slashed to an appalling \$200 a year, out of which our art therapists must provide all the crayons, markers, paints, and other supplies they need in order to provide therapy, on an ongoing basis, for about an average of 40 patients throughout the year.

Management has also cut back drastically on the Community Reentry Program for adults in extended care. The goal of this program is to get participants back into the community and includes supervised community activities, such as shopping and bowling trips. With fewer resources, participants now go on less than half the visits than they once did.

Understaffing not only jeopardizes the safety of our patients, but it also threatens the safety of the caregivers and contributes to the exodus of staff from the bedside. In 2003, Bergen Regional Medical Center suffered nearly 300 reportable on-the-job injuries, illnesses -- including needle sticks, back and shoulder injuries from lifting and moving patients, scabies -- and patient assaults. In fact, patient assaults, including bites, punches, kicks, and scratches

to employees' faces, arms, backs, stomachs, and chests accounted for 30 percent of reportable injuries for Bergen Regional in 2003. Frequently, these assault occurred when staff tried to prevent patient-on-patient assaults. It is important to remember that generally only injuries requiring medical treatment beyond first aid are reportable. As a result, many injuries related to workplace violence, including verbal assaults that often go on to an escalated physical assault, go unreported and uncounted.

We have not stood idly while Solomon has undercut patient care and safe working conditions at our hospitals. We are a regular and vocal presence at meetings of the BCIA and the Community Oversight Board, where we have repeatedly voiced our concern for the safety of our patients, and our frustration over the intransigence of hospital management.

We have been consistently frustrated by the lack of authority of the Bergen County Improvement Authority, or by the Community Oversight Board, or the Freeholder Board. They all seemed to have their hands tied by a sweetheart contract signed by the Schuber administration six years ago. Yet, we expect our elected officials to do whatever they can to address this issue.

I just want to tell you, on Global, when we were negotiating, we put in an information request of the total cost of the insurance. And what we got back was a \$6.9 million figure that represented the whole hospital. They were explicit in telling us that it wasn't only limited to our bargaining unit. And that has to raise the question of: Why was there 18 million charged, with \$7 million owed, when there was only \$6.9 million cost. And at the same time, I have to tell you that we have a frequent record of our employees either being denied or delayed claims. We had, in April, 159 employees that were in collection

agencies. There's litigation pending with the company. They have a list of exclusions, that we carefully compare to other insurance companies, that are totally inconsistent with other excludable items on insurance issues -- one being that they don't provide psychiatric care to a skilled nursing care facility, which we don't understand at all. They don't provide care for any self-induced injury. We don't know what the definition is on self-induced, because as a medical practitioner, you can see self-induced as being almost everything. And they don't provide for behavior problems in children.

We've fought back a huge cutback. It was more than the copays. They tried to implement a 10 percent co-insurance on all of our fees that were incurred in-network and to try to reduce in-network to two hospitals. And I have to say that our physicians also have not received payment from this company. It's a frequent complaint at the hospital, and that their usual and customary fees seem to be much lower than what is acceptable in the area, and has an impact both on our physicians and for any kind of employee that's in an out-of-network situation that has to keep 30 percent.

So I thank you again for your diligence. We have referred the Global Health Insurance over to the Labor Department for an investigation, because they claim that they're not subject to the laws and regulations of the New Jersey Insurance Commission. So thank you again for your time.

ASSEMBLYWOMAN WEINBERG: Barbara, if I may, do you have a copy of your testimony that you can leave with us, please?

MS. ROSEN: Yes, I do.

ASSEMBLYWOMAN WEINBERG: Particularly -- I'm particularly interested in, for instance, \$200 for all your patients for their art supplies for art

therapy. Wouldn't that not constitute diminution of services under the contract?

MS. ROSEN: We believe it is. It is. It's a constant hunt. Like, you look at this chart and there's millions of dollars, and our art therapists can't have enough money to buy crayons. And it's hard sharing to that extent, after a certain point.

ASSEMBLYWOMAN WEINBERG: Assemblyman Manzo.

ASSEMBLYMAN MANZO: The incidence of patient care, or lack of patient care, that you've cited here in your testimony, have you made the BCIA aware of that?

MS. ROSEN: The BCIA has been aware of that.

ASSEMBLYMAN MANZO: They have been aware?

MS. ROSEN: Yes. The one-to-60 ratio, in particular, has been an issue.

ASSEMBLYMAN MANZO: No, I mean those specific instances that you just elaborated in your testimony with--

MS. ROSEN: To my best knowledge, they're aware.

ASSEMBLYMAN MANZO: Okay. My question is, have they indicated to you why they then -- take up the provision of their contract with the hospitals, that gives them the leeway to cancel a contract if patient care is at risk?

MS. ROSEN: No. I haven't heard any--

ASSEMBLYWOMAN WEINBERG: By the way, because Barbara alluded to it a little bit in her remarks. There are three different bodies involved in this -- the Board of Freeholders, who -- their predecessors are the mothers and

fathers of this fine work; and then there's the BCIA, holds the license; and then there's something called the Community Oversight Board, which is also appointed by the freeholders and is supposed to meet regularly to take up issues of patient care. So when these people go to try to report these incidents, there are three different groups, three different meetings, three different times of each month that they have to go make these reports. And there's a lot of--

ASSEMBLYMAN MANZO: But as I understood it, only the BCIA, or we're being led to believe, only the BCIA can cancel this contract. I have another opinion, which I'll summarize on, but--

ASSEMBLYWOMAN WEINBERG: Yes. Well, okay.

ASSEMBLYMAN MANZO: And my point is, is that if this information now, our transcript, is given to them, I think there's adequate information there to give them some leverage.

ASSEMBLYWOMAN WEINBERG: Oh, we certainly will produce a transcript out of this, and we'll be providing it to the BCIA, to the Community Oversight Board, to the Board of Freeholders, to the State Health Department, to the Attorney General's Office, to the State Division of Taxation, and any other agency I can think of that might be interested. (laughter)

ASSEMBLYMAN MANZO: My point -- yes.

ASSEMBLYWOMAN WEINBERG: Any other questions for Barbara?

ASSEMBLYMAN JOHNSON: Madam Chair, one quick question. You had mentioned in your testimony that some of the employees were being dunned by collection agencies, because their medical bills were not

being paid by the insured. Would that also include, or has that affected, to your knowledge, has that affected their credit rating?

MS. ROSEN: Yes, it has. And as a matter of fact, some of our employees have actually gotten their wages garnished from facilities because their health bills were not paid.

ASSEMBLYWOMAN VOSS: That's just outrageous.

ASSEMBLYMAN JOHNSON: Madam Chair, I have no further questions.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Barbara.

MS. ROSEN: Thank you. And thank you again to this Committee.

ASSEMBLYWOMAN WEINBERG: We have one other person on the list of people who presigned, and I hope she's still here -- Bridget Devane, from New Jersey Citizen Action. Yes, you are.

ASSEMBLYWOMAN VANDERVALK: Madam Chair, may I?

ASSEMBLYWOMAN WEINBERG: Oh, I'm sorry.

Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: I really apologize. I have an appointment, I must leave. But I want to express my appreciation for this concept of a hearing on this issue. I think there's a lot of things-- Whenever a government official, in any capacity, is denied information, it's a problem. The public has a right to information and officials have a right to information. And one way or another, I am committed to work with you to get that information, and then proceeding from there on.

I just want to thank you for what you're doing.

ASSEMBLYWOMAN WEINBERG: Assemblywoman Vandervalk, we appreciate your being able to be here. And I would like to say, in the interest of bipartisan support, Assemblywoman Vandervalk and I have worked together on the Health Committee for a number of years. We've switched the chair seat back and forth for a number of years, as the winds of change are expressed in Trenton, and I think I would like to say: never has she allowed partisan politics to get in the way of what she considers appropriate care for our patients and for our residents. And I thank you for your help and assistance in this. (applause)

ASSEMBLYWOMAN VANDERVALK: Thank you.

ASSEMBLYWOMAN WEINBERG: I'll let you applaud her.  
(laughter)

Bridget.

**BRIDGET DEVANE:** Thank you.

I don't want to repeat all that has been said. Citizen Action has been working on these issues for years now. Throughout the '90s, we saw for-profit companies trying to come into New Jersey. In the case of Anthem Insurance, coming in to take over Blue Cross/Blue Shield for free, without paying a penny back to the public, despite the fact that for years the public have invested in our health-care insurance company. And the same with our hospitals -- the fact that we have invested in our hospitals throughout this state, these are public dollars that have brought these hospitals up to where they are today. And now a for-profit company is trying to come in -- and not properly giving back to those communities.

And, unfortunately, Assemblywoman Vandervalk is leaving, but the fact is, is that the Community Health Care Assets Protection Act, which Assemblywoman Vandervalk sponsored, is one of the strongest laws in the nation to protect hospitals, to protect the public's interest when a hospital goes from a non-profit to a for-profit, and also in the case from a non-profit to a non-profit. We need to monitor these circumstances as conversions happen and as takeovers happen. The Community Health Care Assets Protection Act was there for Memorial Hospital of Salem County, and it protected the interest of Salem County. And it also involves a public process. There were three public hearings over the Salem conversion where we raised serious concerns about the company coming in, CHS, Community Health Systems. And looking at their record around the country, we raised some concerns. And as a result, the Commissioner of Health, Commissioner Lacy, announced the appointment of an independent health monitor to oversee the hospital for up to five years. And that is currently going on, where that hospital is being carefully overlooked by this monitor.

Other conditions that we actually gained as a result of this -- the important piece of the Community Health Care Assets Protection Act is that the Attorney General also has oversight of this process. And the Attorney General, in this circumstance, looked at the financial investments of the hospital -- overseeing the finances, doing a proper investigation to determine how the money was being spent, how the hospital was operating for all these years, and also how was Community Health Systems going to continue to operate this hospital as they came in. So that process allows for the Attorney General to step in, which was what was missing in this case. This is, obviously, a part of

this process that needs to be included when we see county facilities being taken over by for-profits.

So that's one thing that, possibly, the State Legislature can look at for future situations. It probably cannot be helped in this situation, unfortunately, because of the fact that it has already taken place. But if we do see further circumstances where for-profits are coming into county facilities, we need to ensure that the Attorney General is a part of this process.

And this also was a case in Orange Hospital, the Hospital Center at Orange, which recently closed. Unfortunately, the Attorney General was not able to step in there as well, which is why Assemblyman Hackett has introduced A-2525, to allow hospital closures to be included in the CHAPA law, so that the Attorney General could have stepped in and see how Cathedral was shuffling money out of that hospital into their other hospitals, and how they were taking equipment out of the hospital. They were siphoning away things out of the Hospital Center of Orange, and unfortunately, it closed. And the Attorney General was not able to step in, because the Community Health Care Assets Protection Act does not apply to closures at this time.

So I just wanted to point out those incidences, the fact that there are some things that the State Legislature can do to make sure that the Attorney General has greater authority over these circumstances.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Bridget.

Lou.

ASSEMBLYMAN MANZO: I'd also like to make the employees aware of a bill that Assemblywoman Weinberg and myself had fought to get put

through, and that's the Patient Help Safety Act, which is very important and significant now. Because all those abuses that you're talking about, that you're seeing as a result of management decisions, should be now filed and put in paperwork so that people and the public know exactly what's going on in a hospital.

ASSEMBLYWOMAN WEINBERG: Assembly-- (no response)  
Okay.

Bridget, thank you very much. Thank you for your patience.

I have two more speakers who signed up. I hope they're both still here. Pastor Stanley Ellison, from the Jubilee Interfaith Organization of New Jersey. (no response)

Are you Stanley?

**REVEREND PEGGY NIEDERER:** I'm in disguise. (laughter)

I regret that Pastor Ellison needed to leave to conduct a service, and he asked me to give the presentation.

ASSEMBLYWOMAN WEINBERG: Your name, please?

REVEREND NIEDERER: My name is Peggy Niederer, and I'm representing Jubilee Interfaith at the moment. I would also like to echo what I've been hearing today -- a gratitude felt for your work in the State, and your interest and work for health care and making it better for everyone in our wider community.

I do not want to repeat things that you already have heard, so I will be very brief. We'd just like to mention a list of requests that were presented to the County Executive, Dennis McNerney, through his chief of staff on June 16, 2004, by the Jubilee Interfaith Organization. At that meeting, also, was

President David Thornton, who is President of the Jubilee Interfaith Organization.

Ann Twomey has mentioned some of the resolutions, so I will not repeat those. But I just would like to add to them from the requests that were mentioned on that day: A review of the history of Solomon's patient care violations, service, and staffing reductions and contract violations. And also among the requests was a request to replace the current BCIA outside monitors with an independent consultant.

As you can imagine, the Interfaith Organization is interested in patient care and also workers' rights, and the environment in all the hospitals to provide for the best care for all patients.

Thank you.

ASSEMBLYWOMAN WEINBERG: Thank you.

Do you have any questions? (no response)

Thank you very much and thank you for your patience.

REVEREND NIEDERER: May I give you copies of what had been presented on that--

ASSEMBLYWOMAN WEINBERG: Thank you.

Jeffrey Peck, Bergen Regional Medical Center.

**JEFFREY PECK:** Hi. My name is Jeff Peck. I'm one of the health-care workers at Bergen Regional Medical Center. And I would also like to thank you for conducting these hearings today. And most of what I wanted to say was said, so I won't be redundant there either.

Just to let you know, when you were talking about the history, I was there for a lot of those hearings on the privatization. It wasn't the first

attempt to privatize the hospital. In fact, the county government had hired National Medical Enterprises, with the abbreviation NME, and then shortly thereafter fired them and kept their CEO. And that might give you a template on how to go about replacing the manager. What would you do? Not that I would recommend hiring Mr. Gallagher, nor should I, but there was one way that the county went about it. This was not the first time that it was done.

And I just wanted to ask if there's any progress? You touched on it when Ms. Twomey was talking. There was a recommendation from Mr. Carroll for the specific legislation for the ex-Bergen Pines workers on their pension plans, and has there been any movement on that in the Legislature?

ASSEMBLYWOMAN WEINBERG: There has not. I think, as somebody pointed out here about the Pension Study Review Commission, which is really a statewide issue on health-care workers' pensions -- and I'm not sure that it's actually been appointed yet. I'm not sure of the status, but we will check.

MR. PECK: During the transition, we were promised that we would not lose any-- We didn't even-- We were bothered by the loss of holidays and all those other benefits. But the main thing that we lost was our pension plan.

ASSEMBLYWOMAN VOSS: Did they put anything in writing?

MR. PECK: It was verbal. And when you listen to the transcripts of the meetings, it was said -- the contract was not produced until the very last night of -- when the freeholders took the vote to make the transition. And there actually were copies of the contract that night, but they seemed to be hard to come by nowadays. I know it was a very thick contract.

And all the minutes that you asked for, Mr. Manzo, there'll be nuances that you'll read that you would have had to have been there. I know Mr. Sheehan, the late Mr. Sheehan, took a trip to Colorado. And they asked him when he came back, because he was supposed to be fact finding on the company -- and he shrugged his shoulders, which won't show up in the transcripts. He said, "I'm not an expert on health care. I went to the lobby. It was clean, and that's all I can say." And he got his trip paid for. And in fact, the only improvement they made to our hospital is the flowers in the lobby.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Mr. Peck.

That concludes anybody who signed a slip.

Did I miss anyone in the audience? (no response)

Okay. I know Lou is chomping at the bit to do some summary here, so go ahead.

ASSEMBLYMAN MANZO: There's a couple of things. And first of all, I am not clear at all whether or not the Improvement Authority and the freeholders realize, but -- based upon how they put and constructed this thing, or constructed the original deal together -- it's clearly evident to me that the freeholders can take action, and they should. There's no way that you can put all this together by resolution, RFPs going out, assign it to another autonomous agency to take your authority and delegate it -- that BCIA is responsible to county government and to the freeholders, and they have some say in that contract as does the county executive here. So they should review with corporate counsel and freeholder counsel the actions that they can take.

Secondly, and just reviewing the actions of the freeholder board, Resolution 2128-8, of 12/17/97, this -- I don't know. This flies in the face of law. What they've basically done is they've, at a meeting -- basically say this: They acknowledge that certain actions have been previously taken by the county executive and county personnel, prior to the date of this resolution, and they waive and ratify all of that activity. Now, some of that had to be stuff that had to go to RFP public bidding. I don't see how this section could stand up as a document of law.

Secondly, on the BCIA resolution, which is December 19, 1997, they turn around and say, "We ratify all actions -- all actions -- of the county executive, county employees, consultants, and agents of the county." You just can't do that. That's the job of the county government and the county freeholder board. So there are certain inconsistencies here.

And the most glaring one is what Chairwoman Weinberg pointed out at the beginning of the meeting, in her opening remarks. And that is, as I see it, there is a clear contradiction in what occurred here. The county operated under the Optional County Charter Law, particularly the statutes N.J.S.A.40:41A through 36, and they are in clear contradiction with the New Jersey Constitution, as you cited it, Article VIII, Section III. I believe this contradiction doesn't justify what the county did. They did not act in fulfillment of the State's Constitution, and they clearly, I think, violated their own Optional County Charter Law, that they were doing by taking these actions.

Finally, just on what happened here, and I'm a little bit passionate about it, because the same thing happened in my county with Pollack Hospital

and the nursing home at the Meadowview Campus in Secaucus. But it's funny how government treats its employees when it comes to health benefits. When the cost goes up, they find a way to put extra money in a budget. Yet, when it comes to the health care of the residents in their nursing homes or hospitals that they're supposed to treat, it's "Well, let's privatize and save money." I mean, that's a matter of conscious and a matter of, I guess, morals of those who serve you. But when we look at one basic tenant, that we should remember, is that government hospitals and government health-care facilities, which are established for the indigent and the needy, were intended for care and not for profit. (applause) And that is what's wrong here.

Someone got the idea that we can take this system and manage to make a profit and still give people care. You're in two different directions. So you've got to commit -- when you're doing something for your indigent and the needy -- that the bottom line has got to go out the window. Because that's your moral obligation and that's your conscientious obligation. But what really is the sin here -- all that information I've asked for -- is that when you have consultants, lawyers, and principals meeting outside the scope of sunshine laws and making decisions on who's going to get what contract, who's going to privatize what, and then pass them on to a, supposedly, legitimate committee, a team, to make decisions on that -- and then pass that on to a freeholder board, which doesn't know what was going on in those rooms and what information was passing by; and then to pass that on to another autonomous agency -- this is what you get. This is what you get.

So, Madam Chair, I hope we come back at our Committee sessions, in September, with the answers we have, and really utilize what happened here in doing some laws in this state that prevent it from happening elsewhere.

Thank you.

ASSEMBLYWOMAN WEINBERG: Thank you very much, Lou.

Any other comments from anyone?

Assemblyman Gordon.

ASSEMBLYMAN GORDON: Just very briefly. Obviously, we've begun to address some critically important issues here. I think we need to take whatever steps are necessary to fix what went wrong at Bergen Regional, and we need to undertake the legislative initiatives to prevent it from occurring again elsewhere in the state.

And I would just add that -- it occurs to me that there is, this is just a beginning -- that there's a tremendous amount of analysis and material to sift through to find out just what happened here. I don't know whether our staff, as capable as they are, will have the resources to do that. If we need additional resources, I hope we can go to the Speaker and our leadership to make sure that whatever is needed is provided so that we can get to the bottom of the problem.

Thank you.

ASSEMBLYWOMAN WEINBERG: I think that's a very cogent comment; but I'm sure David Price, who represents that vast bureaucracy known as the Office of Legislative Services, is going to put many of them to work on doing some of the research that we've requested here.

Any comments from here -- from this side?

ASSEMBLYMAN JOHNSON: Yes.

ASSEMBLYWOMAN WEINBERG: Go ahead.

ASSEMBLYMAN JOHNSON: Madam Chair, I'd like to thank you for inviting me onto this panel today. What I've learned here today -- and of course I don't sit on the Health Committee -- but what I've learned here today about the events in my county where I live are very disturbing. And if someone had told me this in the street, I wouldn't believe them.

And to echo Assemblyman Manzo's comments, this hospital, their mission in life -- and I sound like a military guy -- their mission was to take care of indigent and the needy. And to turn it into a for-profit operation, I don't understand how one could even fathom doing that.

So I'd like to thank you for inviting me here today to observe the events here today. I'd like to thank those who have participated here today. I thank you for coming forward and taking time out to give testimony. And I'm going to commit myself to ensuring that this doesn't happen again, and to ensure that those people in Bergen County who need health care and an access to quality health care get it. And also, the employees, who provide that care, that they're taken care of. And it's just been an experience for me today that I will remember for a long time.

So thank you, Madam Chair, for allowing me to be here.

ASSEMBLYWOMAN WEINBERG: Thank you, Assemblyman.

ASSEMBLYWOMAN VOSS: Oh, I just want to thank you for inviting me today. I am not a member of the Health Committee, but I have been very involved in what has been going on, and I will continue to be very involved in what is going on. I hope to be on the Committee, that's going to be looking at the pensions and benefits and things, in the future.

I thank you very much.

I've really followed everything, every step of the way. And believe me, you have very tenacious people up here who are not going to forget what they heard, what they have found out, and what they are going to find out.

Thank you. (applause)

ASSEMBLYWOMAN WEINBERG: I think that we put a much-needed spotlight on this contract and many of its shortcomings. We are determined that such a thing will never take place in the State of New Jersey again, as long as any of us are here to put forth the legislative remedies.

We are determined to find out the information that we need to find out from this company -- the questions that have been raised by my esteemed colleagues, here, on all sides of the aisle. We will go after that information. We will put it together. We already know that we're asking the Attorney General's Office to look into the constitutionality of these loans. I am already on record, in terms of the Division of Taxation, and what I anticipate following what the U.S. Supreme Court has already said on such issues, that this company might be forced -- in fact, I would say, from what I read in that letter -- probably will be forced to pay their duly owed taxes.

We will find out more about these loans, and how they were done and whether or not they were constitutional. And we will give Solomon Healthcare another chance to answer the questions that we put forth. And if they will not, we will seek subpoena power to get that information from them.

I want to thank all of my colleagues, and, most particularly, all of you who came forth and have stuck with this for many years. It has taken us

a long time to get the gist of this very complex arrangement. I appreciate that we have the opportunity to help put it in its appropriate context.

And I think, as Bob Gordon said, this is just the beginning.

So the Committee is adjourned.

Thank you very much.

**(HEARING CONCLUDED)**