



Family Child Care Task Force Transcription

October 12, 2019

9:05 am to 2:50 pm

Broadway Place West, 1300 Godward Street, NE, Minneapolis, MN 55413

Lake Nokomis Room

Rep. Ami Wazlawik: Okay. Good morning, everyone. Welcome to the second meeting of the Family Child Care Task Force. Thank you so much all of you who are here who made it out in the weather today. And for those on the phone, thank you for being here as well. I am going to turn it over to our facilitation team who is going to introduce themselves and talk a little bit more about what we're going to be doing in this meeting and then we'll get started with the meeting.

Stella Zimmerman: Okay. Thank you Representative Wazlawik. Good morning, everyone, my name is Stella SiWan Zimmerman. I'm the member of the facilitation team along with Ashley Kitchen and Jolene Roehlkepartain in the back. We are very excited for today's agenda, and we also want to thank the leadership group which consists of the co-chairs as well as DHS in helping shape the agenda arranged for presenters for today, and then also materials for today's meeting. We would also like to thank Search Institute for helping us with the space. It is exciting to see everyone come together. I didn't know what the weather was going to be like today, but hopefully it wasn't too bad on the roads. Please note that we will not be taking any public testimonies or questions. So if you have any questions, please do e-mail them to us, fcctf@acetinc.com. So we put our e-mail also on the two poster boards in the back. To better engage folks participating in the call throughout the meeting and for the audio recording, we are recording, can everyone please state their name before speaking, okay? Representative Wazlawik is the lead, co-chair for today's meeting, and will also be going through member introductions. Representative Wazlawik.

Rep. Wazlawik: All right. So we're going to just do quick introductions. I know we did that at our first meeting, but we do have a couple of new—I think we have a couple of new faces here. So we're going to do quick introductions. And then if you did not attend the first meeting last month, if this is your first meeting, we would like you to share in one minute or less what aspect of being a member of the task force are you looking forward to most. So if you were here at the first meeting, feel free to just say your name and the organization that you're representing or the group that you're representing. If you were not here, please, in addition, add that one little piece of information. So I can start. We'll just go this way around the table. My name is Representative Ami Wazlawik, I am one of the co-chairs of the Family Child Care

Task Force. I represent District 38B in the Minnesota House, and that's the White Bear Lake and surrounding suburbs.

Sen. Mary Kiffmeyer: Hello, I'm Senator Mary Kiffmeyer, representing the senate, appointed by the senate to be here. And my district is Big Lake, Elk River, Otsego, Albertville, St. Michael, Hanover, and 14 homes in Dayton.

Stephanie Hogenson: I am Stephanie Hogenson, I'm with the governor's children's cabinet.

Heidi Hagel Braid: I'm Heidi Hagel Braid, First Children's Finance.

Ariane Bromberg: I'm Ariane Bromberg, I am a family child care provider and I represent Family Child Care Incorporated of Olmsted County, which our major city is Rochester.

Tiffany Grant: Hi, my name is Tiffany Grant, and I am representing Excellent Care, family child care providers from metropolitan area.

Kim Leopold: I'm Kim Leopold, I am a child care license and social worker, and I represent Association of Minnesota Family Child Care Licensors.

Scott Marquardt: I'm Scott Marquardt, representing the Minnesota Initiative Foundations.

Sen. Melissa Wiklund: I'm Melissa Wiklund from the state senate, and I represent most of Bloomington and part of Richfield.

Samantha Chukuske: I'm Samantha Chukuske and I'm a provider from Southwest Minnesota.

Rep. Wazlawik: We need to speak up.

Liz Harris: I'm Liz Harris and I am a child care provider from the metropolitan area and I'm on the Cottage Program.

Julie Seydel: Julie Seydel, Minnesota Association of Child Care Professionals and also a child care provider.

Ann McCully: Ann McCully with Child Care Aware of Minnesota.

Reggie Wagner: Reggie Wagner, I oversee the licensing division at the Department of Human Services.

Rep. Lisa Demuth: Good morning, my name is Representative Lisa Demuth, representing District 13A in Stearns County with a number of towns and townships.

Hollee Saville: Hollee Saville, I'm a licensed family child care provider in St. Michael, representing Greater Minnesota.

Kelly Martini: Kelly Martini, I'm a family child care. I also represent, and I don't think I said this last time, SBCCA, which is Stearns Benton Child Care Association.

Lanay Miller: Lanay Miller, I'm a licensing social worker and I'm representing the Association of Minnesota Family Childcare Licensors for Greater Minnesota.

Marit Woods: Marit Woods, I'm a parent of a child enrolled in child care currently.

Rep. Wazlawik: Thank you. And those folks on the phone, if you want to introduce yourselves, as well.

Erin Echternach: Hi, everyone, I'm Erin Echternach, I'm the assistant director of Greater Bemidji, so the Economic Development Organization in our region. I have an eight-month old, and I'm on the task force with a parent perspective, but also coming from economic development. I mean, these social issues that we're seeing in Rural Minnesota, so housing, transportation, child care, all interconnected with us building our region, so that's why I'm involved, and what I'm most looking forward in getting out of the task force. I'm sorry I haven't been there in person. I will hopefully be there soon.

JoAnn Smith: I'm JoAnn Smith, I'm a parent from International Falls, and I also work with economic development on the Koochiching Economic Development Authority. So again, we share similar interests with development.

Rep. Wazlawik: All right. Is Erin with us? I don't think she is. All right. So the next thing we're going to do—thank you everyone for introductions. The next thing that we're going to do is we're going to review the meeting notes from the first meeting. So if you want to find those in your materials, they say Family Child Care Task Force Minutes at the top. Just quickly look over those, review those and then we will approve them after we had a minute or two to review those.

Scott: Question. Procedure on minutes, I won't be the first one to talk, but it'll be awkward anyway. Does it matter, on location, it says the Four Points, I believe we're at the Honda Dealership? I don't know if that is a legitimate question, I'm just asking.

Rep. Wazlawik: I don't think it makes that big of a difference. We all know where we work.

Kim: On the minutes of calls for next steps, I don't know for sure when if a photo of a receipt could be submitted or if it had to be an actual paper receipt. So Beth Fraser, you were going to check on that. Do you have an answer?

Beth Fraser: I do have an answer. We have looked, and people can submit receipts of a scan or a photo, but they need to keep the original in case there's questions about it.

Rep. Wazlawik: All right. So we've had some time to review the meeting notes from last time. And now, we're going to officially vote on them. So we're going to do a roll call vote, so we make sure that everyone has a say in this process. So I'm just going to read the names off my list here and please, if you are here or present on the phone, please, aye if you approve the minutes and if not, I guess say nay. I don't know why, but we'll go through the list. All right. So first up is an Ann McCully.

Ann: I'm ready this time, aye.

Rep. Wazlawik: Ariane Bromberg.

Ariane: Aye.

Rep. Wazlawik: Cyndi Cunningham is not here. Dan Dorman? Elizabeth Harris.

Liz: Aye.

Rep. Wazlawik: Erin Echternach.

Erin: Aye.

Rep. Wazlawik: Erin Johnson [Bolsted 08:40] is absent. Heidi Hagel Braid.

Heidi: Aye.

Rep. Wazlawik: Hollee Saville.

Hollee: Aye.

Rep. Wazlawik: JoAnn Smith.

JoAnn: Aye.

Rep. Wazlawik: Julie Seydel.

Julie: Aye.

Rep. Wazlawik: Kelly Martini.

Kelly: Aye.

Rep. Wazlawik: Kim Leopold.

Kim: Aye.

Rep. Wazlawik: Lanay Miller.

Lanay: Aye.

Rep. Wazlawik: Laura Bordlan? I don't think she's here today. Marit Woods.

Marit: Aye.

Rep. Wazlawik: Myself, aye. Representative Lisa Demuth.

Rep. Demuth: Aye.

Rep. Wazlawik: Reggie Wagner.

Reggie: Aye.

Rep. Wazlawik: Samantha Chukuske.

Samantha: Aye.

Rep. Wazlawik: Scott Marquardt.

Scott: Aye.

Rep. Wazlawik: Senator Mary Kiffmeyer.

Sen. Kiffmeyer: Aye.

Rep. Wazlawik: Senator Melissa Wiklund.

Sen. Wiklund: Aye.

Rep. Wazlawik: Stephanie Hogenson.

Stephanie: Aye.

Rep. Wazlawik: Tiffany Grant.

Tiffany: Aye.

Rep. Wazlawik: All right. We have that done. All right. Next, I'm going to turn it over to Senator Kiffmeyer and she's going to provide an overview of the meeting feedback from the last meeting.

Sen. Kiffmeyer: Thank you very much. So the overview of the feedback from the last meeting was the large majority agree or strongly agree, zero percent disagreed. There was six percent in every category of strongly disagree, but that came from one sheet that was filled out that said, "Well-run meeting," but then went through and did strongly disagree. I'm not quite sure if that matched up, but that was the one, otherwise, it was mostly strongly agree, and then less a percentage just agree. So that is the report from the surveys from last week.

Rep. Wazlawik: And some of you may notice there is a note up here that the meeting is being recorded. And we wanted to just have a brief conversation about the audio recordings. So we have heard from people that they want to be able to access those audio recordings, particularly if they couldn't be at the meeting or if they're members of the public who want to have access to that audio recording. So I think one of the things we wanted to ask about was if we want those audio

recordings to be posted on the website or if we would like to have them be more available if people want to request them. Any thoughts on that?

Sen. Kiffmeyer: On the website.

Rep. Wazlawik: Okay. We just want to make sure that people feel comfortable knowing that they're being recorded, that it's on the website if we choose to do that.

Sen. Kiffmeyer: This is a public task force, and I think that it's important for people to have this information. We have nothing to hide.

Beth: So just to add one note. So under the Open Meeting Law and under our accessibility laws, in order to post it on the website, we also need to post a transcript so that it's available for people who are deaf or hard of hearing. So just so you all know, it will not only be an audio recording, there will also be a transcript and it will be very helpful for everybody to—both for the people on the phone and for the audio recording for you to say, this is that, and—or don't say that, say your name. To say your name and then speak so that it's clear for everybody listening or the person doing the transcript who said what.

Reggie: This is Reggie. I just have a question that they don't know if you know or if others know. In order to do that and to make a transcript and make it accessible, how does the timing of that work with the audio? Do they get posted at the same time? That will obviously be a little bit of a delay as opposed to just being able to post the audio. So I don't know if we know that or if we can at least say—I don't know if they have to be done at the exact same time. The timeframe, I just want to be clear, it's not—this would be available say on Monday, I would imagine. So I just want to make sure, do we know if there's a—

Beth: This is Beth. My understanding is they do need to be posted simultaneously. Everything on our website needs to be fully accessible when it's posted.

Sen. Kiffmeyer: This is Mary, then. Do you know how long it takes—my concern is the delay. So how long does it take to get the transcript so you can post the audio, do you know?

Stella: This is Stella. I can answer that. In terms of the audio, there's a couple of things that need to occur with the audio and the transcript, and that would be first, editing the audio for the small group breaks, stuff like that. So we got to take those out, get the audio file ready, then goes for transcription. So the transcription comes back and then we review it, make sure everything's okay. Then we get it to DHS who would then post it. So we have to work out a few technology items in terms of how and where to post this, whether it's going to be through a link through the DHS, YouTube, or through ACET's Vimeo account. So there's a few, a couple of logistics, but in terms of your questions, Senator Kiffmeyer, it would be, I would say probably about a week's time, five to seven days I think would be realistic for a timeframe, business days.

Ann: This is Ann. Can I just ask, wouldn't this also be—couldn't this be on the legislative page? I'm just curious since it was a legislatively mandated task force, and would that change this process?

Sen. Kiffmeyer: I don't think there's a—there are a variety of legislative pages, but generally, the task force page is the page.

Rep. Wazlawik: Yeah. This is Ami Wazlawik. That's the exact we were thinking is it would be on that page with all the materials from meetings. There would be a recording and a transcript as well.

Ann: So [inaudible 14:54] is a separate thing with DHS then? Okay.

Beth: This is Beth. So the task force webpage is on the DHS page, it's not on the legislature's webpage.

Ann: And I guess—sorry, this is Ann again, I was—this is fun.

Kim: We're going to know each other really well. This is Kim.

Ann: I was curious as to what the Minnesota Legislature and then us page. And maybe that needs to also be transcribed but that's not been my experience that I'm aware of.

Sen. Kiffmeyer: And I don't know, but the general process in the past, it was the task force. The big thing is that there could be a link, but the question I have is—this is Mary. The question I have is, where would we even do that? We can put it under my page and your page and the same with us as another representative or senator. We can do that.

Rep. Wazlawik: This is Ami. Any other thoughts on—is everyone okay with posting the audio and the transcript on the task force webpage? Does that sound like something we can all agree on? Okay. So we'll go with posting the audio and the transcript on the webpage for the task force. All right. This is Ami again, and we're going walk through the schedule, the task force schedule with the meetings. It says Family Child Care Task Force Schedule by Duty at the top, and it has a chart on it, boxes.

So just going to walk through the meeting dates and times, the duties that we're going to go through. I won't read everything on here, but just to give you a broad overview of what the schedule is for the next few months, and then we'll go from there. So today's meeting obviously, is October 12th, 9:00 AM to 3:00 PM. We're going to be talking, discussing a task force duties number one, which is about the difficulties providers face regarding licensing and inspection, and then number three, which is about variance authority. And we decided on those two today, even though number three wasn't in our top three or four, because we were waiting to see if we could get somebody, an expert on the topic area to talk about number two, which was one of our top issues.

So we thought that number three, there was a lot of discussion about that and that might be one that we would be able to get through relatively quickly and have a discussion about that. So that's the reason why those two are on our agenda for today. And then our November meeting on November 12th, that is when we are planning on having a discussion about duty number two, which is about regulatory reforms, and also about abbreviated license review and tiered licensure system. So that's what's on the agenda for the November 12th meeting.

Monday, December 16 would be the December meeting. And on the agenda for that day is task force duty number five, which is about alternative child care delivery systems and having a discussion about those topics. And then if you turn the sheet over, the January and February meetings are on the back. And the January meeting was for us, wrapping up anything if we didn't get through number one or number five, continuing discussion on those issues. And then the February meeting—January and February would be work on the interim report. So we have an interim report due March 1st of 2020.

I want to make sure that we have enough time in there to have a good discussion about the recommendations for the report, and also enough time for the folks working on the report to have enough time to put that report together. Also one topic in February would be, if we have draft legislation, would also be to discuss some of that draft legislation. So along with the draft report, if we have draft legislation at that point, we would be discussing that draft legislation as well and then discussing next meetings and what our plan is for that as well. And now, I'm going to turn it over to our staff from the facilitation team and they're going to talk a little bit, introduce us to our presentation.

Stella: Okay. Great. All right. So I think we're doing pretty good in terms of time. I think our next segment, which is the presentation at 10:00. So what would be great is if we can do a activity, a get to know you a little bit more activity similar to what we did before. So Jolene is going to be handing out an activity. Jolene.
[Small group activity]

Stella The next part we're going to be doing is going to be a presentation, and we're going to focus on tasks force duty number one. So I'd like to go ahead and share who will be the presenter. Barb Wagner is the manager of the Family Child Care Licensing Unit at the Department of Human Services. In her prior role, she has worked as a family child care provider, mentor, project coordinator and executive director for the Minnesota Licensed Family Childcare Association. A coach for the Center For Inclusive Child Care and trainer. She is currently completing her master's degree in educational leadership. Thank you. Barbara.

Barb Wagner: Great. Thank you.

Stella: And JoAnn and Erin, the presentation materials that Barbara is going to be going over, Ashley had e-mailed them to you?

JoAnn: Yeah.

Stella: Okay. Super. Oh, good.

JoAnn: Is it the presentation on surveys and variances?

Stella: Yes.

Barb: Perfect. Thank you very much. Awesome.

Unidentified Speaker: Do you want the screen to come down?

Barb: No, I don't—

Unidentified Speaker: You're okay? Okay.

Barb: All right. And we'll just give it a second here. It'll probably take a minute to catch up.

Stella: And if it's possible, for those on conference call, if you could please hit yourself on mute. I won't be able to control the Polycom for unmuting and muting. If you could please put yourself on mute until you're ready to speak.

Barb: I extended it. So it's showing up here but it's not showing up there. Usually when you do that, you did extend, it'll—makes you feel a little motivated, right for your—okay, let's see if this will—there we go. Perfect. Thank you. There. Right on. Okay. Good morning, everybody. So I'm Barb Wagner, I'm the manager of the Family Childcare Licensing Unit, and I have been in this role for about 11 months now. And so I do have a background in family child care. So what I wanted to do is I just wanted to share some information. Now, a lot of this information is going to be pretty high level. So we know that as licensors, many of you are probably very familiar with licensing, but we knew that not everybody was. So we wanted to make sure that everybody had that base knowledge. So to help with conversations today and throughout the task force. So yeah. So we're just going to give you an overview of licensing. So let me think about who needs a license. An individual who intends to care for children for more than one unrelated family in their home would need a family child care license. Both child care centers and family child care providers must be licensed according to Minnesota statutes, 245A. Typically, with child care centers, they're usually in an offsite building, they care for larger numbers of children, where with family childcare providers, they're typically in a providers home and can take up to 14 children at a time.

All right. So the unique thing about a family child care provider versus a center based is that it's a county-delegated system. So the counties are the ones that are going to be doing, they're the ones who are monitoring the providers. They're responsible for ensuring that there's compliance with health and safety

standards. DHS licenses child care providers based on the recommendation from the counties. So it's the licensors from the county that go out, do the visits, then they send to DHS, "Yeah, we recommend this person for a family child care license," and DHS issues the license. Counties also recommend sanctions to be issued by DHS. So we'll talk about a little bit more about that later.

So there are certain licensing things that the counties can do, and then there are certain actions that they recommend to DHS and that we will issue. DHS also monitors county agencies for compliance. This is called our Rule 13 visits. So the licensor is monitoring the provider. We, too, monitor the licensors for compliance. It used to happen every four years, and now we've moved to these visits every two. DHS also provides training and technical assistance to county licensors. The DHS Family Child Care Unit provides oversight technical assistance to all 87 counties regarding family child care licensing activities, which includes how to conduct investigations and how to recommend licensing actions to the department.

So we do training with the licensors. Our unit also provides information to licensors at regionally based meetings and technical assistance on using ELICI. Now, ELICI is a fairly new tool for us. It's an electronic checklist that county child care licensors are using to monitor family child care providers. So when they go out and do their visits, they now enter all that information into this checklist. And so we've got regional consultants that have been working with licensors in each of the counties.

During 2018, we had provided ongoing training on this ELICI tool to 18 locations throughout the state. We offered 16 classes which were offered in various county offices, two of them were held at the DHS training center in St. Paul. And then we also have our county outreach team that will go out to individual counties on an as needed basis. If they need some more technical assistance, they go out and provide that support as well.

All right. So regulatory requirements for licensed child care providers. So typically, when we think about the regulatory requirements, they tend to fall within four broad categories. So we've got health and safety requirements such as infant safe sleep, ratio requirements, we've got staff qualifications in trainings, physical standards, and then background study requirements as well. And just so you know, I mean, with a lot of these—some of these slides are a little bit more wordy. You guys have the PowerPoint presentation, too, so I might not go word for word, but you do have the information with you as well. So when we think about some of the—like ratio and group size. There are seven different classes of family child care types of licenses. Each license holder is—the license holder themselves is typically, the provider is the primary caregiver. And then there's child to adult ratios, maximum capacity in age restrictions across the different classes. So for example, with this picture, this is an example of a class A license. So a provider can have up to 10 children with one adult caregiver. Four of them would be school age, six of them would be infants, toddlers, and preschoolers with no more than three of those children being

infants and toddlers and no more than two being an infant. All right. So it just depends on the class.

Unidentified Speaker: Would you want to explain briefly that school age is age five and age [crosstalk 28:12].

Barb: Yeah. Sure. So infants and—well, so an infant would be up to 12 months, a toddler would be up to 2 years. So once they hit two, two and up to five would be a preschooler, and then five and up would be a school age, okay? Yeah. All right. So we also have physical standards that we're looking for. So child care centers, just like family child care homes must meet certain physical plant standards to ensure that children are safe while in care. And if you look at this list, both family providers and centers have to follow similar standards. So if it's applicable, a family child care provider may have a fire marshal inspection of their home. Some of the standards are going to review cleanliness and maintenance, crib inspections, equipment specifications, water temperature and safety, electrical appliance safety, and then restrictions or access to toxic or dangerous items.

Child care providers, both centers and family child care, need a background study. So in a family child care home, the person who is applying for the license would need a background study as well as an individual age 13 and older living in the household where the license program will be provided. Individuals from 10 to 12 may also be required to do a background study depending on if there's a reasonable cause. And then substitute helpers or caregivers that would be left alone with a child could also need a background study as well.

All right. So when we think about law enforcement mechanisms, they're a variety of things that occur during the license visit, and this would be something that the licenser would take care of. So during the visit if there are violations, there are a couple of things that can happen. The first one we see here is a fix-it ticket. So a fix-it ticket is a set list of violations that do not immediately impact the health safety or rights of children. They are typically things that can be corrected in short order within 48 hours, it's a set list by the commissioner. And these fix-it tickets are not posted on the DHS website. For those of you that might not know, there's actually a website, it's the licensing information look up website and you can go there.

If you're a parent and you're looking for child care, you could go Google—yeah, we'll do a search, not a Google, right, a search, saying Ramsey County and pull up the license providers, all right? So these fix-it tickets under that provider would not show up on that website. Now, a correction order, these are issued for violations that do not imminently endanger the health, safety, or rights of children. They're issued if a program is out of compliance with one or more standards on that date of the visit. And in most cases, correction orders are not paired with fines or any more serious licensing action, so these would be on that website.

And I will say—well, I'll get to it later. Other things with correction orders and family child care. So county licensors have delegated authority to issue these correction orders to family child care providers. This is again, not anything that the Department of Human Services does. Now, up until May of 2018, we had no way of knowing how many correction orders were being issued. So now that we have this electronic tool, our ELICI tool, this allows us the opportunity to be able to collect that data. So right now, we're in that process of collecting all the data from these licensing visits, and this is ongoing and continue to see what's going on.

I can tell you preliminary, looking at the data that we've collected so far, that about 80 to 85 percent of visits are completely free of—no issues, no correction orders, nothing. So that's what we're looking at right now. In 2018, the licensing—well, that's what I had just mentioned, right? So we have this electronic tool, so that now allows us to see what's going on in the field. All right. Some other licensing enforcement mechanisms. So if the nature, severity, or chronicity of the licensing violation warrants it, DHS may issue a licensing action. So some of those actions include a conditional license where a provider might say, well, we've got some conditions here that we're going have you follow for a year, right? That would be a conditional license. A fine, maybe a revocation of a license, suspension of a license or a temporary immediate suspension. So a licensor goes into a home, sees a critical situation or gets a report of abuse, that's where we might use a temporary immediate suspension. Again, thinking about the county delegated system, you got to remember, right, that the licensor is going out into the home and then they are making the recommendation to DHS. So the county speaks with us and then we issue this licensing action, okay? All right. For providers, we do have reconsiderations and there are appeals. There is a due process for providers. If a license holder has a correction order and they feel that that's an error, they do have a right to request reconsideration for a correction order and for conditional licenses. And they also have an opportunity for a contested case hearing. So say for example we did issue a temporary immediate suspension and they said, no, don't—they don't agree with it, they do have the right to appeal and go to a hearing. So something else that's new that's not on here, these are our more legal processes, but we also do have a dispute process for correction order. So this was something that just started from this past legislative session. It started September 30 where with correction orders, if during the licensing visit or the exit interview, if a provider does not agree with the correction order that the licensor is sharing, right, our hopes is that there's going to be some conversation. The licensor will say, well, based on rule or statutes, this is why I think a correction order is to be issued. And then the provider also has that opportunity to say, "Well, this is how I'm interpreting it." So based on conversation, if the provider still feels that they're not in agreement with it, then we do have a dispute process. There's a form that they can complete, attach any needed information and that comes to DHS and then we help make that final determination, all right?

Julie:

Barb?

Barb: Yeah.

Julie: This is Julie. One thing I think that we should mention in here when you're talking about the hearing appeals that they go before an administrative law judge. Even if the law judge sides on the part of the provider, DHS has the legal authority to override the judge's ruling. And I think that's real important for the parents to understand is that a judge can side with a provider but DHS can still say no if we don't agree with it.

Barb: Yeah. The commissioner will make a final ruling on that. You are right.
Kim: It also should be mentioned that at all of these hearings, it's the county licensor who is defending the order from DHS. This is Kim.

Barb: Yeah. Thank you.

Sen. Kiffmeyer: This Mary. Can we get a list of what those fix-it tickets currently are right now by county? And the other thing is correction orders. What constitutes a correction order, is there a list for that at all?

Barb: Well, typically, a correction order would be, if the licensor goes into the home and they see a violation of one of the standards. So I'm trying to think back, off the top of my head, I can only think of—I did child care for 10 years and I did get one correction order, and it was for some paperwork, I didn't have some stuff updated. So that went on my correction order, it was a reminder for me to make sure that I had to follow up with my parents, get signatures, fill in some parts of the paperwork and then let my licensor know that it was complete. So that would be an example. I would say—yeah, that's the one that comes—yeah.

Sen. Kiffmeyer: This is Mary. The thing is that whatever is in rule 9502, which is what we call informally, rule two, that's promulgated rules that set out standards and requirements that providers need to follow. And so that might be where some of that ratio of how many infants if you're class A, how many toddlers, and then statute in the Human Services Licensing Act 245A, can add to, complement what's in the rule, it can also overrule, change a standard that's in the rule. And so that's what the basis of any licensing inspection is, it's grounded in whatever is been either promulgated as a rule through agency rulemaking or passed into law through the legislative process.

And so we, through the ELICI in particular, that electronic checklist, took all of the standards in both of those places, put them into one standard checklist that all licensors now use, which is very different, which was trying to help address concerns about consistency, with a change for licensors to—maybe they had a checklist that they were very familiar with and worked for them. It certainly might've had everything on it, but ELICI has now standardized it. So if the rule part is observed as not being followed, then if it's not on the list of fix-it ticket, which are a smaller, di minimis, more immediate low risk type of things, then a correction order might issue.

Barb: And to speak to the fix-it ticket items, so it is typically on our website. I know I just took it down to update it. There were some things that were updated with the legislative new language, so that should be up sometime this week.

Sen. Kiffmeyer: Question I have is, it's kind of a new thing, this whole ELICI thing, I don't know if that was in statute requiring DHS to do ELICI, and so I'd like to know that. And I also like to know, when they developed this ELICI, were county licensors included in the development of ELICI, and were providers included as stakeholders of ELICI? Can somebody respond to that?

Barb: Did you want to respond to it, Reggie?

Reggie: Sure. This is Reggie just because Barb wasn't at DHS while it was happening. So no, ELICI, the Electronic Licensing Inspection Checklist Information, that's the long mouthful that we ELICI, is not a statutory requirement, it was something that we did looking at what a lot of other states had already done for many years to develop more of a data compliance, was also to help us get information from the counties that will need to be posted on our website to comply with some of the changes at the federal level that we've now adopted. So before, all that correction order stay in county files, and we needed to obtain some of that. So that was another reason we instituted development of the ELICI tool. So that's something that we do and looked at other states and what they did, what they would have done different and develop this tool. The county licensors were very involved in the development of it. We had a small work group with county licensors even as we developed the checklist, as we were taking all of the rules and standards and putting them into a written spreadsheet to then put into the development side with our IT people. And when we rolled it out, we rolled it out in small phases in a pilot with counties and county licensors and got some immediate feedback, tweaked what seemed to be the immediate functionality or techie type of issues. We did not engage providers in that tool, it was really a tool for the licensors to use. We did in our outreach presentations around the state the last couple of years, explain about the tool, explain how we developed it, showed them a little bit of that functionality. The checklist that underlies the electronic, ELICI is, although it's a long document because it's every possible rule and standard, that checklist is available on our website for any provider or even parent or the public to look at. So anything that could possibly be marked off in the electronic checklist is there for anyone to see and we've tried to make that available to providers. We've certainly had providers ask if they could be able to use that tool as their own self-assessment. And right now, it's all tied to our database, so we just haven't been able to get the bandwidth, technology, money and all of that to get, I don't know, there's probably a correct word for a user environment or something, but we're very interested in trying to prioritize that because if that's a helpful way for providers to take a longer checklist and actually use the tool that their licensor would, we believe there's great merit, it's just not quite there. So we know that that's a request and it's on our how-can-we-get-there list.

Sen. Kiffmeyer: This is Mary again. Is it possible for them to have a paper, a version that can just be printed out in paper version?

Reggie: This is Reggie. Senator, I did say it's on our website. That's been on it since we rolled the checklist app.

Sen. Kiffmeyer: So we have to [inaudible 42:32].

Reggie: No, that's okay. It's out there. Yeah?

Kim: This is Kim. I can also say that we were a part—there were groups formed to be a part of—for licensing workers to be a part of the inception of this. But as it's grown and changed, we have not been a part of that. We get ELICI updates. Lanay, help me out. Monthly, weekly changes, I mean, so we have not been a part of the continued development of this.

Reggie: And this is Reggie. One of the things that we're learning, so a couple of things, we have, and you'll see it on our thing, but we have a whole different way in the last year that we've been trying to engage more frequently with our county licensors. But part of what we have been hearing from them is that, and what we've shared and shared with all of you is that this ELICI tool, while we started with family child care, it's actually being used now for our child care centers. And as we've developed it, which was always our intent, it's for all of our DHS licensed programs. So that would be residential and outpatient chemical treatment programs, that would be ultimately for child foster care, for services that we license for those on the waiver.

So part of what we're learning is that as we build that tool out and make changes for our other licensed programs, it's having an impact on family child care licensors that are currently using it. So this is new for us, and we're learning like, "Oh, we didn't really think when we made that change that that would impact their day to day." So we're hearing from them, "What just happened, why did this suddenly change?" So we're acknowledging that as we make these changes for growing the tool, we had to build in how is this impacting our current users and how do we either let them know about the change or realize can we not make that change for them? So Kim is right, we're less having that ongoing process, and I think what we're hearing from them is we have to build that back in.

Stella: And this is Stella. Reggie, thank you very much. I know we have until 10:30, and I also want Barb, you—I know you have 31 slides and we're on slide 12, so please hold on some of the questions to the last 5 minutes. Barb, you have 15 minutes so that you can do some of your key components and then we'll leave 5 more minutes. And any other burning questions in the back, you all have a yellow pad. So if you could please write those questions down and then we'll work throughout the day and see how we could fold in some of the questions you have. Thank you, Barb.

Barb:

Great. Thank you. All right. So actually, that concludes this portion of the presentation. Another little bit of information that we wanted to make sure that we shared with, with all of you was related to the first task force duty, right? So the first duty is to identify difficulties that providers face regarding licensing and inspection, including specific licensing requirements that have led to the closure of family child care providers by reviewing previous survey results and conducting follow up surveys if necessary. So some of the information that I'll be sharing with you now relates to some surveys that have already been done within our state, what does that look like in some other states, and then offering some information that you all can use later when you host some conversations about what the next steps of this might look like.

So for now, this is again, giving you some base knowledge about what's been done so far with surveys. So an overview of post closure surveys about why family child care providers have closed had been done by a variety of organizations. So here within this presentation, we're going to be briefly looking at what Anoka County done, Sourcewell, Think Small, MACCP, DHS, and other states. What's interesting to note is that while on a lot of these surveys, we do see that regulations can be a factor. What it has not indicated is what are the specific regulations that are causing providers to close their licenses. So we'll take a look at what some of the surveys have said.

So in Anoka County. Anoka County, they do a survey to their providers when they closed their child care business. So we collected some responses from 2016 to present. And some of the—and I'm not going to go through every single one of these areas, but again, some of the things that providers were saying is, I'm retiring. The licensing requirements and training are a challenge. Career change, burnout, I've moved, interference with my family life, paperwork, isolation. Maybe less need to be home since my children are older now. I could just pause for a minute, too. Perfect. Okay. All right.

Now, Sourcewell. They also do a post-closure survey. Sourcewell is a regional government entity. They oversee or they provide licensing for seven counties in Greater Minnesota, including Cass, Wadena, Morrison, Todd, Crow Wing, Douglas, and Becker. Now, when they do their exit surveys, they are asking three specific questions. They're asking their providers, what has been your biggest challenge as a license provider? Provide any feedback that would be helpful, and then what is your main reason for not renewing or closing your license?

And the responses that they put in, too much paperwork, financial needs, no health care, demands of parents, monthly paperwork, separating personal life with my business, expenses and not enough income, another job opportunity, I'm retiring, age, health, no retirement plan, isolation, regulations. Busing was an issue. Someone also said lack of internal support, dealing with children with challenging behaviors. All right. Think Small. One of our child care resource and referral agencies in the Twin Cities. They did a post closure survey from January 2015 to January 2017. They asked providers why they started their business, challenges and rewards they found in their work and why they closed.

Now, when asked about the reason for closing, they offered four general buckets and that was business, career, financial, and personal. So some of those results, 44 percent of providers in the metro and 37 percent of providers across the state cited personal reasons as their reason for closing, such as low income, long hours, physically demanding work, I'm pursuing a different career, medical challenges maybe for the provider or other family member. Thirty-six percent of metro providers and thirty-five percent of providers across the rest of the state cited business reasons such as bureaucracy, red tape and rules.

Some were forced to close due to licensing actions, the cost of operating a business, the maintenance of their home, curriculums, materials, challenges with being self-employed, lack of benefits for example, additional time taken to complete trainings outside of an already long day, and then wear and tear on the home, and intrusive rules such as not being allowed to smoke in the home. All right. MACCP, the Minnesota Association of Child Care Professionals also conducted an anonymous survey in the spring of 2018. These were sent to providers who had an e-mail address in the Parent Aware system. And current and past providers were asked, if you have considered closing your—

Julie: Barb, I'm sorry. They were sent to all licensed child care providers who had an e-mail in the DHS system, not just Parent Aware.

Barb: Perfect. Thank you for that.

Ann: This is Ann. Parent Aware is what we call the incomplete licensing lookup through Child Care Aware.

Hollee: This is Hollee, I'm the one who sent the survey and that has helped get the e-mail addresses because it's the same as [inaudible 50:54].

Barb: Perfect. Thank you. So they were asked if you have considered closing your business or have already closed, what were the primary reasons why? So on the next page here, we see the numbers of the providers that responded, and a great majority responded increased regulation and paperwork requirements, increased training requirements, punitive methods of oversight by DHS and county licensors, mandatory fingerprinting, difficulty filling spots or making money due to the free pre-K in the area, low CCAP reimbursement rates, difficulty filling spots or making money due to reasons other than the free pre-K, and then no longer interested in providing child care in my home.

All right. DHS also did a post-closure survey. Back in January of 2018 through 2019, there were a total of 353 licenses that had closed and staff actually called providers and got their response to why they closed their business. So some of the things that we found that were shared with us, career change or moving to another job, moving out of the country or the state, retiring, no reason given were for some, family schedule, some just didn't return their renewal paperwork because they weren't returning to licensing, enrollment issues, health issues, family or personal issues, too many rules and changes. And now,

my own children are in school, and then another little portion just said other reasons.

All right. So the decline in family childcare is not just unique to Minnesota. This is a national trend that we're seeing across the country. Survey results from other states also reflect similar reasons for closure as we see here in Minnesota. So for example, when we look at Connecticut, Connecticut surveyed their providers who closed in 2017. And some of the reasons for closure, retired, moved, career change, regulatory reasons, right, medical reasons, business not profitable, maternity leave, death in a family. And the list goes on. Vermont also surveyed providers who closed July 2016 through March of 2017. Some of their reasons were, requested closure, did not want to renew, the program was sold or changed ownership. So they have a little different structure there in Vermont. We see some of the same things. The regulations were a reason, moved out of state, program closed due to low enrollment, program is serving children in a different license at a different location.

So when we think about how long family child care providers were licensed when they closed, this is something that we have been looking at lately and having some conversations about. So we looked at licenses that closed in 2016, '17 and '18 to see how long providers had been licensed at the time they closed. Now, what we found is that a significant number of providers closed after being licensed for less than four years. I'll have a chart for you, just a second. The next largest group of providers to close were those who were licensed more than 25 years. So if you take a look at this chart here, quite compelling, right? I mean, for those three years, the data is maintained fairly consistent, right? We've got these providers within these first four years closing their businesses, right? And if you look at statistics, thank you, with providers that—or small businesses, right, we know that those first four years are critical. And you see that leveling out in those long-term years, the five plus, and then we can see at the end that often, that could be due to retirement. So a lot of the things that we've been thinking about is, what can we do to retain these providers? How do we get them to stay in the field longer than two, three, four years? Why? Why are they choosing to close their businesses, right? What are some supports that we may be able to offer to help encourage them, incentivize them to stay in the field, all right?

So with that, right, we're going to be—well, you're going to get to talk about what that next step should look like, and you'll get to talk about some potential surveys. So I will share with you, you'll get this information after the break when you break into small groups. One of the things that we did is we put together two surveys, and the reason why we looked at two surveys, and literally, this is a springboard for conversation just to get the conversation rolling, we did two because we really think that it's imperative that we look at those providers that are closing within those early years, and is there, right? Are we going to identify a difference between those brand new providers versus the ones that stayed at long term? So we'll get to that, too.

I also wanted to make mention, so you do have the PowerPoint presentation with you, and we also gave you another document that you can have as a reference. This task force, excuse me, builds on the past task force work. And what we did is we provided a brief overview of the licensing related recommendations, showed what were the requirements, what has DHS done to date. So that'll be some information for you to reflect on maybe during the break or later on as well.

Reggie: This is Reggie. And I just want to clarify, the summary document, which I think people had asked for before to both understand the previous task force, which was legislators, this is a much broader group. And then also, to be clear, the document reflects, and I just want to call it, isn't just after the DHS, really, so many of you in this room, legislative changes, proposals, advocates, administrative or not. So this is a quick summary of that. We're required to do an annual report for at least three years from that. And much of this and more are in those longer annual reports. You got a copy of that in your binder, but just as a quick snapshot of where things are, that's what this document tries to do and just builds upon that. I know Senator Wiklund, you've been involved in that previous task force.

So that's what this tries to capture in a quick summary fashion, knowing that there's a lot more of other recommendations that are not core or specific to licensing, and there's a lot more information in those annual reports that tries to canvas it.

Barb: Great. All right. Any questions at all before I step down? I think what's up on the docket next is break time perhaps.

Rep. Wazlawik: I have a quick question. This is Ami. So there are some percentages in here and some numbers of responses. Do we have total number of respondents for those surveys? I think that would be helpful to know 44 percent of what number, I think will be helpful if we had the numbers.

Barb: Sure. Absolutely. And I can't remember, Ellen, do we have this information—we've got it collected, and I don't know if we were making it available.

Shan Stewart: It's not with me today.

Stella: Any other questions for Barb? This is Stella. Any other questions for Barb?

Barb: Great. Thank you.

Stella: Well, thank you. All right. So we're going to go ahead and break for 15 minutes.

Rep. Wazlawik: All right. This is Ami. I'm going to turn it over to Stella to start us on the discussion component about task force duty number one.

Stella: Great. Thank you, Representative Wazlawik. So right now, we're going to be getting into a group and there's going to be groups. This first group will consist of Representative Wazlawik all the way to Representative Demuth. And then second group is going to consist of Reggie all the way to, I'm just try to think about—Cyndi will be joining us shortly. So Cyndi will be on with Reggie will be the second group. And then the second group, if you—I'm just trying to think about placement for this, if the second group can cluster more toward this back area, and then this group consisting of Representative Wazlawik will be over here. I think that if you need a little bit more space, group out over there. And then the last group will consist of Senator Kiffmeyer all the way to you, Scott. And then if you guys can be in this cluster in the corner, it would be great. Now, in terms of the duty, once you guys get together, Beth will be handing—okay. DHS has put together two sample surveys that we would like to have feedback on for this. So when you do get in groups and we have extra paper, there will be five key topics that you'll be studying within your group. After half an hour, you're going to come together and share with the larger group, what were the five key areas you've discussed.
[Small group activity]

Stella This is a little bit different, for each group that'll be talking, I'll be asking you, whoever is the spokesperson for your group, to please hold this speaker so that we could improve the experiences of those joining remotely from the public. So duty number one is the core that you'll be looking at. There's going to be five key questions. The first is, should we in your group, conduct a follow up survey of providers who have closed their business? So that's really the first question in your group. If it is yes, should we send a different survey to providers who were in the field, a shorter timeframe? So what does that shorter timeframe look like for your group? And then, who should receive the survey? Basically people who left in the last year, two years, three years, under five years, over five years, what kind of cluster that you talked about. The fourth question is, you're going to look through the actual sample survey, it's just a draft. We would love your feedback on what question should be added, changed, or removed. And then last, does the information we heard earlier point to any other next steps that should be taken to complete task force duty number one? Ellen, do we have a copy of—Beth, do we have a copy of the surveys that we could pass out to sample?

Beth: I handed them out to everybody.

Stella: Excellent. Thank you. So you all should have that now. So if we could please go ahead and—all right. Everyone, if we can go back together. Okay. Great. All right.

Unidentified Speaker: Stella, what do you want to do with—do you want to put them back in the middle?

Stella: Yes. Thanks. Since you're a spokesperson for the first group, would you be willing to share with us what you discussed? So I'm just going to go ahead and

repeat the five questions again which is, should we conduct a follow up study of providers who have closed the business? That's the very first question, what you guys talked about in your group. The second one is, should we send a different survey to providers who are in the field, a shorter timeframe? So the who and the timeframe. And the third is, what you guys talked about in terms of some of those core items in the survey, edit it, additional items to include or remove, followed by the last question is, any other next steps that you discussed that would be important as we proceed with duty number one?

So with that, Representative Wazlawik, if you could please share with us what you had in your team.

Rep. Wazlawik:

Sure. This is Ami Wazlawik, and we had our group, in number one, we said that we would like to do a survey, a follow up survey. And we thought we could have the same survey with both the groups five years or less, in five plus years would have that additional question where you would jump down to based on if you were there less than five years, maybe you ask an additional question that you would jump to, if not, you would skip that question.

And then we talked about in terms of question number three, about who should receive the survey. We had some discussion about when a lot of new regulations went into effect in 2013 and thought that perhaps five years ago would be a good benchmark just because that would be when they were implemented and in place. And thinking that maybe that would have been a time period when a lot of people were choosing to leave the field, and so that was kind our idea around how far back did we think we should go in terms of people who left the field.

And then we talked a little bit about—I guess I'll address this in question five, but number four, we thought in terms of what should be added, changed, or removed. We talked a lot about the order of the answers to questions for the responses, and really wanted to see—making sure that we're following best survey practices and making sure that we're randomizing responses, especially in that big chart so that folks aren't just doing the first few and then moving on from there, so making sure that we're doing that.

And then we talked a little bit about doing some similar thing with the responses in the first couple of questions to making sure that we're not getting responses based on where the answers are and not based on what people are actually thinking. And then we talked about for the less than five years, if we were going to ask a question about what additional supports they would like, to have fewer responses for that question or maybe have a broader response that would include some of the other ones because that seems like a lot of choices and that people might not understand how they're different, and it might just be overwhelming for people to try and respond.

So we thought fewer responses for that question and then having the option of having an open ended box, so that if we're not covered in other parts, the other

responses, that they have an option to put their own response there. And then also making sure that, and I think this is just because it's a paper form, but making sure that in those responses where you have the extent to which things impacted you, that we have—if you answered strongly agree or agree, that the next response pops up right after it so that they're able to put in the comments right away after that response and not having to wait until the end of that survey question.

And then for number five, about other steps we should take, we talked a lot about making this an ongoing process. So once we have this follow-up survey for providers in however many years, that we continue to do this when providers close other licenses so that we have a continuous data collection and information on maybe what things are impacting people now versus if we look at responses from a couple of years ago. So that was one thing we talked about, and then having some feedback loop. So if there's—if people wanted to have some conversation about a factor that impacted them, that they would be able to maybe provide their information if they wanted, and then have somebody reach out to them and talk more about those reasons.

Stella: Okay. Great. Thank you. Thank you for the summary, first group. So second group if we could, yeah, pass it to you? Just keep it with you.

Sen. Kiffmeyer: Okay. We took the point of the sticky note that Stella put out. So answer to the first question was yes, to do it, no, the same survey. And as we discussed, also subsets, we'd like to know if they're under five and over twenty-five, but we also like to know five to ten, so on and so forth because that information helps us to tell more than this great big range between five and twenty-five, and to survey all who left in the past year, two years, three years. We didn't really go to that much as far as how many years to go back, but I think we've got to go back far enough, at least that five years, but we didn't really have that discussion. We had a lot of discussion about what questions should be added, changed, or removed. There were many things. One of the things we feel should be included is, even before they start the survey, that above the whole actual survey is that we get some basics like the location type, say a school, church, home or so on. License type, location region, north, west, I mean, some grouping that we might, so we preserve their anonymity. Starting age and the ending age of them doing child care because we felt that was an important piece of information to help interpret the data. Rewording of the actual survey questions to the positive, and use a simpler rating like one to three or one to five, or agree, neutral, disagree, especially with such a long list.

The other thing is to go to DEED or somebody else who is—their survey best practices, that somebody should review the survey and give input many times to the wording sequence. There are professionals who know about this, and that we would use them and that we would add not just what you didn't like, but what did you like, what was it you liked about doing this work, and add suggestions, an open-ended box because the general sense was a little bit more

negative and we wanted to try as much as possible, even in doing the survey, that is done in a positive tone.

And we didn't come up with anything for five on any other steps we should take because we really spent our time on four and felt that once we got the response to the survey and took a look at this data, hopefully, that would give us more information for the next steps.

Stella: Thank you.

Sen. Kiffmeyer: I wanted to add one more thing while she gets ready. We felt it was really important that the survey come out from the task force rather than any other specific entity.

Ann: Okay. This is Ann, and we had three child care providers and Senator Wiklund and Reggie and myself, so a good group, and they're all agreeing to help me with this. We started out with yes, we think there should be a follow-up study. There was some discussion of using the word closed versus using drop of license. Does anybody want to better explain that than I? That was you, Liz.

Liz: We were discussing whether or not we knew if they were actually closed and just operating illegally, or if they're still—basically what they're doing, because there's a lot of them that have probably gone just underground, if that's what they call it.

Ann: Or doing [inaudible 01:13:13]. I think it was just the discussion about being careful about our language and maybe that just needs more discussion. Second one, yes, we didn't think we should send a different survey to the providers who are in the field a shorter time. We were discussing four years back, we ran the gamut of numbers, but I think we went into four years for a variety of reasons. Of the specific changes, we added a few things we thought might be worth doing. I said dropdown, but what I meant was asterisk or with the dropdown then, we would like to add—you were just saying, Julie, low enrollment to get at some of that, but also low pay. So is it because of your business model or is it because you're not being able to get CCAP reimbursement rates [inaudible 01:13:54] those families, and what is it that's underneath low pay, we felt that that would be important because that could push some levers.

Under which regulations, we thought it might make it a little easier if they were grouped by categories. So either using the categories up of ELICI or doing some sort of categorization from rights or state statutes to make it—then people could say, no, it isn't about health and safety with these regulations. We all agreed, we really like the idea of finally naming the regulations, that would be very helpful. So it's just grouping them in a way that's user-friendly for the survey so it doesn't become a [inaudible 01:14:25] survey.

Let's see. And then we also said, and again, this could be factored into the question, some of this is not so much about what this is, but how it's done. So

for instance, if there was the ability to do more of this paperwork online. So not just because you have a lot of paperwork, but how does it manifest, and are there other options? So somehow getting at that question under a lot of these probably, but that came up under paperwork.

We didn't really get to number five, but I grouped these here, and that was we just talked on and off and you touched on it, too, that it really is going to be important. Just looking at the results of those surveys, they look different depending on who sent them out and who the messenger was, so some neutral or third party or coming from the task force but making it clear that this task force don't represent all of these stakeholders might ensure that we get a little bit or neutral, I guess, response. And we did talk about the fact though that the people have been out in the field, the difficulty of getting e-mail addresses that are accurate, and/or people that just want to say go away.

So our response may not look as good as some of the other surveys we saw, but try to be as careful as possible to get people in. And then finally, really stressing of course to people that this will be anonymous, it's not going to come back to haunt you, that kind of thing, we just talked about that. Did I miss anything, guys?

Stella: I'll take that. Thank you. All right. So I wanted to—first of all, let's go ahead and give a hand of applause for everyone for all your efforts in the small groups. A lot of stuff being shared which is really exciting in terms of what might be next steps. So if I'm hearing this correctly, before we talk a little bit more about one through five for the next steps, any questions for each group that you have when you heard, when the group presented, what they discussed, if there's any questions for a particular group, I just wanted to open that up.

Reggie: Hi, this is Reggie. So maybe what might be helpful to get some feedback while there was, it was just commenting next to me that there was a lot of commonality in a lot of that, which is great. But I think for the group that was wanting maybe more details, I think we talked a little bit about that. I think we talk maybe more from how do we make sure the provider doesn't feel and that's not what I heard from group one, but how does a provider not feel like it's getting too detailed, is it really anonymous.

But that balance of just, how do you have a survey that gives that helpful, and what's either the age of the person, whether it's a zip code or—I think since that was the only group I heard have that level of detail, I thought it might be good for us to talk, that does make a survey longer. So there's tradeoffs, right, anytime you make something longer or shorter, there's tradeoffs, right? So since I hadn't and I don't think our group thought that way about the age of the person or the area or that, I don't know, I guess I would feel good to have others talk, if that's definitely a place to go, right? Just because only one group brought it up, and I'm not asking you guys to defend that, I mean, I think it makes sense. It's just I'm noticing none of the other two groups seem to get to that thinking of what else will be helpful, so I just want to know, do people—and I don't know if,

Stella, if we should do this, maybe you should just say, oh, hold that, that's a different place you're taking us. But if there was more details of things you guys thought would be helpful to know, so I thought I'd like to hear other people go, oh, that makes sense, or what is the tradeoff, the balance? I don't know, is that okay if I ask us to think?

I mean, I'll just say it, I have mixed feelings because I'm trying to figure out how much detail, that's all I'm saying, it's just like, how much detail, right? Because you just want people to keep clicking through and get to it, but I can hear the reason why knowing a little bit more about them makes the data more helpful. I mean, it is.

Kim: And correct. This is Kim, and correct. I think the more detailed stuff is—because we talked a lot about someone may leave within five years, but that may have been their plan, there was nothing negative about it. They had children, they wanted their child to get to first grade and that was their plan. There was no negative, it was not regulations, it was not their licensing worker, it was just their plan. So I think more detailed questions will get to more true answers instead of having—we don't—I feel like some of this other survey stuff, it's like looking at two or three different things. And again, depending on who sends it out and who it's sent back to, I think it's different answers, too. So I think we felt that there was a little more need for detail.

Ariane: This is Ariane. And the reason we came up with that is because we're also looking at generational thing. As I was sitting next to Tiffany, she's a millennial. I'm looking at myself who's middle aged, pushing that 50 mark and that generation, my mindset, I'm of that group and you're in there for a long time. But as Tiffany is sharing, the millennials are not as apt to maybe jump in into the family child care home setting. So is that also going to be a piece information we need to expand upon eventually? So that's how we came up with some of that because age is a big thing. And if you're going to be losing some of your providers, middle age, why are we leaving? Is it because, maybe not necessarily because of regulations, but other factors, retirement and what does retirement actually mean and are we needing to leave for benefits or things like that.

Stephanie: And I think we tried to strike a balance between, I am not a survey scientist, but I know that there are many of them out there. And it is critically important when creating a survey. This is Stephanie. It's critically important to consider response rates, the number of people you're sending it out to, and that was one of our, I think Scott suggested to send a review to DEED because they do a lot of workforce retention surveys. So to have an eye on how you compare this to that as well as an eye on not making it too complicated or cumbersome for someone to fill out.

And then, we also had a few considerations that the group came up with the neutral source protecting privacy. So one example we discussed was, well, should we have them say the city? Well, you could have them say the county and you might be able to actually identify who that provider was. And so we

went maybe region. And then I did want to clarify that we agreed that the survey questions should be different for under five, but it's a smart survey. So some of the questions are the same and then it's choose your own adventure style. And of course, the reason of all of this is so we could segregate data to get to better desegregated solutions.

Kim: For provider retention. That's the bottom line, right?

Stella: Hollee?

Hollee: Hollee here. One suggestion would be that if we decided that we wanted to have more of this information to help us understand how every demographic is dealing with this differently is to, because we want people to fill out the survey, have those questions at the end so that once you've filled out all the detail—well, I mean, I know it sounds silly, but that way they're more likely to fill out the survey, you get to the end and you're like, I have to—well, I already did all this work, I'm not going to throw it out the window because I put—and you don't make them put their city, I mean, you could just do region. I would not recommend using cities at all. Maybe counties, but region would be a little better. I really wouldn't—I think that it's still going to be—I think we're still going to have statistically significant results no matter which region we have. And then you have, at the end, have the—I think you should have a suggestion box or a comment box after each question so they can elaborate on anything. And then you wouldn't have to have a lot of details within each question. And then at the end of the survey, anything else you would like to add, and that way, people who want to go off can go off. People who just have a little bit to add can say something, maybe we can get more information from that without putting it on everyone to have to do that.

And then also I was curious, if we're doing a survey, we need those results sooner than later if it's things that the task force needs to act on. But since we're discussing a lot now, is the task force going to approve whatever survey goes out or who approves it? If it's coming from us, I think we should vote on the survey. And so I was just curious if—

Sen. Kiffmeyer: We said that in our group that it would definitely go through all of us.

Hollee: Yeah. I mean, I think that's very important, and so I was just curious how we would get that done and if we wait until November 12 to do that.

Stella: So a couple of ways. So once we get the feedback, then it's getting that survey together, then once it's redrafted or revised and sending it out, circulating by e-mail to task force members and then we can communicate while e-mail, too, if we want to accomplish that prior to our—

Beth: So this is Beth Fraser. Under the Open Meeting Law, we cannot communicate by e-mail or vote by e-mail because that's not open to the public. So we could put a draft up on the website or something and ask people to review it and then have

a discussion and vote at a meeting. But just to be clear, without an additional public meeting, we can't do the work between meetings like that.

Stella: So the survey draft could be circulated between meetings, but the voting will have to take place here in the November meeting unless there's another interim meeting between now and November 12, I think is the next one.

Sen. Kiffmeyer: I was curious as to there were no comments made. One of the other things we did was the location also regarding to home, school, church, or something like that because we felt the interpretation of the data once you get it and then also the type of license nobody commented on that. Does that mean it's okay kind of or—I mean, when a draft comes out you'll get see it, I just want in general.

Unidentified Speaker: Senator, are you talking about co-location because it's family child care.

Kim: Specialized family child care.

Sen. Kiffmeyer: That was only family child care. Most of them are going to be in a home, but on occasion, you have some other which, Tiffany, you're one of those. Okay.

Unidentified Speaker: Is that applicable to the list of people you have to send this out to? Is that applicable to the list of people—

Reggie: Yeah. This is Reggie. There's a smaller number, probably less than a hundred, I think that are currently licensed under that. But it does get to, I'm a family provider but I was doing it in a rented home or home I own across the street, that's one where it's still that person in a home. The other is more of this, I'm doing it in an employer setting or a community setting or I'm at church or something but I'm still licensed. So I think it's a small number [crosstalk 01:26:45].

Sen. Kiffmeyer: And then the type of license also really matters, I think, to some of it. So type of license, is that, taking off on what Stephanie said, this Mary again, so on the type of license, does that matter to the data?

Unidentified Speaker: It could be helpful to know if you were a family versus—

Kim: This is Kim. I think group family and I think it is important if it's specialized because some of the specialized ones I've worked with have been in businesses that have shut down because the businesses don't—the people don't have children anymore. So I think it is important if we're trying to look at why people are leaving the profession and retention, we need to know why. And specialized family child cares are important, they're there no matter if it's five or five hundred.

Stella: So what I'm hearing right now in terms of the very first question, should a follow up survey be conducted? Am I hearing consensus that the answer's yes? Okay. All right. So am I hearing also consensus that the survey could be split out based

on length that they've left the profession? So there could be two different versions of the survey or some sort of skip logic. I thought I heard that earlier, so if people checked less than five years, it'd be this additional question or maybe if we included a second category, be five to ten years and then greater than ten years. Am I hearing that there could be different skip logic based on the—is that a consensus?

Hollee: Yes. I would say that—I don't think that you have to—this is Hollee here. You do not have to segment it into five to ten years, ten to fifteen. Your survey result's been a good survey system, it will automatically show you how many years they've been doing it. So if they answered less than five, if they put four years, it's going to make them answer the questions by the people less than five years. If they answer 10 years, all the questions will be—they'll skip this question and go to something else.

Ann: And this is Ann, I haven't had a lot of time to sit with you side by side, but it seems to be the only question I see that's different on the less than five, at least initially is the question about additional support. So it's really just one category, which maybe we want to ask the people who've been longer, too.

Sen. Kiffmeyer: This is Mary. It seems to me that there wasn't enough difference between the two. We've talked about having one, but when you collect the data such as those years, the zero to five and so on, that helps you to interpret the data that they responded to in a meaningful way. In other words, type of license, the location, some of that information. Then the survey questions can be the same, but what makes the difference is the type of location or the type of license. And so when you do your analytics afterwards and you capture data you say, okay, of those who did zero to five where their answers different from the five to ten, and so on and so forth. I mean, that's a very valuable piece of information to know. And there's too big a range between five and twenty-five, we need to know in between.

Stella: Absolutely. Hollee, you do not have to make the respondents answer those, segment that out, the data that you analyze at the end, you can group that yourself if you made the—

Sen. Kiffmeyer: They just put the number of years.

Stella: Yeah. They just put the number of years, that's all you need from them. And then you can have your data segment out very easily, and then everything is on the back office, whereas the survey respondents aren't inundated with more and more questions.

Sen. Kiffmeyer: Same goal, same thing, no problem.

Reggie: I also heard that through a few groups about utilizing best practices for administrating the survey, is that correct?

Scott: This is Scott. We talked about DEED and the business retention folks over there do that in their sleep. Minnesota Chamber of—Grow Minnesota, they do this all the time. Another one I just thought of now, we didn't talk about it, but U of M extension, they have faculty who teach business retention survey design methodology and interpretation. So I think between extension DEED and Grow Minnesota, some combination you have, I think people who could really help dive in to your point, Reggie, about a million questions or not, what are the things you really wanted delineate—Senator Kiffmeyer talked about, then treating it down. Is it age, is it type of setting?

What are the things that's really going to be statistically significant so you don't identify you're the only provider in Trosky, Minnesota versus Minneapolis or somewhere of the such. But I think U of M is actually teaching a course right now of some of those design methodology, so it's on their frame of mind. And I've looked at this through my lens, this is—although it's post retention, it's conceptually the same as a business retention survey and there are great lessons learned from regulated cosmetologists and restaurants as there are here because at the end of the day, the State of Minnesota puts together X rules that may impact your company's success. And can we learn from how we talk to those other sectors even though the subject matter is profoundly different? Conceptually, it's the same.

Sen. Kiffmeyer: This is Mary here. One of my questions is, we're on the survey only and exclusively to those who have left. I think I wonder sometimes about sending it to all providers because there may be some out there who are struggling and we need to know where that is. And so I'm kind of more not just to those who left. You can get that information by have you—I mean, there's a way to ask those questions so, are you currently a provider? You know what I mean? There are ways to ask those questions to get it. But I'm concerned about those who, yes, those who left and why they left, but also the others, you want to know about them, too.

Marit: Yeah. This is Marit. We had discussed that in our group a little bit in terms of preventive surveys as well and how to embed that and at what point do you actually integrate that into this method. We didn't come up with an answer, but we discussed it a little bit because that is—

Sen. Kiffmeyer: To do all providers, not just those who left.

Marit: Yes, not just one, yeah. Especially the one to start one year, two year in between what's happening with you, what's going on and how can we provide services that can actually show that you do stay on or maybe not, but just knowing that knowledge is options, yeah.

Hollee: Hollee here. We did talk about, I mentioned, the MACCP survey that Barb presented briefly about it was done last year and it involved 2,245 licensed family child care providers in Minnesota. And I think the results, it was very significant in certain categories. I'm not saying that it wouldn't be important to

do another survey of existing providers, and if you did that, it would need to be separate. But we did talk about making this more of a permanent thing, too, that once we've done this that we make this an ongoing—okay, caught up, if we go back, let's say five years, we keep going at this—when someone—

Unidentified Speaker: So we can measure it from [crosstalk 01:34:00].

Unidentified Speaker: Yeah. Lanay mentioned that maybe as DHS, when the provider says I want to close, then the licensor puts in a submission to DHS to pull that license. Maybe that could automatically trigger something that [inaudible 01:34:15] automatically gets e-mailed, the exit survey or whatever you want to call it. And then also, when a provider says, "Hey, licensor, I'm going to be closing my license in a month or two," the licensor could have maybe a pre-formed done survey to make it easier for the licensors and so it's consistent. And just say, why are you considering leaving, and what supports can I offer you? Is there anything I can do?

And that might be a preventative way to—I mean, if someone really wants to leave, they're going to leave, but if there's something that maybe the licensor or DHS or other providers can do, we talked about mentors and stuff like that, and the people volunteering to help, but something like that. So this is not just reactive.

Sen. Kiffmeyer: This is Mary. I think one of the things that, for Stella and has to do with sending it out from the Family Child Care Task Force and having that come from there. No matter who did what before, that I think it's still valuable to just for us, for our sake to have that. I said the next thing is collecting the data. And so question is, can ACET do the collection of the data for us and put together a report? I don't know if ACET can do that. I don't know if that's—is that—I know that might be a little bit—

Stella: Let me pause.

Kim: And this is Kim, this is because as we discussed in our group—

Stella: Kim. It's Kim.

Kim: Yeah, sorry. I said that, didn't I? I don't know. Whatever. Providers don't often want to answer anything that comes from licensing, DHS, anything legislatively. They're not—and we heard that from providers in our group that that's not—so to Senator Kiffmeyer's point, being clear about who it's coming from and where it's going to. I think that's the other point is that we can say it's coming from us, but where is it going to? I mean, I'll sit and count them if that's what— anonymously. I just think being really careful, because I don't know that providers will answer if they know what's going to us or to DHS.

Liz: This is Liz. I don't—

Kim: Us meaning—sorry to interrupt. Us meaning licensors, not the task force.

Liz: This is Liz. We did talk a little bit about that having a third party administer the survey. One thing that—and I'll be honest, I thought about closing my doors several times probably in the last two years. So I do think to Senator Kiffmeyer, what you were saying is that we should be doing also the current providers, too, as to why they are having these thoughts. One thing, too, and you had mentioned, was retention. I've had three licensors in six years. And I think that one thing to really get all of the problems that everyone is facing, we have to also—I'd like to survey the licensors that are leaving the field and on their job. And why is their job becoming difficult? Why is it—I mean, there's so much of this right now and until we get the answers from every group, including also even DHS, we're not really going get anywhere if we just look at one portion or one population.

Sen. Kiffmeyer: And by the way—this Mary. In regards to that general question of who it comes from and who the data goes to, you can contract with some of those entities to do it on your behalf so that you do have that buffer and a screen of privacy and that you have that sense of the data will come accurately all the way through. But I think we need to know from somebody in either with ACET or DHS or somewhere along the way, can we do that and how would we do it. And I don't know that you know right now.

Beth: This is Beth. One of the complications is the Data Practices Act, and that to the extent, you all are a public body and you are collecting information, I think the data is public. And so—

Sen. Kiffmeyer: That's not an issue, I think it's more a matter of whether we will have—I think there's the sense—this Mary again, is the sense that the—sending it from the task force for trying to collect the data, that is true, but also who it goes to and who collects the data. I've done surveys before. Many of these SurveyMonkey kind of things aggregate the data for you. It's just a report they do, it's not a sit there and go through all that, they just do it all for you. These are survey monkeys is what I call them, but there may be other things as well, right? And so the big idea is to have something or someone else possibly do that on behalf of the task force, that could be even somebody at DEED or it could be somebody else at the University of Minnesota. Maybe there's a student who want to take it on as a project. What I don't want to do is slow it down.

Ann: And senator, I was just asking Julie, sidebar, this is Ann, sorry, if DEED would be a little less onerous feeling. I mean, I know there's still the issue of state government, but I'm intrigued by the idea of bringing it as an economic loss to the state and if you're a small business and you chose to leave, I mean, would that be—and if we had to use something that would slow it down, would that be a possibility?

Unidentified Speaker: And I do want to also—sorry, I have to interject because I know you wanted to make a comment a comment as well? Oh, you're okay. All right. Okay.

Reggie: This is Reggie. Right. So I think a couple of things, I think we won't be able to answer that right now. I will say that a few years ago, when the legislature provided some funding to DEED to develop some resource for child care at large and they ended up focusing a resource, a start-up manual for family child care. We at the department worked closely with DEED on developing a survey that they sent to family childcare providers to help inform that. So we didn't send it at DHS, it went out through DEED, so I think that's one model as people are looking at DEED.

So I think what we can do is know that people, which I think came from every group, be really thoughtful about who does it on behalf of the task force, and certainly not have it be DHS associated with county or state licensing. But I think we'll have to see, maybe it is DEED this time. Some others have raised some other extensions, others, so I think—and then people will just have to figure that out. And the idea would be who could send it out and do the compilation and report out. And that may or may not be a long-term fix, it maybe who does it for this task force, but people are saying should something be more permanent, more ongoing, that might require a different connection, but I don't think we have to [crosstalk 01:41:34].

Sen. Kiffmeyer: So the one time it's—

Reggie: Yeah, that's right. That's what I'm saying. People are of getting to the next steps, which I think is great, so we can try to take this back and work with the co-chairs and the facilitator on that.

Stella: So I'm just going to summarize this, what I'm hearing and I know that we're going to be breaking for lunch and we can certainly reconvene, and we'll see how much time we have because we still do have duty number three to walk through. But I'm just going to summarize what I heard the importance of, yes, you want to survey. We're still—there's some discussion around audience. What's important is that it's done either by a neutral party being supportive for the task force, utilizing best practices. We talked about anonymity, that was very important. That also we talked about demographics, so the more demographics you add to it could possibly factor in in terms of it being anonymous.

And we did also did not get a chance to talk about timeframe. The timeframe, what I did hear was as early as 2013, some said five years, I think anywhere ranging within the group, 2013 to 2015 something like that. Survey questions, we have some great suggestions in terms of what might be some revisions to the surveys or additions to include an open-ended item and several next steps. So with that, I like to just summarize that and ask Representative Wazlawik if there's anything else you would like us to close with before we go into lunch.

Rep. Wazlawik: This is Ami. I think we should just go to lunch. Thank you.
[Lunch]

Rep. Wazlawik: Folks want to take their seats and we'll get started with the next presentation.

Sen. Kiffmeyer: Your gavel is much better than mine.

Rep. Wazlawik: I put it in my bag when I'm up so I wouldn't forget it. All right. Folks, get settled, this is Ami. As folks get settled, we're going to start our presentation and discussion around task force duty three, which has to do with variances. So I'm going to have Ashley take over. She's going to provide an introduction for us.

Ashley Kitchen: Hi, everybody. I hope everyone's lunch went well. Reggie is going to be providing an overview as Representative Wazlawik said. She is going to be doing a presentation on reviewing the existing variance authority delegated to counties. So she will be taking over shortly as soon as the presentation gets up. And then after that, we will be doing another activity regarding this duty and the variance authority. So whenever Reggie is ready.

Reggie: So at a high level, I think I need to apologize that we had a printing issue. So although your PowerPoint slides are we believe appropriately three hole punch through your binders, it appears that we had a glitch and not all of the slides that you'll see are printed out. So apologize for everybody. It ended with presentation one and I'm not sure how that happened because our intent was to make sure that all the sides were together. There's no second set of handouts is I guess what I want to say. But we have confirmed that the PowerPoint I'm going to walk through on the screen has the full set of slides. So I just apologize, there really won't be anything in your printout for you to look at and that's by accident, not design and I apologize.

Sen. Kiffmeyer: Can you just send it out to us?

Reggie: Yeah. And it's possible that our couple of folks that are on the phone, when we e-mail them a PDF probably, they may actually have it, but just so you know that there are—you'll have these slides and then I apologize if you don't them in front of you. So task force duty number three, review existing variance authority delegated to counties and recommend changes if needed. And I think Representative Wazlawik sharing today, talked about the fact that although this wasn't ranked as high, there was some consideration about it's a longer task force with a lot of duties and interim report.

This was one that for legislators and others in the room here that engaged in some of the various field hearings over the years both under Representative Franson and her work on her subcommittee, and also Senator Weber and his workgroup. And certainly in the midst of just ongoing hearings, the issue about variances, inconsistencies around variances in particular has come up. And so we thought that this might be a topic to be able to handle this afternoon, make sure that we're getting some common understanding. The good news when you look at the composition in the group is both with the providers that are here on

their own as well as their peers and their membership group, they've had their experiences with variances, we're going to talk a little bit about what that is. We have two county licensors who represent the statewide licensor association, they have their experience with variances and how they as licensors and within their counties and how their licensing peers see that. And then, I think we are going to be able to hear from someone who represents one county governing group, not necessarily—so we want to make clear like providers have their own group, the licensors work for counties, but they're representing their statewide licensing association. And then we'll hear from Matt Freeman who represents one organized group within the county leadership structure on some of that. So this is not—let me see. So this is—well, the good news is, I actually gave you the statute in front of you. All right. So 245A.16, that's the part of Minnesota's Human Services Licensing Act that begins to cover a lot of functions related to what we talked about earlier, this delegated licensing structure in which the counties actually have a lot of autonomy and given decision making on a range of licensing issues, not just for family child care, it's also for adult foster care and child foster care as well.

So there is a statute. We just want to make sure that you see it. If I need to flip back to it, I can, that really sets out when might, and we'll get into whatever [a variance 01:49:06] is, but there are some that are reserved for the commissioner, that means us at DHS, me really and my managers. But much of this variance authority to deviate from a rule really lies at the county level, and so that's what we're going to talk a little bit about. So when people say, can't DHS do something, grant this, do this, a lot of times when we talk about variances, the answer is, well, no, unless it hits this narrow category, all right? And that's just this unique structure we have with the role that the counties play by rule and here in statute.

So really, what do we say when we talk about a variance? Well, a variance and we'll try to just keep this plain language, it's written permission when we say by the commissioner because the counties are acting in many ways on the commissioner's behalf, right, as part of our licensing structure, by the commissioner for a provider or an applicant to depart, right, to deviate from provisions of, and here it's the Family Child Care Rule, 9502. Now, just know that variances cut across all of our licensing work, okay?

So we, the commissioner and our staff, we have the delegation directly from the commissioner, can grant variances, deviations from the rule for child care centers, right, for substance use treatment programs. So this is not unique to family child cares, it's not unique to this county delegated. A variance is inappropriate way to deviate from an agency promulgated rule. And that's important because you got rules and you have statutes, right? The statutes, as a little Civics 101, right, the statutes are passed by the legislature, signed into law by the governor. Those are statutes. The rules are promulgated by state agencies, they go through a formal public rule making process, and those are rules.

So the commissioner and the counties can deviate, under certain conditions, to the rules but they can't, unless they have special authority in statute by the legislature, go to something the legislature has passed and begin to change that. So not everything that impacts a provider can be granted a variance, okay? So when we talk about variances, when we talk about rules, sometimes people want to ask for a departure from something in a statute. And the answer is, unless they're specific authority and there's very little, nobody can vary what the legislature and the governor have signed into law, okay? So it's little checks and balance, separation of power, blah, blah, blah.

But it is important because sometimes people are being pinched, if you will, they can't comply with something and it's in the statute and the variance, by and large, won't apply to it. So that distinction at an individual provider level might become relevant. So usually, when somebody, a provider, an applicant and provider asks for a departure, they say, "Hey, I can't really comply with this." There's a requirement, it's all spelled out in the rule about what they have to submit. The bottom line is, you have to say, "I can't do it exactly the way it's written, but here's what I'm going to do instead to maintain the health and safety of children."

So it isn't just, I can't comply, give me a pass, and that's not what providers are saying, providers are saying, I can't do it this way, but I can do this instead. So that's how a variance request would work. In our family child care context in particular, the family child care providers make those requests to their counties. Remember that county relationship, the county licensor is their licensor and that's their primary interaction, so they make the requests at their county licensor. And the counties have the final say on whether to grant a variance. And variances, those, like in the old days when correction orders didn't get reported to us, they stayed at the county file.

Well, the variances basically stay at the county file, so we don't collect those, we don't gather those and it might become relevant, they certainly might consult us on it. But as a matter of regular record keeping, we don't weigh in and grant those, we don't overrule those, okay? And there really isn't an appeal process on a variance and that's consistent with any of the variances that my office, my staff managers might grant for child care centers or substance use treatment. It's within the commissioner's discretion, the county licensor's discretion, so there isn't a formal appeal or reconsideration process like there is with correction orders or some of those other licensing actions.

When variances are granted, county licensors tell us, and I know this because of my other staff that look at variances, right? These decisions are fact dependent and they are specific to the provider's request, okay? So that's the piece where providers, even in the same county might say, "Oh, I asked for that, too." Well, you might've asked for the same thing, but you might be licensed different. You might be a type A, you might be a class C, you might be—right? So there can be differences even for what they really want, how many kids they have, there

could be very significant differences at that individual license holder level that could impact a licensor's decision, so that can make it hard.

If somebody says, "Well, so and so got a variance, I didn't." Maybe you're exactly the same, maybe you're not, so it can be tricky. But the point is, they are supposed to be case by case, based on the facts, and that can also be challenging for both the individual and also for somebody who says, "Oh, well, I asked for one and I didn't get that, all right? And obviously, county licensors just like us are trying to be consistent, are trying to make sure that if the facts are lining up, then yes, it could certainly be that somebody asked for a variance for A and somebody else asked for a variance for A, and in the end if everything is lining up, then the hope really is, and that's what we see happening, that the person is getting the same variance.

So with 87 counties and yes, there's some combination of how counties do their licensing works, there's not 87 actual, I think there's 71, because county A is partnering with county B to do their licensing work jointly. But across 87 counties, there are differences among the counties on when they might even consider a variance and then what criteria they use in reaching a decision. So what we want to do is just scope out this framework of a variance, educate everybody about it and then figure out how in this conversation, we get to whether there is a place to look at either possible changes or clarifications or however the group would see this.

So what are some examples? And clearly, both our providers who have themselves have asked for it, they know their peers have asked for it, our licensors. We're not trying to get an exhaustive list at all because we're just trying to frame up, but what are some examples? Well, certainly, one could be asking for a delay in installing, repairing a fencing like during the winter months, right? There might have been an issue come up, there could have been inspection. It could be like, "Hey, there's a gap in that." "Yeah, I'm thinking about getting that fence replaced, but it's already starting to freeze over. I'm not going to be able to do that until the spring." Well, but for right now though, that fence is not really—you need that fence to keep the kids away from X, Y, or Z. So they could ask for a variance, and on a temporary basis it would be, okay, what are you going to do to make sure that, whatever the fence was there to keep the kids away from, or even if the fence is in this repair and the kids do play in that back area. So the idea is that variances are often temporary, right, until something else can happen, all right? So usually, a variance is time-limited, it's to help with a particular situation, and it isn't necessarily meant to be a permanent and complete deviation. There might be exceptions, but in general, that's not usually what a variance does.

And so again, I can't meet this, but here's what I'll do instead, and then, usually the licensor and the provider are figuring out what that is. And then what we do here is that, things along this line, I need—the ground is frozen, we're in Minnesota, right? Yeah. Those are usually pretty much granted as long as everybody agrees on what you do in the meantime. Another one might be

asking to—if we're caring for one more infant than allowed under the license type, and that's where when you saw with that little chart before about, we have a little bit of complication because if you have certain number of school age and then you have kids that are preschool, but even within preschool you can have three infants and toddlers, but you can't have more than two infants, right?

So it's like a little tube about who do I have in care at the time and then what if something happens and I want to be able to accommodate a new family or a current family, but I already have my two infants. That's a common one that we hear. So asking for that and saying, could I take an additional infant until my infant of the two that's ten months, well, in two plus months, they're going to be a toddler, they won't be an infant. So I technically can't take this third infant, right, without maybe changing the whole licensing type.

So anecdotally, what we know, and we'll talk a little bit about the survey that we did of counties just to try and get at a high level who's using variances, but what we learned is that some counties will grant that, will consider it, so that's the first thing to realize is that they will consider it. And then on a case by case basis, they'll figure out whether they will grant it. But what we know is that maybe as many as two-thirds of counties, for that particular type have said, "You know what, no, we just, as far as our policy, we're not going to." So these are rough estimates from a survey that we've done, but it just can show you the range of what might be asked for. And trust me, they are all over, so I am not going to try and get really deep because they are as varied as what a provider needs to be in compliance and to work with their licensor.

But because we, through various task forces, legislative hearings, providers, licensors even, we've been hearing a lot about variances, differences, does it contribute? We've even had counties say to us at DHS, you got to realize, my county board has authorized us to do X, but the county next door, they do way more. So even the counties acknowledged that this can be challenging to tell a provider, especially if you're right near that border of your next county, "My county said I'm not even going to look at those." So we know that this is a challenging place for everyone. So we did a survey trying to ask at a high level, do you even grant variances? Because we've heard some people say my county doesn't grant variances at all, not a single, single one.

So we were trying to figure out, okay, is that true? What would we learn? And so what we can say is that 80 of the counties have issued a variance for at least one or more things, but there are a handful of counties that have said no variances or that just didn't respond on that. So is there at least even some level of a variance being given across the counties? The answer would be yes, from a survey we did at the counties about a year, a year and a half ago. And then, does a county have a written policy, right? Now, sometimes that policy might be just at the county level. Sometimes, there are things that really the board of county commissioners has approved, right? So do they have a policy about what they would or wouldn't grant a variance for?

And so then what we found is, yeah, within that group that is granting variances, most of them have some type of a written policy, but not all of them do. So they can grant variances without feeling that they need a written policy. So we're just trying to again, get a sense of how formal is this variance authority being used at the counties at a statewide basis. So what we did learn in our survey of the counties is that many counties, policies don't allow variances during the first year of licensure, right? I mean, we've just licensed you, you've got your first year, trying to develop that, can you be in compliance? Thirty-two of the eighty-seven counties have a limit of time.

And that's what we talked about, that a variance usually is for time specific. And again, it can be based upon the type of variance that they need, but some of them are very clear. We'll only grant a variance for 120 days. They might— what's that? Somebody's shaking their head.

Beth: I think what that's saying is that you have to be licensed for a certain amount of time—

Reggie: Don't worry, that's a different issue, thank you. All right. Thank you. Okay. Because I know what the slides talk about, so I'm jumping ahead. Okay. So some of them actually have a formal as to you have to be licensed at least six months, you have to be licensed at least twelve months, that's what that's getting at. Okay. Thank you. And the length of time, and then again, not just infants but also capacity and age group, some of them are willing to consider that, but many counties aren't. So the counties might impose conditions when granting a variance, right? And they may say, if we grant you this variance, and again, it's not for every single one, it can depend on the nature of it, but they might say, yeah, all the parents need to be notified, right?

If I'm going to let you depart from a rule that has been promulgated, they may say, this is the kind of variance that we want all the parents to know, you're departing from the rule, here's what you're doing instead, right? So some counties have that. They might say, and no additional children can be enrolled until the variance ends, right? They might be trying to balance, "Okay, we're saying you don't have to do X, which is what the rule requires, we're going to let you do Y, but we're not going to have yet enroll their kids." And so usually, these are things that are typically agreed upon as part of getting the variance. As we said, could be limited to a certain number of days.

It could be that if they were looking at something with a ratio, they might want to know or the provider might have offered, yeah? The way I'm going help meet this is I'm going to have an extra helper, caregiver, substitute on this, something like that. So that again can be fact-based, but it just shows that that may be something that the county needs to put into the mix or the provider has put into the mix as a way to getting a variance approved. So we talked about during the first year of licensure, length of time. Okay. So that's a little duplicative. All right.

So what we know, since we don't add DHS grantees and what we're trying to maybe surface here is, we do hear, like I said, that counties might be reluctant consider variances particularly around the capacity and the age distribution requirements, right? You know what, your type of license is for two infants or no more than three infants and toddlers, we're not going to go above that even if you're saying I'm willing to do this, I'm willing to only—I'm licensed for capacity of 10, but I'm willing to only have 8 as long as this child is still here. Some of them just don't want to do it.

And what we hear informally is that the counties that don't—they want to give deference to a promulgated rule that a state agency has done through a formal rule making, and they don't want to be inserting themselves into varying a rule. So that's what we hear from some counties, all right? And then we sometimes hear from county licensing staff that a county's decision to grant the variance, including some of these about allowing more infants than is allowed or issues dealing with water hazards, ponds, retaining ponds, do you need a fence, do you not need a fence, what else are you doing to ensure that the kids aren't really anywhere near that, how far away is it?

We do hear this concern that the counties could be concerned about any liability if something were to happen to a child. And they had said yes to deviating from a rule even with some conditions, so we do hear that, right? And as I mentioned, licensing staff, supervisors have said, they think that this contributes to that conversation about that there's inconsistencies about how the counties do their work. So that's another, when we talk about in other conversations, how do we get to consistency? How can providers expect consistency statewide if counties are exercising this decision-making authority in different ways? We can expect that that would contribute to the conversation of feeling that there's not consistency.

But what we have to remind a lot of people is under the statute, 245A.16, it is reserved to the counties. And so there really isn't a role for DHS to step in and overrule the county. So that's just another level set piece we want to make sure that people know that our statute doesn't allow us to say, "You know what, we think maybe with these circumstances or conditions you could." So what I think we wanted to do, because again, the task says, discuss the issues about variances and the use of variances by counties, see if there might be a need to consider any changes. I think what we wanted to do was to hear from—now we're saying counties, we do have a representative from MACSSA, the Minnesota Association of Social Service County Administrators, they kind oversee the health and human services side of a county.

We certainly have our county licensing representatives from the State Licensing Association, and then obviously, providers that have had experience with it. So I think what we wanted to do, I think the next part was to maybe let Matt talk at the higher county organizational level and then see where our conversation will go.

Matt Freeman:

Is it okay if I speak from here or do you want me to come around? I apologize again, my note's on my computer here, so I'm going to cheat and look at them a little bit, too. My name's Matt Freeman, I am the executive director for the Minnesota Association of County Social Service Administrators, and that represents human service directors in all 87 counties across the state and includes involvement from supervisors and division directors and department directors from all those human service departments. And we really appreciate folks reaching out to include us in the conversation.

Counties overall, and MACSSA specifically appreciate being a part of the discussion on child care licensing. And county employees participating on this task force is really important, and I want to thank the folks that are doing that, understanding that they're representing their specific association as well, and that our individual association has specific positions, too. So in talking about this with members, I'm not going to present myself in any way as an expert on this issue. We weren't able to get one of our members that work specifically in this area to come in and be able to represent our position, but I am going to summarize some of their thoughts that they asked me to share with this group. And the first consideration when going about these decisions starts with the safety of children as you know, and that priority of child safety above else in each program area. How counties handle variances and interpretation of policy does differ county by county, and I know Reggie mentioned that and talked a little bit about some of those reasons why. And the county's role overall in licensing has a multitude of different roles, including acting as an administrative arm for the state in many cases, whether that's completing paperwork, report observations, making recommendations, but the licensing authority ultimately lies with the state in issuing and revoking those licenses, and that was something that was important from my members to make sure to share with you.

In addition, county attorneys have a delegated authority to enforce and defend some of the orders that come from DHS commissioners as part of acting on behalf of DHS. So one of the concerns, we share some of those concerns about Access, but also share some of the concerns about legal exposure that exists for counties, and particularly encourage you to engage with the county attorneys who may have a different perspective or be able to provide more detail on their perspective. Overall, the overseeing of variances and sign off of those include conversations with county boards and they include conversations with county attorneys as part of those decisions being made, and that that liability is a concern for counties.

The legal standard of actual knowledge of a failure to meet a licensing standard that resulted in a dangerous condition is a part of that conversation about variance because inherently, a variance is appropriate way to stand to deviate from that standard required by the rule. So DHS does defer consideration of variances to counties as Reggie said, but it is a recognition that is a variance from that rule or from that legislative standard that exists. And so the reason that exists is recognizing those unique factors that require interpretation and all

of those individual instances, and we recognize that that is important. Access to child care really continues to be a key issue as we are a partner in that, and we want to continue to be a partner in helping to support and grow access, and so we really appreciate being a part of that conversation.

MACSS itself does have a legislative position from 2019 regarding variances, and I'm happy to share that with the committee. We have not gone through our process, we renew all of our individual stances as an association every year, so we haven't passed our policy positions for 2020 yet, but I can share that 2019 position, and that talks about the stance of county social service administrators looking to end delegation, authority of counties to issue variances to family childcare licensing regulation. That would be one route in which we could have a more standardized response, my members feel in county by county responses to variances. So I'm happy to take questions. I may be limited in my expertise to be able to answer those, but appreciate MACSSA to have an opportunity to be a part of the discussion today. Senator.

Sen. Kiffmeyer: Mary Kiffmeyer. Is this your only position, is ending county variances?

Matt: We have a legislative agenda that is a mix of different legislation or stances that we have passed through our membership. We prioritize usually three or four specific pieces, this was not amongst those that we drafted legislation and carried that forward. We did have a member from our organization last year testify regarding this issue. But I don't believe that we have a full comprehensive response in all things related to family child care and other areas. Does that answer your question, senator?

Sen. Kiffmeyer: Yes. The other question I have, Matt, is in regards to the liability, I think Reggie talked about a little bit. So on your MACSSA group on this issue of liability, I believe there's been legislation before. There is no other area that I know of where a particular county is liable, has a liability issue, this is rather unique to my knowledge. I don't know if you have any position on that or information.

Matt: Yeah. I think that—the feedback I've gotten from members is that that liability does impact the policies that are set at the county level, particularly from county boards and from county attorneys. I don't want to speak on behalf of those groups or speak out of turn on that, but that the liability exists and the ability to pursue damages from counties in instances. And again, based on the fact that it is an evaluation of a variance, that demonstration of actual knowledge of where the licensing standard has been deviated from and where that might've created a dangerous condition is something that county attorneys have continually mentioned in their conversations with our members about why they may have a different tolerance of risk level based on county in whether they offer variances, does that—

And I think that that legislation or conversations about that have come up in the past. From my understanding at the legislature, there have been some

conversations with trial lawyers and others that have different opinions on issues.

Kim: This is Kim. And speaking as a licensing worker, the insurance issue that they're talking about in a liability issue is that if a county and/or a worker approves a variance does something, we are not protected as workers under the county umbrella. So liability wise, we even as people could be sued. The county could get sued, but we as individuals can get sued as well. So that's what that liability issue is. And I do know, Senator Kiffmeyer and I have spoken that there's talk about figuring out how to fix that, how to make that not be the way it is, so I know that that—yeah.

Reggie: This is Reggie. So for those that maybe want to follow up, I think one statute that is in play, because again, it gets to state versus counties is Minnesota Statutes 466.03, subdivision 6D. So that's not like six parens D, it's actually 6D, like 6D, 7, 8, 9, right, so anyways. And it's a very specific provision that addresses the county versus state, county tort liability in licensing providers. So they actually have their own little statute that addresses county tort liability for family child care licensing, right?

And I could just at a high level, a claim against a municipality based on the failure of a provider to meet the standards needed for a license to operate a daycare facility under chapter 245A for Children's Act, puts it right in family child care licensed by 245A. They're exempt from liability unless the municipality had actual knowledge, that's why you're hearing this phrase, "actual knowledge," it's in the statute, actual knowledge of a failure to meet licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff. So we're talking about plaintiffs, tort, civil litigation issues.

A municipality shall be immune from liability for a claim arising out of a provider's use of a swimming pool, so they call that out, unless municipality had actual knowledge of the failure to meet the licensing standards in 245A, which governs things around pools, right? Because they call pools out a little bit separate. So I guess the deep in the weeds part of this is that within our delegated system, with county licensors doing the bulk of the licensing work as county employees and as the counties making decisions, they have a different statute that regulates and governs them even on liability issues different from the state.

So just wanted to throw that statute out there. That's where that kind of phrase actual knowledge comes from. That's where I think some of the language—I mean, I don't want to step in and speak on behalf of counties or county attorney associations and the legal stuff, but there is a very particular statute that we know some counties have looked at to say if we made that change. The other thing I would offer that we have begun to hear, and we've heard it from some licensors, we've just heard it informally, is that as the family child care decline in particular, continues to hit these critical numbers in many areas, counties are rethinking their hesitancy to grant variances.

So our survey was a point in time. Would it look dramatically different if we did it now? I don't know, it's not that old, but again, we are hearing that of counties that may have said, we don't want to give any variances or we don't want to give any variances related to X, have also said, we're starting to rethink that because if that's going to help us get providers to come to it, to stay in, we're willing to rethink it.

So we just want to throw that there's a range of things clearly even with this language, there are counties giving variances, folks in this room on both the licensor side and the provider side could talk more all about that. But it sounds as though there clearly are some counties who at a policy level, completely or for certain areas aren't as comfortable doing that and just wanted to flag that there likely is the statute that folks are talking about and looking at.

Scott: This is Scott. Is there a case law or specific examples where a licensor or a county employee was taken to court over a decision they made where child got hurt and that prevailed in favor of the parents or the other party, or is this a perceived fear or is there actual case law or examples where this has happened?

Julie: This is Julie. I believe there was one in Anoka County, but I do not have the details on it because of course, they can't give you details. But I believe there was a case in Anoka County where the licensor was sued and the people did whip.

Sen. Kiffmeyer: The other question I have is—this is Mary, is this seems a bit unusual that a county employee is personally liable in addition to the county. That is usually not the case. I'd want to know if this is an exception to what is normal. I may need a little legal research on that to confirm that. Or do you know, Reggie?

Reggie: This is Reggie. So senator, I would say, and again, I think that's the challenge of having this conversation with perhaps not all of the right players in the room because I guess what I would offer us to go deeper and talk to the experts on is a couple of things. I think that my looking at this issue from a couple of years ago was that there were a couple of cases back, I think in the 70s that resulted from family childcare and that as a result of one ruling that I think was from the Minnesota Court of Appeals or Supreme Court, there then was a change in the County Tort Liability Act to respond to the ruling, which I think led to this current language. So I think if you go back probably a few decades ago, there was some litigation that may have resulted in this change.

I think what Senator Kiffmeyer might be referring to is there is a distinction with some county acts related to whether it is, and I can't remember the words if it's discretionary or more operational or something, right? So what I've understood, and this is just the high level, don't—I was going to say don't quote me on it, but I'm going to be in a transcript, so okay. So I guess I'll say it anyway because I've already said this much. Is that what I think has helped me to think about what are some questions is the work of a county licensor is different from the work of a child protection worker as potentially case law and interpretations have

evolved. And so I think that might be a place to go deeper in asking what is the difference in the functions that licensors do and how they're perceived versus some other.

Julie: This is Julie, and I have a question. Are the state licensors held liable with the county licensors?

Kim: They're state employees, we're not.

Reggie: So a couple of things—this is Reggie. So a couple of things, there are different statutes that govern state tort liability and immunity and state workers versus county. So everybody has their own and there are some immunity exemptions involved with those. And there are certainly places where if people are acting outside the scope, right, so nobody at the state is ever completely held harmless. I mean, but you got to be acting within the scope of your job and all of that, so that's a really high level that I think is accurate, okay?

But I also want to be very clear that states and counties—I mean, we can be sued, we are sued. So I mean, if people have been aggrieved, parents, providers, they can, they do bring lawsuits. Now, whether they can succeed, whether they can be successful, whether it's an easy—so I want to make sure that in this conversation, it's not that somebody can't try to get redress for an issue, but that's where the issue of how successful, what are the limits, then it ties into are there some clear state statutes of liability that would say that claim won't advance.

So I just wanted to maybe get the spots. I mean, are people being sued? I mean, people are being sued, the county's being sued, DHS being sued, but then the question is, what was the issue? It's very fact dependent. And then where on these tort liability issues are there some—this won't go forward.

Sen. Kiffmeyer: Reggie, this is Mary though. I think the real crux of the issue here is that it's very different, is that the county licensor in this case is personally, we understand suing the county or suing the state, but being able to sue the individual who has been authorized by statute and rule to do variances and yet is still in that personal liability situation, that is the area that I think is beyond what I've seen in other examples of tort issues, but I'm not in judiciary.

Reggie: This is Reggie. And I just want to say I can't comment on that. I don't feel—yeah. No, I'm just saying I know that that's what Kim had said and I'm just offering, I don't have a position on that, it's not anything I've researched. I'm probably going to not talk anymore.

Sen. Kiffmeyer: This is Mary. And I think the issue is to have—the issue though is we need to have more information and we need to know what you're saying, Kim, and have it documented by virtue of a legal opinion, or your county or something like that. We need to know more about what is that situation, okay?

Kim: Yeah. I can do that.

Ashley: Okay. Thank you guys very much for your questions. Thank you, Reggie and Matt for your presentations. We are going to do an activity now regarding this duty. So if you go to the front or in the back. Have you guys done fishbones before? A fishbone analysis?

Unidentified Speaker: I have cleaned fish.
[crosstalk 02:24:59]

Ashley: So what we're going to be doing is—sorry. So the head of the fish is duty three. So what we're going to do is out here, you have the issues. So we've talked about the issues surrounding the variances and things like that. What the bones of the fish are going to be are focusing on potential solutions that you think could problem solve different issues that have already been discussed. So the focus of this activity is solution based rather than focusing on the problem, so we'll be focusing more on solutions. And then also in your binders or in your materials, you got the action template, so that is going to be for this activity. So you're going to get back into the groups that you were in for the first exercise, and you're going to be doing a fishbone analysis regarding duty three in your group, and then filling in the action plan. So the instructions at the top of the action plan, it can be used to serve as a guideline for developing recommendations. So in your small groups, please identify which known issues surround the topic. So that would be the issues out here, and then how you perceive the issue. So it's important that many perspectives are shared within each group so that solutions can be created that best address the task force duty.

So then the back page focuses on the solutions or the bones of the fish that you see up here. So please identify these activities and next steps with your solution. So if you have a solution, what are some of the activities that could be done to get to that solution. So the perspectives about the issues in the table we have listed, so consumers, providers, government, organizations or any other stakeholders that would have perspective around this issue. So do you guys have any questions about sort what—yes?

Sen. Kiffmeyer: This is Mary. In light of my questions, [inaudible 02:27:42] review existing variance authority delegated counties, if you have any draft of that or a copy, that would be just using—

Ashley: So just using the presentations—

Sen. Kiffmeyer: What was talked about.

Ashley: —yeah, that was talked about.

Ann: This is Ann. You want us to attempt to think about every one of these perspectives even if we don't have those people in our group, is that correct?

Stella So what is important in your group is to be able to get the feedback of perspectives within your group. But you might have members within your group who would offer some insight that they've heard that might come up. It really depends, but that might be one of the things.

Ashley: So if you don't have really perspectives or if someone in your group doesn't have really a perspective that we've heard about. You don't necessarily have to try to come up with one—

Ann: Just making sure we're not just only reporting our own perspective, we don't have that representation.

Ashley: Okay. Does anybody else have any questions before we break into groups? No? Okay. You guys have 30 minutes, and then we will come back together and then we'll have a large group discussion regarding things that you talked about and then the potential solutions that you.
[Small group activity]

Ashley: So we're going to have a representative from each group go over what you guys talked about as far as filling out your action plan template. And then also if you guys filled in the fishbone, show us that as well. So who wants to go first? Any volunteers?

Sen, Kiffmeyer: I volunteer one.

Rep. Wazlawik: We can go first. I'll just walk through what we talked about and then the shorter summary is on the fishbone.

Ashley: Do you want me to bring that up?

Rep. Wazlawik: Sure.
[crosstalk 02:29:40]

Rep. Wazlawik: Yeah. So I'll just go through it. It's probably hard to read for folks in the back, but—so we talked about four broader issues in our group that we thought would be a part of this discussion. One was the liability that was referenced earlier with counties and licensors. The second one was inconsistency with some counties having written guidelines and positive and some not. And then communication, so thinking about, do licensors and providers have all the information they need around variances and granting those variances, that would be helpful for them to do their work, and then training for licensors as well on those duties.

So those are the four big issues we talked about, and those were across the spectrum with perspective. So providers and government and all the stakeholders had different perspectives on those issues. So some solutions that we brainstormed. For liability, we talked about first wanting to learn more

about what's in statute now and the impact that it has, and then talking about a legislative solution, whether that's changing, what's in the language or moving that and having discussions around that.

For the inconsistency in written guidelines, we said that we would want something to require counties to have written guidelines. So obviously, it would be their individual counties, whatever their guidelines are for granting variances so that people—there's a written copy somewhere and that it's accessible to people so licensors and providers and families know what those guidelines are. And that went along with our communication topic as well, so physical copy of the guidelines to every license holder and making sure that those are posted online for people to be able to access as well.

And then for training, we talked about DHS providing more specialized training to licensors when it comes to granting variances. So obviously, if their individual county has written guidelines, that's going to be a little different, but just a broader conversation around what that looks like and how that works.

Ashley: Does anybody have anyone from Representative Wazlawik's group? Do you guys have anything else to add? No? Okay. Does anybody have any questions for them before we move on to the next group? Okay. What about this group here, who's your representative?

Unidentified Speaker: We have none, we have nothing on paper.

Unidentified Speaker: We'll do a tag team, how's that?

Unidentified Speaker: Okay. Tag team, I like that.

Julie: We basically came up with the same things as the other group about the county liability, the licensors liability, inconsistencies from county to county. One thing different we did come up and we had discussed about trying to remove some of the need for variances and one of them is to look into those ratios of the infant toddler slots. That's where right now, we're having the most trouble with, and changing not necessarily the number of children you could have in care, but the number of those children in that infant toddler slot to raise that a little bit, to give families and providers. I can only have two under the age of two right now. I've been doing this for 18 years, I know that I can handle more than two kids under the age of two, but because of my license and the kids I've had since infancy that aren't ready to go to kindergarten, so I'm not kicking them out, I can't drop down to attend to take three under the age of two to help out a family that's having a baby. I think those ratios need to be looked at as to how many were limited under the age of two. And then—

Ann: We talked about maybe more education of county commissioners and county attorneys about this variance issue, and I would just broaden that to say frankly, about health care and the challenges in general, but certainly driving this very specific thing that how the variances or lack thereof impact them. One thing I

just reflected on is the fact that right now, by everybody's admission, rule is horribly outdated. And so we're governing based on variances because what we have right now isn't working for us. And so I know this is not the purpose necessarily this task force, but the ability to address what's actually there, it needs to be changed so that the variances truly are for things that are one off or exceptions to the rule as opposed to creating policy through variance is something I personally am concerned about. Anybody have—

Stella: About that education to—

Ann: County commissioners and attorneys.

So yeah, infant-toddler ratio, educate county commissioners, the same thing about clarifying that liability across the board. We had some discussion, but I don't think we agreed on that question of could this be treated like some other things where it's still the county recommending it, but it's approved by DHS as a way to escape that liability here.

Julie: Part of the licensing now is the county recommends be licensed to DHS and then DHS approves it, could the variances be recommended to DHS and then DHS approve it, would that remove the liability from the counties that way? Because as providers, we feel it's important that the county licensors are the ones that are doing the variances because they know us the best, they know our ability, they've been around us, so we don't want to remove the county level, but somehow take that liability away from the county licensors especially.

Cyndi And not take away in particular, the smaller communities where everybody's really much more tight knit and closer and are working better would want to reduce their ability to be able to do those variances. We also added one at the end, was trying—in working with the county commissioners and attorneys [inaudible 02:35:40] to help them create a structure for approval of variances, which would include an appeal not to the state, but if it's going to stay within the county, help them see that the appeal or the process would be from the licensor to the supervisor or however their county is structured. And ultimately, it could go to their county commissioners, go to the county commissioner board if it was critical because that's the governmental process within the county.

Kim: And by that time, the child would be four. So we wouldn't be even needing it anymore. [crosstalk 02:36:18]. What? Oh, I'm Kim. Oh, my God, that's recorded. That was Mary.

Unidentified Speaker: [crosstalk 02:36:41], we would not be giving out variances knowing that literally, everything that we own and cherish in our life is in on the line to give out a variance, I wouldn't do it, so I applaud the county licensors that are doing it. Thank you. You, too, Lanay.

Lanay: Thanks.

Ashley: Okay. Anyone else from—

Laney: I might have to.

Ashley: Anyone else from your group that would like to compare anything that you guys had talked about? No?

Cyndi: I think the only other one was to get clarification on what the county—how the county licensors are covered or not covered. And is that distinction in each county or is it all counties or where is that in law, and potentially that in and of itself could be something that could be changed or encouraged to change. I've heard it a couple different ways.

Unidentified Speaker: And that was Cyndi.

Sen. Kiffmeyer: This is Mary. And Kim, did you say you have a document or something that does that?

Kim: This is Kim. Joan Granger-Kopesky used to be our deputy director, and she was involved and she was on MASCCA [sic]. And she was involved with one of the documents regarding this tort law. I have it, it's at the office though. So I will distribute it to the task force, to whoever, yeah. To ACET. But yeah, I agree, I think it's going to be every—because we all have different interpretations of what this all is, it's going to somehow mean getting the information from county commissioners, boards, and county attorneys to see what actually—because why do some counties allow them and other counties don't? Where is that disconnect?

Laney: Laney here. I just want to throw that I think some county commissioners and directors don't even know anything about variances.

Sen. Kiffmeyer: Like 99 percent.

Cyndi: And Cyndi here, it takes a few years to get them around to where they can get it. Three, that [inaudible 02:38:45] timeline.

Ashley: Thank you. Okay. The last group who—

Sen. Kiffmeyer: Okay. We had a wonderful—if you notice the difference between last time, mine and Heidi's. Boy, oh, boy, Heidi, we're good.

Unidentified Speaker: And then her lines are straight, how do you do that?

Unidentified Speaker: I don't [inaudible 02:39:10].

Sen. Kiffmeyer: Nothing new in regards to the liability of variances, discrepancies, capacity. We did have a lot of conversation about there's a difference between variances other than capacity.

Kim: Sugar gliders, [inaudible 02:39:30].

Sen. Kiffmeyer: That's Kim. I do not know for sure what sugar gliders are, but I'll be back to whatever it is, it's easy to get a variance for them, so whatever. And the capacity of programs is impacted by child care shortage. So this is really a big issue, the capacity issue. And it's not just related to just the variances, it's also related to the number of children in a family child care license. That whole thing I think was brought up over here as well, such as one person can have 12 with a certain ratio. And if you go up to 14, which is just two more, that increases the infant capacity. The problem is they cannot economically make the leap of having two people with 14.

And so the question is, if you increase that to 16 for 2 people, something like that, might that economic model work and that would significantly help and probably eliminate possibly some of these capacity issues? Is consistency across the counties, county boards, county attorney, like you've already mentioned here before, some solutions are going to remove the liability, revise the [46603 02:40:50], which means you shift to general liability instead of this unusual specific liability situation. One activity is engage county attorney association again brought up by others as well, standardizing guidance to licensors to innovate a solution, that was a big discussion.

I haven't heard the others about on how many of them, even if they can't do a capacity or another kind of variance, it's like, what else can we do? Can we change your type of license? Can we do something to accommodate so that health and safety are accommodated to make sure that all licensors go through the process of considering other things they can do other than just saying no. Replicate—Stephanie brought up from the governor's office, the work support program, some of the things done there and issue consistent guidance to support licensors so that they have more guidance such as on innovation, what are some of the options that they can do. And engage non-government entity to create tools and resources, another possibility.

And then this again, was increasing license class to increase capacity, understand the basis of current best practice ratios, build a cross sector coalition to inform options to consider, and test financial feasibility of options such as 12 to 14, or is it 15, what does that all do? I think somebody else made a mention that rule two has been in place, some of these things for a long time, it's time to take a look at that. And so this may be, this variance may only be that symptom of an underlying issue which is to consider that whole area in itself.

Ashley: Anything else? Anybody?

Stephanie: Well, this is Stephanie. One thing I just wanted to expand upon a little bit is that while this is a complicated issue with a lot of legal implications, being that we're a state administered county run system, variance outside of this definition is

true in interactions with counties across the county level, on the individual level. And that was my—when I was talking about with work support programs is there's a lot of tools and resources that can be created to support licensors and other county staff in that connection to what best supports someone in their particular situation that's not necessarily within statute or just helping people know what resources are available to them and giving, empowering licensors to have the tools to provide providers with that knowledge and next step, even when a variance may not even be a consideration for a variety of reasons. But even when a provider says, I'm having this situation and I want to close, well, what can the licensor do in supporting that dynamic and conversation, and that's an administrative type of—or even as we talked about another outside organization type of solution that's outside of processes that are more—yeah.

Ashley: Thank you. So Stella, would you like to talk about some of the solutions that you wrote down just as a way to try to draw some commonalities around the solutions that the groups came up with, because I can't really read your head right now.
[crosstalk 02:44:49]

Kim: I think Heidi would be the record keeper.

Unidentified Speaker: This is Kim.

Kim: That was Kim. I'm going to be doing that all day.

Stella: [crosstalk 02:45:01] review the—and then we will type the summary of that, inclusive of what folks said as well as what you have in the back as well. But really, the issues, that's called fissures, right? I don't even know if I spelled it right. So it sounds like a couple of you guys talk about, all three of you, about liability, inconsistency, discrepancy, solutions that are framed regarding these issues. I also heard training, tools and resources, so that's more of the capacity building, and then also how do we improve communication. And then the, well, capacity is this up above. Yes?

Sen. Kiffmeyer: It seems as though there's natural grouping, and one of the groupings is legal, the liability, that kind of a thing. There were several things that came up there, and I think if you group those together, that's one area which we need more information on. The second one was, relooking the licensing ratios, the license for 10, 12, what those all may mean and to review all of that. And then the third one that I thought of was the communication information. I don't know if a lot of these counties have the basics. You can do variances. If you do variances, here's the statute, that sort of a communication. County attorneys to the county commissioners directly, to the county administrator, to the head of the division. You've got to reach all of those because if you just go to one, you just don't really get it, you have to do that all. But some sort of informational letter that just lets them know at some point, that could be done. And then the fourth one was the outside third party group. I think of Initiative Foundation or Brandon

Foundation or Northwest Foundation of some sort. Any one of those could take it on possibly. Does that help, Stella?

Stella: Yeah, it does. We've got a lot to work with.

Ann: This is Ann. I'm just looking ahead, I was looking to see when we're doing this. I wonder if some of this issue around ratio capacity and size and all of that will also show up when we do the looking at alternative licensing models just because I think there are ways in which you can address this, what we're trying to do in terms of math with these alternative models. So it keeps us in the best practice in terms of what's best for kids in terms of all the things we want to see that allows us to look at some different models for how we might deal with the capacity issue.

Sen. Kiffmeyer: Mary again. But I think, Ann, you've got a really good point there. We could park that particular discussion to when we get to alternative because it might bundle that together a little bit better, whereas the legal I think stands alone.

Ann: Absolutely.

Stella: Well, thank you guys, very much for your participation of that activity [inaudible 02:48:30]. So I think what might be helpful just thinking about the discussion we had and the things that we came up with, I know you're going to summarize some of those things, but I'm wondering if we could get maybe, like a list of things that we had and we were thinking about what solutions do we envision and discuss those and decide what—as a piece of that, what maybe will go into the report for the legislation. I know that's on the agenda for later meetings, but if we have those things now, we're going to start building a list of those things. So I just want to thank everyone again for coming to the meeting, hanging out on a Sunday. And thank you to those on the phone as well for participating today. You should have a meeting feedback form along your materials. If you would not mind taking a few minutes to fill that out. Feedback from the last meeting was very helpful, so this one will be as well. So if you could take a few minutes to fill that out and then as soon as that's done, we'll close out and be on our way.