UNITED STATES DEPARTMENT OF EDUCATION

NATIONAL ADVISORY COMMITTEE ON
INSTITUTIONAL QUALITY AND INTEGRITY
[NACIQI]

Council on Naturopathic Medical Education

Monday, December 6, 1999
2:30 p.m.

The Ritz Carlton Hotel
Pentagon City
Second Floor Ballroom - Salon II
1250 South Hayes Street
Arlington, Virginia 22202
PARTICIPANTS

COMMITTEE MEMBERS PRESENT:

MRS. WILHELMINA R. DELCO, Chairperson

MR. GORDON M. AMBACH
DR. ALFREDO G. de los SANTOS, JR.
MR. ROBERT L. HAWKINS
DR. KENNETH B. ORR
DR. TANYA L. POLLARD
DR. ROBERT L. POTTS
DR. GEORGE A. PRUITT
DR. NORMA S. REES
DR. RICHARD F. ROSSER
DR. ELEANOR P. VREELAND
DR. JOHN A. YENA

U.S. Department OF EDUCATION STAFF PRESENT:

MS. BONNIE LeBOLD, Executive Director, NACIQI

DR. KAREN W. KERSHENSTEIN
DR. JAMES DOUGHERTY
MS. CAROL GRIFFITHS
MR. RONALD LIPTON
MR. STEPHEN PORCELLI
DR. RACHAEL SHULTZ
MS. JOYCE JONES
MR. WILLIAM JAMES
MS. NAOMI RANDOLPH
MS. JESSIE WELCH
MS. SARAH WANNER
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**Council on Naturopathic Medical Education (CNME) - Petition for Renewal of Recognition**

Department Staff:
Carol Griffiths  

Advisory Committee Readers:
Robert L. Potts  
John A. Yena  

Representatives of the Agency:
Robert Lofft, Executive Director  
Guru Sandesh Singh Khalsa, President  
Sarah C. Ringdahl, Institution Member  
Stanley A. Freeman, Legal Counsel  
Randall Bradley, Vice President  

Third-Party Representatives:
Francis J. Kerins, Past President 
Carroll College  
Clyde B. Jensen, President 
National College of Naturopathic Medicine  
Jeffrey Goin, President of the Coalition for Natural Health  
Todd Anderson, Counsel for the Coalition for Natural Health
CHAIRPERSON DELCO: We're ready to proceed with the Council on Naturopathic Medical Education. The Department staff presentation will be made by Dr. Carol Griffiths. Carol.

MS. GRIFFITHS: Just Carol Griffiths. Sorry.

CHAIRPERSON DELCO: Well, you know, I thought maybe I'd anoint you, too.

MS. GRIFFITHS: I appreciate that because I can use all the help I can get.

CHAIRPERSON DELCO: Every little bit helps. Please proceed.

MS. GRIFFITHS: Good afternoon. At this time I'd like to summarize for you the findings of the staff analysis of the petition submitted by the Council on Naturopathic Medical Education or CNME. Materials for this agency are behind Tab D in your folders. The CNME is seeking continued recognition for its accreditation and preaccreditation of institutions and graduate programs in naturopathy that lead to the degree of Doctor of Naturopathy or
Doctor of Naturopathic Medicine.

The CNME currently accredits four institutions or programs that offer a doctoral degree in naturopathic medicine. It accredits two educational programs, one at National College, the other at Bastyr University, and it accredits two institutions, Southwest College of Naturopathic Medicine and the Canadian College of Naturopathic Medicine.

However, as the Canadian College is outside the United States, it is not included in the agency's scope of recognition. It is CNME's institutional accreditation of Southwest College, therefore, that provides it the required Federal funding link to recognition and its accreditation of this institution is a required element enabling the college to establish eligibility to participate in Title IV programs.

The CNME was initially recognized in 1987. The agency was last reviewed for recognition in May of 1995. At that time, it was granted continued recognition for a period of four years. In
November 1998, the agency submitted its current petition for your review at the last meeting. At that meeting, Department staff requested you recommend that the agency be granted a deferral until this meeting in order for Department staff to complete its analysis of the agency's petition.

As you may recall, Department staff determined during the early stage of the review process that the agency did not meet the basic eligibility requirement contained in Section 602.1. It did not have a Federal link in accordance with its scope of recognition as it at that time did not accredit or preaccredit any single purpose institution.

The agency was notified and in April 1999 produced documentation that one of its institutions reverted back to a single purpose institution and required the agency's accreditation in order to be able to be eligible to participate in Title IV, thus giving it the prerequisite link. However, by that time, Department staff had inadequate time to complete a thorough analysis of the agency's
petition. You recommended and the Secretary granted a deferral until this meeting.

To complete its analysis, Department staff reviewed the agency's petition and supporting documentation, attended a council meeting in March of 1999, and observed a site evaluation team conduct an evaluation of one of its institutions.

Based on this information, Department staff concludes that while the agency has with some exception adequate policies and procedures for conducting its accreditation activities in compliance with the Secretary's criteria for recognition, the agency has not demonstrated that it consistently applies and enforces these policies and procedures.

As a result, Department staff concludes that the agency fails to comply with a significant number of key criteria for recognition. They include criteria under Section 602.23, the agency's application of its standards and demonstration of their validity; Section 602.24, the agency's accreditation process and its monitoring of its
members for continued compliance; Section 602.25, the agency's review and action on substantive changes; Section 602.26(b) and (c), the required accreditation standards and agency action to ensure correction of noncompliance with its standards.

In addition, Department staff cited the agency for conflict of interest policies and the training provided to site teams.

Throughout, the regulation clearly outlines the importance of an agency demonstrating its compliance with the criteria. For each of these five sections of the criteria, the regulation clearly requires this demonstration.

Regarding the agency's application of its standards, the regulation states:

To be listed as a nationally recognized accrediting agency, an accrediting agency must demonstrate to the Secretary that it consistently applies and enforces written standards. In the case of an accredditor recognized for its accreditation of institutions, these would include standards directed purposefully toward the fiscal
and administrative capacity of the institution as well as to the quality of the educational programming.

While the agency has eligibility criteria, preaccreditation standards, and accreditation standards that apply to both programs and institutions, over the course of at least two years the agency did not consistently apply and enforce them. As an example of this, in one instance of significant noncompliance it initiated a show-cause action in accordance with its policy and in another instance determined to be of similar magnitude, it did not, though its policies directed that it should initiate a show-cause action in that instance also.

Regarding the agency's accreditation processes and its monitoring of its members for continuing compliance throughout the accreditation period, "the regulation states:

To be listed as a nationally recognized accreditor, an accrediting agency must demonstrate that it has effective mechanisms for evaluating
compliance with its standards and it must demonstrate that its mechanisms drive the decision or determination made by the agency to accredit a program or institution.

While the agency has the required mechanisms in place on which to base accreditation decisions, it has eligibility criteria, standards, a self-study process, site team evaluation, and reporting and evaluation by the council itself, it does not demonstrate that its decisions are founded on the results of these mechanisms. On multiple occasions, the council, though provided with reports of noncompliance or deteriorating conditions, did not take action in accordance with its policies based upon that information or the results produced by its evaluative mechanisms.

In Section 602.25, the substantive change criteria, the regulation states that an agency must demonstrate that it maintains adequate substantive change policies to ensure that changes to the educational mission or program do not affect its capacity to meet the agency standards.
By its own admission, the agency has not complied with its own policies regarding substantive change. And for one institution, substantive changes made by that institution may have had an impact on that institution’s capability to meet the agency standards.

And again in Section 602.26 dealing with agency standards and the agency’s actions to ensure correction of noncompliance with its requirements, it is clear that an agency must demonstrate that it has standards for each of the areas cited in the law and it must demonstrate that it takes appropriate action when it finds that any of its programs or institutions are not in compliance with its requirements.

Though the agency has for the most part measurable standards and criteria, the agency did not take appropriate and timely action in accordance with its own policies once it identified conditions of deterioration and noncompliance with its standards and criteria at one of its two institutions.
And finally, an agency must demonstrate that it has administrative capability. This includes effective conflict of interest policies and adequate training of agency representatives. The agency was cited that it needs to revisit its conflict of interest policy to craft a policy that will avoid any perception of conflict of interest and to revisit its training to provide more timely training to its evaluators.

The Department has received both oral and written comments opposing the renewal of this agency's recognition and I understand presenters are here today to share their concerns with you.

Based upon Department's review, Department staff conclude that while the agency for the most part has policies and procedures for conducting its accreditation activities in compliance with the Secretary's criteria for recognition and while the agency may demonstrate an effectiveness as a programmatic accreditor, the agency has not demonstrated its capability to perform effectively as an institutional accreditor, which is its link
to recognition. Therefore, the Department recommends denial of the agency's petition for continued recognition.

This concludes my written remarks. I would be glad to try to answer any questions and I know the agency wants its opportunity to address you.

CHAIRPERSON DELCO: Thank you very much. We do have committee readers, Drs. Potts and Yena, but before that since so many of the people who are here for this agency's presentation were not here earlier when we set the rules for the procedure in this meeting, I'd like to just briefly review those to make sure that we're all on the same page and we know where we're going.

If you have an agenda, the procedure is outlined at the beginning which talks about the procedure for full committee hearings. The procedure is that there's a briefing by the Department staff; the presentation by representatives of the agency, and that is not to exceed 50 minutes as a total presentation;
presentation by third party representatives, if there are any, those presentations are not to exceed ten minutes per person.

Then the agency response to the third-party presentation and then the Department response to agency and third-party comments if there are any, and the committee discussion and voting. The committee's action will be to have two committee members who are assigned this agency who will act as the readers for the committee. They ask the initial questions.

Then once they've asked their initial questions, any members of the committee that would like to ask questions can do so at that time and that procedure will be followed, that is the committee readers first and then the members of the committee for the presentation by the staff, the presentation by the agency and then the presentation by the third-party individuals.

We want to make sure you understand that so that you establish your time so that you do not exceed the time because unfortunately I have a
clock up here and will call time on you when you exceed that time. So please be aware of that as a reality and therefore frame your remarks so they do not exceed the time that has been allocated to you. If that is clearly understood, I will recognize Dr. Potts and Dr. Yena as the committee readers to ask questions of the staff at this time.

DR. POTTS: Ms. Griffiths, I first would like to state this was a particularly troubling item on the agenda for me today because I, on the one hand, see the thorough work that you have done on this, and yet when I read all the materials, I see an agency that has with very small staff and a small budget done quite an amazing job of complying in large part, at least through their written documentation, with the criteria that’s set out in the regulations that we’re operating under.

Now I also see I wouldn’t say a conflict, but at least on the one hand this and on the one hand that with regard to this note under the staff recommendation where I noticed that you say that there’s a fairly pervasive non-compliance with the
criteria, yet you note that the agency has demonstrated effectiveness and reliability as a programmatic accrediting agency, and I know we're talking about an institutional accrediting agency. And then you also note that it is possible that continued institutional accrediting experience on the part of the agency might well establish a record of consistency sufficient to permit staff at some future point to recommend recognition.

So what I see here is I assume no evidence of bad faith on the agency. In your investigation, did you find any bad faith on the part of the agency in trying to conceal the condition of this particular institution that the staff believes should have had some adverse action taken against it?

MS. GRIFFITHS: I think the agency has been very open, very honest, and shown very much integrity in sharing exactly how they do things and I saw no evidence of any favoritism toward any institution or program based on a Title IV link, if that's what you're driving at.
DR. POTTS: Right.

MS. GRIFFITHS: No, I didn't see that.

DR. POTTS: Now, to get this into context, the main issue involves one institution out of four that are accredited by this body and that is Southwest College of Naturopathic Medicine and Health Science; is that correct?

MS. GRIFFITHS: Actually the record is more one institution out of two institutions.

DR. POTTS: One out of two institutions. The other two are programs?

MS. GRIFFITHS: Correct.

DR. POTTS: All right. And that is the Federal link. And I want to ask this specific question. Did you find any evidence that their failure to take action, adverse action, against this particular institution when it got into trouble was based on the fact that it was a Federal link?

MS. GRIFFITHS: No, I did not. There is nothing that I saw or heard that would indicate that.
DR. POTTS: Okay. Now, in the response that is given, the agency has claimed that what they were trying to do is basically extend a helping hand to this institution and if they had this authority under their standards and policies and under the regulations, and, in fact, this institution has rebounded and is now well on its way toward accredited status, were you able to find any documentation to that effect? Do you think that is, in fact, an accurate portrayal of where we stand right now with regard to this institution?

MS. GRIFFITHS: Actually, I think it's a little premature for anyone to say that the college is satisfactory and is out of the water, so to speak. The agency through the documentation I saw that in at least one, two other instances, there was a change of leadership and there were some negative repercussions there and deteriorating conditions or non-compliance continuing in the past. I would be hesitant to say that everything is fixed now.

DR. POTTS: I saw some reference, I think,
in the third-party comments to the effect that this institution actually closed for a short time during calendar year 1999. Were you able to verify that?

MS. GRIFFITHS: I don't mean to be facetious, but "closed" in the Department sense could be a technical word that would cause some problems. Maybe they suspended classes for a period of time--

DR. POTTS: I don't know what it was.

MS. GRIFFITHS: Or some portion of their classes for some period of time. But I wouldn't say they closed their doors. I would say they suspended at least some portion of their classes.

DR. POTTS: And was this due to either the financial condition or the administrative failures of the institution?

MS. GRIFFITHS: I would say both. Mostly financial, I believe, but financially and administratively in managing those finances-- perhaps.

DR. POTT S: And would that support your conclusion that this institution is not out of the
woods yet and it would be premature to say they were on the road to recovery and so that they could meet the standards of the agency?

MS. GRIFFITHS: I would think it would need some interval of time to elapse to determine indeed they are out of the water and meet the agency's criteria fully.

DR. POTTS: And just to crystalize this issue for the committee, would it be fair to say that if this situation involving Southwest College had not occurred, i.e., that the agency had issued a stiff letter of reprimand or asked them to show cause or whatever, that the staff recommendation most probably would have been, to give them additional 12 months to come into compliance? Is this the precipitating event that led the staff to recommend denying recognition, the fact that there was this one institution in this kind of trouble and there was no adverse action taken by the agency?

MS. GRIFFITHS: I think that the agency's -- what Department staff deemed to be two years'
worth of not taking action in accordance with policies that don’t allow for much variance in response. Unlike an accredited institution or with an accredited institution, the agency has more options for action but with a candidate institution, there is only, it seems, one by procedure and policy course of action and that is to issue a show-cause which is putting the institution on notice that they have to take action to comply with standards.

DR. POTTS: Okay. So to follow up on my question, then, had they issued the show-cause during this two year period at the appropriate time, would it be fair to say that perhaps the staff recommendation would not have been to deny recognition in that the other deficiencies noted were not sufficient to mandate this recommendation?

MS. GRIFFITHS: I think that’s pretty fair because really what we are, I think, citing is their lack of action in accordance with their own policies and procedures that cover an institutional accreditation.
DR. POTTS: Okay.

MS. GRIFFITHS: Yes.

DR. POTTS: That's all I have at this time.

CHAIRPERSON DELCO: Dr. Yena.

DR. YENA: Ms. Griffiths, pervasive non-compliance is one comment and then primarily with respect to one institution. If we were to subtract out the non-compliance with respect to this one institution, Southwest College, what issues would be remaining on the table?

MS. GRIFFITHS: Training.

DR. YENA: Of on site?

MS. GRIFFITHS: Of on-site evaluators.

DR. YENA: Okay.

MS. GRIFFITHS: Some of their standards need revisiting. Substantive change affected more than one institution. Conflict of interest--thank you--that's what I was thinking--conflict of interest. There was a notification to the Secretary criteria included.

DR. YENA: Was there an issue about branch
campus establishment; is that--am I recalling that from this or am I getting mixed up?

MS. GRIFFITHS: Substantive change, I think.

DR. YENA: Okay.

MS. GRIFFITHS: Oh, there was a branch campus, but it was more of a wording of their policy. Yes, that was also cited, but it had nothing to do with any evaluation of branch campus. It had to do with the way their policy was written.

DR. YENA: Okay.

MS. GRIFFITHS: I wouldn't consider that a show stopper.

DR. YENA: Okay. Thanks. I want to make sure I'm clear on another thing. This institution, Southwest College, was in a preaccredited status, was in a candidacy status?

MS. GRIFFITHS: Yes.

DR. YENA: When did it receive candidacy?


DR. YENA: '94. And--

MS. GRIFFITHS: August, September of '94.
DR. YENA: And their standards for making satisfactory progress as a candidate requires them to continue to close the gap. I presume a candidacy is something less than fully meeting the standards, that the agency would decide on giving candidacy to an institution then that might be short of meeting all the standards but would feel like in a reasonable period of time that institution could meet the balance of the standards; is that correct?

MS. GRIFFITHS: That is correct. And the standards mirror the accreditation standards basically, but they don't--yes, they're not expected to fully comply, but they are expected to continue to make progress and not to deteriorate or--

DR. YENA: So your understanding of the standards is for a candidate institution the requirement is to make progress and close the gap on meeting all the standards and the criteria further says that if they regress as opposed to moving forward in meeting those standards, there's
an obligation according to a consistent application of their criteria to issue a show-cause letter alerting the institution that it is regressing from progress; is that correct?

MS. GRIFFITHS: Yes, that's my understanding of the policy.

DR. YENA: I have no questions until I hear the balance of the presentation.

CHAIRPERSON DELCO: Other questions? Dr. Orr.

DR. ORR: Just one or two quick questions. I understand, of course, that there is only one institution that's a Federal link and it's Southwest College, I believe was the name of it.

MS. GRIFFITHS: Yes.

DR. ORR: How many students are actually receiving Federal support through this link; do you know?

MS. GRIFFITHS: I do not know. I think the agency might be able to tell you.

DR. ORR: Perhaps I can ask the agency when it comes up. The second question is how long
can candidacy status be a status? I mean presumably--

MS. GRIFFITHS: Five years.

DR. ORR: Five years.

MS. GRIFFITHS: And the agency's policy is five years.

DR. ORR: Excuse me?

MS. GRIFFITHS: The agency's policy is five years.

DR. ORR: And it received candidate status in '94 and now it's '99. So the five years is up?

MS. GRIFFITHS: Yes.

DR. ORR: Do you have a sense as to where their candidacy stands in terms of--

MS. GRIFFITHS: They granted accreditation November 1, October 31, November 1.

DR. ORR: Oh, I missed that. All right.

Thank you.

CHAIRPERSON DELCO: Other questions or comments? Dr. Pruitt.

DR. PRUITT: This anomaly with this one institution, does the evidence that you've reviewed...
lead you to any conclusion as to why this behavior was anomalous when in other cases they behaved differently?

MS. GRIFFITHS: I believe that the agency looked at faculty commitment, student achievement, student satisfaction with the quality of education they were receiving, and I believe that the agency felt that they fully met their standards in those areas in the programmatic sense. Did I answer your question?

DR. PRUITT: Yeah, but I'm confused. I'll reserve questions. I have some confusion, but I'll wait and see if it's cleared up by some further subsequent testimony. Thank you.

CHAIRPERSON DELCO: Okay. Other questions or comments by members of the committee?

DR. ORR: May I ask one more question?

CHAIRPERSON DELCO: Dr. Orr.

DR. ORR: Maybe I'm confused too, George. It won't be the first time, but this agency--I mean this institution is now accredited. It was accredited by this particular accrediting agency.
Is there substantial pervasive non-compliance with any other institutions? They’re not but two or three; aren’t they? Did I miss?

MS. GRIFFITHS: There are two institutions, Canadian College, which is outside the United States and this one, only two institutions, and--

DR. ORR: I guess the question I’m raising is were--they granted accreditation to one of the two, right, in ’99? That’s what you just said.

MS. GRIFFITHS: Correct. Correct.

DR. ORR: And yet they as an agency are out of compliance. Were they within compliance as they went about the procedure of granting accreditation to this one institution? See what I’m saying?

MS. GRIFFITHS: Is what you’re asking me is whether or not the agency granted accreditation to an institution that did not fully comply with its criteria and standards; is that what you’re asking me?

DR. ORR: Well, maybe that’s one piece of
it. Is that a part of the non-compliance that they are representative of?

MS. GRIFFITHS: The non-compliance was with--

DR. ORR: Let me put it another way. Did you have any evidence--

MS. GRIFFITHS: In applying--

DR. ORR: Excuse me. Did you have any evidence that in giving accreditation to this institution that they in any way compromised the standards of accreditation for doing this?

MS. GRIFFITHS: Their grant of accreditation to this institution was made in November. And I do not have those--I was not at that decision meeting, do not have the notes of that decision meeting.

DR. ORR: I see.

MS. GRIFFITHS: I don't know what they based their decision on except that there was a site team evaluation conducted in September and a team recommendation forwarded to the council.

DR. ORR: And your documentation would
have ended in--

MS. GRIFFITHS: It doesn't include that.

DR. ORR: --what--June or something like that?

MS. GRIFFITHS: Yes.

DR. ORR: Thank you.

CHAIRPERSON DELCO: Dr. Potts.

DR. POTTS: I noted in some of the materials in looking at the balance sheet that they had a real bad year and then they went out and got some donations and got themselves back in the black. And then I believe they got a letter of credit. Did this occur while you were looking at or after you finished your investigation and before they did the accrediting decision last month?

MS. GRIFFITHS: Okay. You're referring to the financial condition of Southwest College?

DR. POTTS: Yes.

MS. GRIFFITHS: And that was done before this analysis was finished.

DR. POTTS: So there was an improvement in their financial condition, whatever it was based
on, from the time that you saw the pervasive non-compliance until the time the report was finished; is that correct?

MS. GRIFFITHS: Yes, their financial condition seemed to improve in terms of they did get contributions, they did get their bank accounts unfrozen, they did make payroll. They--

DR. POTTS: They got back into operation?

MS. GRIFFITHS: They got back into operation. They did file a letter of credit. The Department gave them an opportunity to file some part of their letter of credit with monthly installments to continue throughout the remainder of this year and they did meet that first obligation.

DR. POTTS: Okay. And is it fair to say that they got into this financial difficulty from expanding their physical facility some time ago and borrowing money to do that; did you find that during your investigation? That this particular institution was trying to improve its physical plant and borrowed money to do it and then got into
problems with servicing the debt?

MS. GRIFFITHS: My role going to Southwest College was to observe the site team and its evaluation. I did not do any investigation of the institution's financial situation in depth myself. I do understand that the college did get itself into extreme financial difficulty and extreme level of debt that caused some of that, yes.

DR. POTTS: Okay.

MS. GRIFFITHS: But for what reason, perhaps it was to buy a new facility.

DR. POTTS: Okay. That's all I have.

CHAIRPERSON DELCO: Any other questions or comments by members of the committee? If not, thank you very much.

MS. GRIFFITHS: Thank you.

CHAIRPERSON DELCO: Representing the agency are Guru Sandesh Singh Khalsa, Randall Bradley, Sara C. Ringdahl, Robert Lofft and Stanley A. Freeman. Between you, you have a maximum of 50 minutes.

MR. LOFFT: Madam Chairperson, members of
the committee, my name is Robert Lofft. I'm the Executive Director of CNME. Thank you for the opportunity to respond to the Department staff analysis. Madam Chairperson, are you saying 15 or 50?

CHAIRPERSON DELCO: 50, ten minutes each.

MR. LOFFT: Okay. Thank you.

CHAIRPERSON DELCO: And you can do it either individually or collectively, but that's the maximum time allotted for the presentation.

MR. LOFFT: Thank you.

CHAIRPERSON DELCO: You're welcome.

DR. POTTS: Could I get you to introduce the people from right to left or left to right?

MR. LOFFT: Yes, I'd be glad to, Dr. Potts. On my left is Mr. Stanley Freeman. He is our legal counsel this afternoon. And on my right is Dr. Randall Bradley. Dr. Bradley is the former president of CNME and he's currently the treasurer. And to his right is Dr. Guru Sandesh Khalsa, who is the president of CNME. He is an institutional member representative from one of our colleges,
National College in Portland, Oregon. And to his
gright is Dr. Sallie Ringdahl. Dr. Ringdahl is also
an institutional member representative from Bastyr
University in Seattle where she is Dean of
Naturopathic Medicine.

DR. POTTS: Did you say Sallie or Sarah?
MR. LOFFT: Sarah. She goes by Sallie.
DR. RINGDAHL: It's the same name. It's
like Bill and William.

DR. POTTS: Okay.
MR. LOFFT: Well, you already know quite a
bit about us and quite a bit about our schools.
And probably a little bit about naturopathic
medicine. Naturopathic medicine is not well known
in this part of the country. Physicians of
naturopathic medicine are licensed only in 11
States, four Canadian provinces and Puerto Rico.

In the U.S., the States are seven States
in the West and four in New England. The scope of
licensing includes diagnosis and treatment of
disease and injuries. This is commonly accepted as
the practice of medicine. The State laws do vary
somewhat in the scope of practice, but they all include the right to diagnose and treat patients.

Our schools, therefore, are considered four year naturopathic medical colleges. The first two years are devoted to basic sciences with some history and philosophy of naturopathic medicine and the last two years are devoted to the clinical sciences where students are supervised by licensed physicians including allopathic, osteopathic, chiropractic and acupuncturists. Indeed, the students spend their last two years in a clinical setting seeing patients on a daily basis.

We have three schools we accredit in the United States, one we preaccredit in Canada, and we have two schools preparing to apply, one in Connecticut and one in Vancouver, British Columbia. There is also another school in Arizona that has started within the last two years which we’ve heard indirectly is planning an application to our agency, but we’ve heard nothing officially from the school.

The staff analysis arrived at my office on
October 22. We needed to respond by November 12. We were given actually until November 15 which gave us another day and a half over the weekend. It caught us by surprise and there was much more in the staff analysis in the way of issues than we had expected. It also came at a time when we were preparing for our annual meeting and we weren’t able to really give the staff analysis the kind of response we would have liked to.

But I’m sure you’ve all received it along with the exhibits that we submitted. Our reading of the staff analysis indicated that we had given preferential treatment to one of our schools and it was noted that this school served as a Federal link. We had other people read it, too, to see if that was also the same impression that they would have. And without exception it was.

And so that was the reason we responded as we did. We wanted to point out that we had no reason to exercise any partiality toward this school because this school was either one of two Federal links we had, because we had another school
in exactly the same situation, a school which had been predominantly an naturopathic medical college that had started a second program in acupuncture, the same as Southwest.

So both these schools then would be Federal links. In fact, the MD students were qualified for Title IV funds. We were serving as the institutional accrediting agency for both these schools. Or if this interpretation of the law was incorrect, then we had no Federal links. In either case, we had no reason to be partial toward this school. There is certainly the appearance that we've been partial toward the school and a lot of people assumed that the reason we were partial is because of a self-serving reason, that it would enable us to stay Federally recognized.

This school wasn't a preaccredited or candidate college. It was started from scratch. There was no existing university structure that this school could avail itself to. And for the first two or three years, it was in a leased facility, the city of Scottsdale, Arizona former
city offices, and then it had an opportunity to acquire its own campus and did so, a very nice campus, a very interesting campus, ideally suited for a naturopathic college.

The college's debt was primarily the mortgage on this campus. And the college did run into trouble servicing the debt because in addition to buying the campus, they also had to do some remodeling of the facility. And what we found out there was that they used some operational funds to do remodeling and that's what got the school into its financial trouble.

But we never saw that the school was in such deep financial trouble that it was going to have to close or suspend operations. We looked very closely at the quality of the educational program. We saw this school had an excellent faculty. We saw that this school had a very nice physical plant. We had nothing but expressions of satisfaction from the students we interviewed and we interviewed a lot of students.

We went to this campus quite often, as you
may have noted. We were there three times in one calendar year. We were watching it very, very carefully because of its debt. We thought our primary obligation was to the students. We wanted to protect the students' interests. And we did not want to see a school have to close and leave them without an institution.

For some reason, the college's president was abruptly dismissed in the summer of 1997. This had been the founding president. And it's never been made clear to us why he left. But then there was a new president. Actually not a new president. There was a new provost at the school who had been hired shortly before the president was asked to leave. I believe he was asked to leave even though the official cause for leaving is a resignation.

The provost was a man who immediately won our confidence. He was a very able college administrator with much experience. And he was in place during one of our critical visits to the school. And we found as a result of that visit that this school was in good hands. In fact, we
thought the school was in better hands than it had ever been in. And we had a lot of confidence in the ability of this acting president who was by title provost to take the school to its potential.

The school is located in a part of the country that's growing very rapidly and which there is a great interest in naturopathic medicine. It's ideally situated to become a prominent naturopathic medical college and we thought that this president would have the ability to do that, this acting president.

But then something very strange happened. The president was summarily dismissed with all kinds of wild accusations being made, none of which had any merit, we found out. And somebody who had been a board chair at the school named himself acting president. We immediately objected and we told the new acting president who was also board chair that he could not hold both offices and since he had no academic credentials to be president, he could not be president. So he stepped aside and allowed someone else to serve as acting president,
someone else whom we did not know that well, but it was somebody who had been at the college for awhile and immediately instructed the school to begin its search for a permanent president. And it did so.

During the next few months, however, we heard many disturbing reports, mostly from faculty and students, about the management style of the new acting president. And we came to believe that this was the one and true problem, only problem. The one true only problem that the school had was the management style of its president.

We knew that the students were alienated. The faculty were alienated and there was a high degree of mistrust. So we approached the board chair with our concerns to find that the board was solidly behind the president. And we did not know why, but that was the situation.

And we saw that our efforts to convince the college that it should speed up its presidential search were not going to be successful. And so we informed the school again of our concern that it conduct that search immediately.
and find a permanent president and they then began interviewing a list of candidates that had made inquiry.

Then the acting president was named president. This was very disturbing to us again and we let it be known to the college and let it be known to the board chair. However, we're not running the school. We can only make recommendations. And we did not want to micromanage the school more than we thought we already were. There was a real concern that we were overstepping here.

The school got into problems with I would call wholesale firing of key administrative staff and faculty members by the acting president. And one such firing triggered the episode for which I'm now very grateful. The president, the acting president, actually is the president then, fired the chief financial officer and then the chief financial officer came to me and told me what was really going on at the school, and I've been forthright with the staff on this. And we knew
then that there had to be changes made at the school.

We recommended, we had previously recommended a management team come into the school, but that also was ignored by the board chair and by the acting president. Now we were in a situation where we were convinced both the president and the board chair needed to leave their positions and on July 27 before a student assembly, they both resigned. And the students and faculty members who demanded their resignation knew that they had our agency’s support.

We had, in fact, talked to them on the phone the very morning that the president and board chair were going to announce the closure of the school. And instead of closing the school they resigned and a group of students and faculty members organized a steering committee to run the school temporarily. Classes were suspended for two weeks, but the clinic, the student teaching clinic, was left open, continued to operate.

And after two weeks, classes did resume.
The bank accounts which were frozen, by the way, were frozen in response to the chief financial officer having been fired more than out of any concern that the college was going to become insolvent. The chief financial officer had a good working relationship with the banks and when the banks found out that he was terminated, they became very concerned and froze the accounts.

After the college was reorganized and a new acting president was named, the banks immediately unfroze the accounts and we have today in Tempe, Arizona a college that I still believe will be the premier naturopathic medical college in the United States within the next decade.

It's a going concern. It has good leadership. It has tremendous vitality, faculty, students, the community, and I believe it's deserving of our accreditation, and I think all along had been deserving of our preaccreditation and I do not think that we were inconsistent under the circumstances in the application of our standards, policies and procedures with this
school.

There were many things going on at this school and those were things that the accrediting agency alone knew about and which determined many of our decisions.

I would now like to introduce to you somebody who was on the visitation team. Okay. We'll go to Dr. Khalsa first. I'd like to introduce you now to Dr. Khalsa who is the president of CNME.

DR. REES: Madam Chair, could I ask a question at this point?

CHAIRPERSON DELCO: Yes, I'll have to discount that from his presentation if it's something you have to ask. I'm keeping time and I would like to allow them the maximum time for their presentation.

DR. REES: A brief question which I think will help me follow the testimony. What was the status of the accreditation of the institution you've been describing during this period and what allowed you to continue to intervene and ask
questions during that period?

MR. LOFFT: It was a preaccredited institution. It did not—it was what we call a candidate for accreditation and we were intervening because we believe we have an interactive role with our developing schools and that we should be lending them a helping hand when we can. We did issue a show-cause letter to the school on July 30.

CHAIRPERSON DELCO: Thank you.

DR. KHALSA: I'm Guru Sandesh Singh Khalsa, and Madam Chair and committee members, thank you very much for giving me the opportunity to speak today. I would like to address two major areas and the first is the oversight that was provided to the college by the accrediting agency, by CNME.

This was a college working through candidacy toward accreditation, definitely young and immature but growing and becoming more sophisticated. The council has been diligent in following its progress. Over the past two years, there have been frequent site visits, as Mr. Lofft
mentioned. At one point there were three site visits within one calendar year. We were all visiting them at least once per year.

We asked for ongoing progress reports on vital issues and gave timely feedback to the college regarding issues of concern. The council's goals throughout all of this have been to assure high quality educational program, ensure the stability of a young and growing college. We've been concerned with the protection of the students and the protection of the public which is seeking high quality naturopathic medical health care.

But as an example of the oversight that the council provided, in our response there's a letter dated March 17, 1999, which was from myself, and addressed to the then acting president of the college and to the chairman of the board of the college. It addressed the major areas of concern that the council had with respect to the college at that point. Now this you have to realize is only six months before the college was due to be accredited or not be accredited, but their
candidacy would be ending at that point in time.

We outlined very clearly the areas that they would have to be in compliance with. They would have to be, expected to be in compliance with all standards. Two issues of major importance, which were mentioned in the staff analysis and have been mentioned here by Mr. Lofft, one is governance, the search and appointment of a properly qualified permanent president, and the other is the finances of the college and specifically the heavy debt load.

These were mentioned and indicated that these were issues that needed to be addressed by the college in order to achieve accreditation. These and other topics were discussed in detail. As has been noted toward the end of July in 1999, there was a management crisis. The president and board chair resigned. The CNME at that point did issue a show cause sanction as to why a candidacy should not be revoked.

At that point in time, I traveled to the school. I met with all of the college
constituents, faculty, students, staff, remaining administration. I also met with representatives from their banks and had a conference call with a representative from the regional Title IV Department of Education representatives who oversee their participation in Title IV.

What became clear was that both the banks and the Department of Education's Title IV regional people continued to have confidence that the school could continue its mission, assuming that proper management was in place and proper financial controls and procedures were put into place.

The show-cause sanction was subsequently lifted when the college showed its ability to meet its obligations with the Department of Education and with the banks. And at the November 1, 1999 CNME meeting, the college did receive accreditation.

However, after lengthy discussion, the college was required to nonetheless continue monthly reports and to have a six month site visit occur six months after accreditation was granted.
It should also be noted that the council relies heavily on the input from its public members who have extensive experience in accreditation and both on the site visit team as well as in the actual determination for accreditation, it was these experienced educators who actually led the recommendations toward accreditation of the college. The council has always had a very appropriate and unbiased in its deliberations and actions toward this school and all of the schools.

The other major thing I would like to address is that there are issues not related to this particular college that were indicated in the staff report, and while I do not have time to address all of these, I would like to indicate that we feel we’re either substantially in compliance or have addressed many of these issues already.

One issue was around the appeals process for a negative accreditation recommendation and that the council would have an external board that would review and make the actual decision on an appeal. Since this board was not actually
recognized by the Secretary of Education, this was not a proper procedure. This has been changed.

The council, subject to public comment, has adopted a change which makes the appeals board an advisory position.

With respect to site visitor training, which was also brought up, the council expects that all its site visitors be experienced in higher education and/or naturopathic medicine and that they have participated in site visit training, whether it’s provided by CNME or is provided by other recognized accrediting agencies. And indeed some of our public, those from the public who are not from the CNME who participated have been trained by other very well recognized accrediting agencies.

With respect to maintenance of records, the council does maintain appropriate, complete and accurate records of all accreditation documents including site visit evaluation reports, self-studies, interim reports, council recommendations and decisions. The council is in compliance with
this requirement. The staff last visited in 1995 the offices of the council and the council was found to be in compliance and we have not changed or reduced our level of adherence to this during that time period.

I would like to say in summary that the council considers it a high priority, the ongoing improvement and consistent implementation of its policies and procedures. I would like to thank you very much for hearing me and certainly will be happy to answer or clarify any questions that may have come up during the process of this.

CHAIRPERSON DELCO: Thank you very much. Is there anyone else that had planned to make a presentation? If so, you have approximately ten minutes left.

DR. RINGDAHL: My name is Sallie Ringdahl. On my birth certificate, it's Sarah and I'd like to read you a letter from a friend of yours, Dr. Edd Miller. Dr. Miller, who has two 'd's in his Edd, is the president emeritus of the University of Nevada in Reno, was formerly on this council. He
first of all regrets that he's not here and he is presently a public member of our Council on the Naturopathic Medical Education and his professional background has been closely associated with accreditation.

I'm now reading from his letter. In the 1960s and '70s I was a member of the Northwest Association of Colleges and for two years served as its president. In the mid-'70s, I was an appointed member of the committee on which you now serve and served one year as its chair. I'm a member of the board of directors of the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped. And for two years, I was president of the council.

I have served as chair of site visit teams in several of the regional accrediting bodies. I've been president of two State universities and in that capacity I've seen accreditation locally and by a variety of accrediting groups. For example, medical schools, law schools, chemistry, education, et cetera.
In my opinion, the Council on Naturopathic Medical Education is an excellent organization. It has a superb book of standards. In its consideration of colleges offering degrees in naturopathic medication, these standards are followed in detail. I have served on site visits and I know firsthand that the standards of the council are applied closely and completely.

The council's consideration of the problems that Southwest College has been completely and carefully done. And despite some administrative problems, we are convinced that students enrolled at the college have received excellent instruction and demanding learning. I respectfully urge that the advisory committee give careful consideration to this CNME's petition for continued recognition. I believe the recognition is warranted and deserved. Signed, sincerely yours, N. Edd Miller, Ph.D. Thank you.

CHAIRPERSON DELCO: Thank you. Anyone else?

DR. BRADLEY: I was scheduled to speak but
I'd like to give my time to our attorney.

MR. FREEMAN: I'll try and leave some time for you, doctor. Thank you. Let me start off by way of explanation. The reason the easel was brought in is because the last go-round one had been used by one of the opposing parties. We had assumed it would be permissible and, Ms. LeBold, I intended to move it for you, but I didn't want to interrupt Ms. Griffith's presentation.

MS. LeBOLD: That's okay.

MR. FREEMAN: But very seriously, the principal item that was going to be shown on that easel is a copy of the organic statute that governs this committee. And the reason that statute is so important is because there are seven functions of the National Advisory Committee on Institutional Quality and Integrity that are listed in the statute, each of them mandatory functions of the Secretary, of Congress whereby it says the committee shall and then it lists seven functions.

Now one of those functions is, of course, advising the Secretary with respect to the
recognition of accrediting agencies, but there are at least two other functions that are absolutely critical here, that it's important for this committee to take note of and take into account because this matter is not ripe for the denial recommendation that's been put forth.

The first of those functions that I think is crucial is function four. And that says that the committee shall, and this is reading from the exact text of Section 114 of the Higher Education Act of 1965 as amended, 20 USC Section 1011(c).

Functions: the committee shall develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations or State agencies in order to establish the eligibility of such institutions on an interim basis for participation in Federally funded programs.

Now, my preference would have been to enable you all to study that provision, but I've
read it to you and what it says is that in instances where there are no recognized accrediting agencies available to accredit institutions that fall into a category of training for which there's no recognized body, then it is required of this committee to develop and recommend to the Secretary standards and criteria.

In other words, if this accrediting agency were to be derecognized, it is the only recognized agency that works in the area of naturopathic medicine. It is the sole recognized accreditor of naturopathic colleges. If this agency were derecognized, there would exist a vacuum. There would be no recognized agency with applying and implementing standards to ensure institutional quality and integrity with regard to the field of naturopathy.

And if that were to happen, this committee would have fallen short in its statutory, Congressionally mandated duty to promulgate standards and criteria for specific categories of vocational training for which there are no
recognized accrediting agencies. So my point simply is that it's a major step for this body to de-recognize an agency and create a void, a vacuum, if you will. And it's a step for which there has been no groundwork laid and that step cannot be taken consistent with the statute at this time.

Now, beyond that, function number six states that the quote "the committee shall advise the Secretary with respect to the relationship between accreditation of institutions of higher education and the certification and eligibility of such institutions and State licensing responsibilities with respect to such institutions." Now, this group, the CNME is explicitly mentioned and referenced. In the licensing statutes of a number of States around the country, 11 States plus Puerto Rico have adopted naturopathy licensure standards.

Many of those standards explicitly reference CNME and at least one, Utah, I believe, CNME is a prerequisite. In many cases, the CNME standards are the template or are similar to what's
required in order to be licensed in the State. So this committee, the advisory committee, is required by statute to advise the Secretary with respect to the relationship between accreditation and licensure.

And again with all due respect, I haven't seen anything in the staff analysis or elsewhere that develops standards or advises the Secretary with regard to the impact of the creation of a vacuum of recognition in the field of naturopathy. After all, the name of this committee is the National Advisory Committee on Institutional Quality and Integrity. This group accredits the institutions which train the licensed naturopathic physicians in the 11 States where such licensure standards apply in order for these people to hold themselves out as doctors.

Now, the staff analysis assiduously avoids taking sides in this philosophical debate. And I don't know that I'm necessarily suggesting that this committee should take sides, but there's a statutory mandate here and that mandate is to
develop standards where vacuums exist, where gaps in recognition exist and to advise the Secretary with regard to the relationship between accreditation and licensure. And this is a tailor-made example where each of these two mandates are absolutely essential and crucial to the analysis.

So I would respectfully submit that a deferral at worst—I think on the record with the actions that were taken with respect to Southwest College, and which I can detail if this committee will give me time, I think the record clearly supports rerecognition of this agency—but at worst a deferral. I would refer to the last round of hearings where the learned counsel from the Office of General Counsel mentioned the fact that prioritizing can be made on the basis of how much Title IV money is flowing through a particular agency.

Well, here the amount of Title IV money at stake is infinitesimal compared to other agencies so that a deferral would be appropriate on those grounds. The statute and the regulations
explicitly state that a deferral can be issued even upon a finding or a perception by the committee that the agency may not be in compliance with regard to particular aspects of the recognition criteria and I can quote from the particular provisions that stand for that proposition.

And lastly--and I will do so for the record--the particular provision in the regulations is 34 CFR Section 602.12(c)(5), which states that--which authorizes the committee to recommend deferral even while delineating the requirements of this part that it believes the agency has not met in a similar provision in the statute at 20 USC Section 1099(b)(1)(b).

By the way, this agency was deferred once before. It was deferred at the last meeting. That deferral came at the request of the department staff. It was not a deferral that was requested by the agency and at that point in time, the agency had not been provided with any of the findings that are listed in the staff analysis. In fact, I have to say that if an agency were to revoke the
accreditation of a school in a fashion identical to the way in which this agency is facing possible denial of its recognition by this committee, if one of your recognized accrediting agencies were to engage in the same process, it might call into question whether that accrediting agency has abided by the due process criteria in your standards.

And the reason I say that is because the-and this is not in any way a slam on the staff because the staff was doing things on a time table that it probably couldn’t change--but the way the process unfolded is that there was an 11 month period between when the petition for recognition was submitted and when the staff analysis was received. And then there was a two and a half week period from the October 22 date when Mr. Lofft received that analysis until the response had to be filed.

And during that time, CNME had its previously scheduled commission meetings. This is an agency, a tiny agency with one staff person, who was caught up in the process of running, organizing
a meeting and had this very short period of time to respond. We attempted to provide information in writing, a pre-hearing submission, that would have enabled this committee to digest some of the information I have presented to you here today in writing, but the staff felt constrained from distributing that to the committee based on the fact that it was in writing after the time for written submissions.

But you do, of course, have the agency's submission in response to the staff analysis. There are other things that I could and probably should say, but I'm going to leave them all out except for one thing. I'm going to give you a very quick recitation of the actions that this agency took with regard to Southwest College.

CHAIRPERSON DELCO: You have five minutes to summarize.

MR. FREEMAN: Five minutes. Thank you, Madam Chairwoman.

CHAIRPERSON DELCO: That's it.

MR. FREEMAN: I'm going to take one minute
of that and I'm going to yield the remainder of my
time to our remaining witness if--

CHAIRPERSON DELCO: He'll have four if you
take one.

MR. FREEMAN: I know. He'll only have
four. And I'm going to do this very quickly. The
CNME took the following accreditation actions with
regard to Southwest College. It conducted multiple
focused staff evaluations at the school during the
two and a half year period that has been cited. It
deliberated at its own meetings on at least four
separate occasions during that time frame and these
facts are documented in the staff analysis
actually, referenced in the staff. They're not
detailed, but they're referenced.

Throughout the time period at issue, this
particular institution was not granted
accreditation. It was refused accredited status
and will remain in candidacy. On March 17, CNME
wrote the detailed letter that's been described
previously. When the issues didn't get resolved,
CNME issued a show-cause order on July 30, 1999.
On August 1, CNME wrote a detailed letter to make sure that the school got the show-cause and knew how urgent the situation was.

On August 3, CNME wrote a detailed letter to the Department of Education explaining what was going on. On August 20, CNME amended the show-cause order based on information it had received.

And today this college is operating with renewed vitality. It's an institution that is a case study for when good things come out of the accreditation process and it's not the basis for de-recognition or denial of recognition. Thank you. And I yield whatever time is left. I apologize.

CHAIRPERSON DELCO: Three minutes is the time left.

DR. BRADLEY: Thank you. As you already know, I'm Dr. Randall Bradley and professional member. I've been with the CNME for ten years and in that time I have watched the agency go from this sort of back room one-file cabinet kind of operation with no staff to what I think is an incredibly effective operation. Now, you might,
someone might have a different opinion about the effectiveness of our decisions, but I have sat there in every meeting and we have made every decision based on one question: what's going to enhance educational quality?

It's always been the issue. It still is the issue. It will be the issue whether we are recognized or de-recognized. But it's clear to me, having been through this many years and having been through our submissions, our petition, our response to the staff analysis, the study of the staff analysis, that we are doing the job we're supposed to be doing, and the difference between the college that did receive the sanction several years ago and the college we've been in discussion with recently is that one is a candidate and one is accredited.

Accreditation standards are different. They're not different in the sense that they're in another world. They're different in the sense that we need to interpret and understand where an institution is at when it's in a preaccredited
status. And that requires us to operate in a different level and recognize that our interventions have to be of a different sort. If we were to have sanctioned Southwest College several years ago as was suggested within the staff analysis, it's our belief that that would have destroyed the college and not served the students' interests, not served as the interest of educational quality because a sanction at that stage of a college development is much more serious than a sanction at the stage that would be a fully mature accredited college.

So I just want to emphasize that we made those decisions time after time based on the information we had at the time—we didn't have the benefit of hindsight—the information had at the time based on what would be best for the students and best for the school in terms of achieving educational quality and ultimately best for the public who will in the end be the recipients of the care of those doctors. Thank you.

CHAIRPERSON DELCO: Thank you very much
for all of your presentations. Committee readers.

Dr. Yena.

DR. YENA: First of all, Mr. Lofft, I want to thank you for the candid history with regard to what happened with this one particular institution. I'd like to inquire with the use of several questions here regarding that whole process before I move on to other issues.

First of all, do candidate institutions have reporting responsibilities during a period of candidacy?

MR. LOFFT: Yes, they do. Primarily it's through the annual report, but normally a candidate institution is also required to submit interim reports between visits.

DR. YENA: How many reports did Southwest submit subsequent to you giving them candidacy in '94?

MR. LOFFT: I don't have an exact number off the top of my head, but I would say we were receiving in addition to the annual reports at least five other reports during its five years of
candidacy. So there was, I would say more than
that now that I think about it, more than five
reports.

DR. YENA: Okay.

MR. LOFFT: Plus the annual reports.

DR. YENA: All right. Generic question:
what's the purpose of the show-cause notice, in
your opinion?

MR. LOFFT: The show-cause notice to the
college is an indication that we are going to
withdraw candidacy from--withdraw the college's
affiliation with us unless it can demonstrate it
complies with our standards. And so first we have
to make the determination that the college is not
in compliance with our standards.

DR. YENA: Okay. The effect of a show-
cause letter is to make the circumstances public.

MR. LOFFT: Yes.

DR. YENA: As opposed to private.

MR. LOFFT: Yes.

DR. YENA: I submit to you that that's for
protection of students so that they know there's a
grave circumstance at the institution. I don't think a show-cause implies that the institution will never get accreditation, but it's a heads up to everybody that they're moving in the wrong direction and something has to be done. Do you think in retrospect that a show-cause would have brought to a head because of its public nature the resolution that occurred or do you feel comfortable in having not issued a show-cause?

MR. LOFFT: There were several things going on that we had knowledge of that led the agency not to issue a show-cause order even though we deliberated it at length. It was, in fact, Dr. Edd Miller, a former member of your committee, who led the discussion and made the motion on our decision not to issue a show-cause letter because of the circumstances that were in place at the college at that time.

Regarding whether the students were aware of what was going on at the school, we feel that the students were in regular and continuous contact and that we were being very, very open with the
students. The students and we, because of the circumstances at the college, were in constant dialogue about the school. I think there was a genuine concern on our part that to have issued a show-cause letter would have closed the school. Either the administrators themselves would have closed the school or it would have so affected enrollment projections at that time that the college would not have been able to meet its financial obligations the coming year.

DR. YENA: What is your view with respect to your obligation in terms of consistent application of standards? It appears reading the information here and listening to your history presentation that your agency appears to adopt a wide latitude of discretion in terms of an application of standards. What's your regard with respect to applying a standard and how much latitude do you feel you have to interpret standards in the application?

MR. LOFFT: I feel that the latitude that we are allowed basically ranges from marginal
compliance to full compliance. And that if a college marginally complies with one of the criteria in the standards, but it's in full compliance with the others, that would be acceptable to us.

DR. YENA: So, in other words, your act to accredit Southwest College means that the college does not have to comply substantially with all standards?

MR. LOFFT: That would be accurate. It needs to at least marginally comply with but a few of them. Now if it were in marginal compliance with all standards, I don't think it would be worthy of accreditation.

DR. YENA: I would just make a point that as one educator I disagree with you. I think that's a slippery slope that does not speak to quality and I for one am concerned about that, and I would yield the floor to any other questions at this point.

CHAIRPERSON DELCO: Dr. Potts.

DR. POTTS: I understand that at one point
in time, Mr. Lofft, you called the Department of Education and talked to staff and said we've discovered fraud and abuse at Southwest and I'll be submitting a letter or something to that effect describing that. Did that conversation occur and did you ever submit that letter?

MR. LOFFT: I did not say we discovered fraud and abuse. I said we've discovered incidents where we believe that the college has not been fulfilling its responsibilities under Title IV. They may involve fraud and abuse.

DR. POTTS: Did you ever submit that letter, a full report about that, and if not, why not?

MR. LOFFT: I submitted a letter on July 30 in which I mentioned that we were asking the college to conduct a thorough investigation and to report to us—these are the new administrators of the school now—and to report to us. The conversations that I had at this time with the Department of Education and with my board members were ones of caution, make sure we know what we're
saying before we make any accusations so that we do not expose ourselves to liability.

DR. POTTS: Did you ever try to conceal or not disclose to the Department facts surrounding this particular institution and your agency's actions with regard thereto?

MR. LOFFT: Not in any way.

DR. POTTS: Did you ever deal in bad faith with the Department or what you would consider less than a candid manner with the Department?

MR. LOFFT: No, Dr. Potts.

DR. POTTS: How many students would be adversely impacted if you lost your status with the Department as has been recommended by the staff as far as their Title IV funding is concerned?

MR. LOFFT: It would be, first of all, all the students at Southwest, about 250. Secondly, it would create a strain on our other schools as we try to absorb those students. So we consider there would be some adverse impact on those programs as well.

DR. POTTS: Would it cause Southwest
definitely to close in your opinion if this, your approved status is withdrawn?

MR. LOFFT: There is an 18-month rule that I’ve heard about that allows a college after its accrediting agency has been de-recognized to obtain institutional accreditation from a regional or national accrediting agency. And if Southwest could do that within 18 months, it could survive, but I don’t think that Southwest can do that within 18 months.

DR. POTTS: What about the financial status now? I know you alluded to that in your narrative summary. Is Southwest financially viable at the present time?

MR. LOFFT: Yes, it is.

DR. POTTS: And is that based on a combination of a letter of credit from banks and donations or pledges?

MR. LOFFT: It’s based partly on that. It’s partly based also on the revenue from tuition that the college is receiving and also on discussions we’ve had with the bankers themselves.
DR. POTTS: Okay. What about the current administration? Are they now in your agency's estimation responsible and conducting the business of Southwest in an effective manner?

MR. LOFFT: Yes, but we still are insisting that the presidential search be started immediately. It has been started and carried to completion.

DR. POTTS: What about the chief financial officer? Has he been rehired or--

MR. LOFFT: Yes, he was rehired.

DR. POTTS: Okay. And is that a person that you have confidence in and the banks have confidence in?

MR. LOFFT: Yes, both.

DR. POTTS: Okay. That's all.

CHAIRPERSON DELCO: Dr. Rees.

DR. REES: If during the Southwest candidacy status you had withdrawn that status, could it have reapplied for candidacy at a subsequent time?

MR. LOFFT: A year later.
CHAIRPERSON DELCO: Mr. Hawkins.

MR. HAWKINS: Mr. Lofft, thank you very much for your candid discussion about the chronology of the events at Southwest; is it not Southwest?

MR. LOFFT: You’re welcome.

MR. HAWKINS: But I haven’t heard anything in your discussion that would challenge the allegations of the Department that you, in fact, did not hold that institution to the standards of your agency. Are you attempting—you’re not attempting to refute that or are you attempting to refute that?

MR. LOFFT: No, I’m saying that we did hold the college to the standards of our agency. A candidate college needs to satisfy our standards to the degree expected for its stage of development. If the colleges seem to slip in standards it had previously met, then we would take action against the school. We saw that—we never thought that this school was financially in compliance with our standards.
MR. HAWKINS: Well, let me take that another step. This institution received candidacy status in 1994; is that correct?

MR. LOFFT: Yes, September.

MR. HAWKINS: In September 1994. By 1997, I believe, or '98, they were experiencing rather severe management, potentially fiscal difficulties; is that correct?

MR. LOFFT: That's right.

MR. HAWKINS: Then that would imply to me then, it had slipped then from the status it had held in 1994; is that correct?

MR. LOFFT: We were never satisfied with the college's financial performance. I think that's repeated over and over again from our earliest evaluation--

MR. HAWKINS: But it deteriorated from 1994 to 1997; is that correct?

MR. LOFFT: I would not say that it was one of great alarm, but we did note--

MR. HAWKINS: Well, whether it was a low alarm or not--
MR. LOFFT: Yeah.

MR. HAWKINS: --it had deteriorated; had it not? And the goal--

MR. LOFFT: But deterioration means much more than maybe a decline in its performance. Deterioration sort of implies to me that it's a destructive--

MR. HAWKINS: Well, there's problems.

MR. LOFFT: Yes.

MR. HAWKINS: There's something not quite in the state that it was in 1994 apparently or that you thought it was in 1994?

MR. LOFFT: Well, actually its revenues had been increasing and it was doing better. I mean its revenues had increased during the last three years from about two million to over four million.

MR. HAWKINS: But there was something in the area of the management of those revenues that apparently sent up a red flag for you?

MR. LOFFT: Yes, it was definitely a problem with management style.
MR. HAWKINS: And you wouldn't describe that as a deterioration?

MR. LOFFT: I would say it was a problem and that it was--it was definitely a problem.

MR. HAWKINS: Right.

MR. LOFFT: Go ahead, Dr. Khalsa.

DR. KHALSA: I think the management turnover that occurred at the college between 1998 and 1999 was something that we identified and we interacted with the college with. I think that it's certainly possible to--one can come back and look in retrospect and say whether or not a sanction should have been applied. The difficulty with sanction here is with respect to candidacy it's all or nothing on a sanction. There is no probation.

We certainly issued letters of advisement. We certainly indicated what we expected to the college in terms of their performance and there were signs of improvement at times. And then there would be a step back and then there would be improvement again. There was a lot of debate on
the council here. There was every attempt to be as objective as possible in this process. Any time you have a group of people coming together as a council, you have divided opinions over exactly what should take place at this time.

And the groups met, issues were discussed, and what was felt to be the most appropriate action at that time was taken, and it always included some form of feedback to the college regarding any shortcomings that might be present. There were consistent improvements on many levels in the college and there were improvements forward and occasionally backwards in other areas.

When we finally hit this last March, we were within six months of either granting or denying candidacy and we made it very clear that the college is expected to meet the standards that were indicated. You know whether or not one should have issued a sanction further, I mean I'd say certainly that's open to debate. And the council is always looking to make the best possible decision.
Is there an absolute as to what was the right or wrong here, all I can say is we did our very best throughout this process to advise the school of its weaknesses, to assure that it was making progress and, you know, had the school not--it had not been the opinion of the council that the school deserved accreditation, it would not have been granted. There has been no attempt to do anything else than be as objective as possible through this process.

MR. HAWKINS: I just have one more comment then, if I may. I make perhaps a naive assumption that the purpose of candidacy status is to hope that the institution will continue to improve over the five year period and sustain its gains. And that gives you a five year period for them to give evidence of sustained gains. I would submit that the process that you use seems to have bastardized that process if, in fact, my assumption about the candidacy status is correct. Thank you very much.

DR. BRADLEY: May I address your financial question again because I think it seems to be
revealing the complexity of the issue at least as I'm seeing it? When we dealt with this college, every time we had a meeting and discussed the school, we would have a multitude of areas that we were assessing. Financial was one of them, but there was also the management was another. And then there was educational quality and then all the other standards that we have.

And each time we would meet, there would be progress, progress in this area or progress in that area and sometimes we'd have an area that slipped back, but overall what we saw was a school that was still moving forward. In the end, you know, with the benefit of hindsight, we can see places where the management was not performing the way we would have liked, but at the time we were sitting in the meeting, we had the information available to us at that time. And if we saw if there were some problems where the financial situation was not as strong as we wanted to be, they'd made projections about certain revenues coming in from donations that didn't materialize,
well, then we would inquire into that.

And then we would find that, well, they've introduced a new program to raise money and so forth in this instance, and then there would be another area where the educational quality of the training was improving and the clinical training was improving, some other area was growing forward. So when you took the aggregate of the program, we saw a program that was at least maintaining and in areas moving forward.

The financial situation it's important to keep in mind while there was cash flow problems from the very beginning, the revenues of the overall institution were growing year by year. In addition to that, their physical plant was vastly improved in that same period of time. So if you can imagine yourself sitting in our position, we're looking at this institution with all these different factors we're trying to take into account, and what we saw was an institution that was making progress.

It wasn't always making progress as much
as we wanted and sometimes there would be a place
where they would slip back, especially in the
management issues, but in general we saw an
institution that was at least holding its own. Now
by the time we got to March of '99, the holding its
own wasn't good enough anymore because they had
seven months to achieve accreditation or be out of
the system. They would no longer have us as a
gatekeeper because their five years would be up for
candidacy. And that's the point where this sort of
push and gradual here, a little bit here, a little
bit there, was not enough, and then there was the
management problem became acute and then we ended
up with a show cause.

CHAIRPERSON DELCO: Thank you very much.
Excuse me. Members, could we kind of summarize
this? We still have the third party presenters and
I think they've made the case. So unless there's a
clarifying point that you must make, we really
don't need to keep going over and over the same
ground. Dr. Pollard.

DR. POLLARD: I'd just like one point of
clarification from the legal counsel. It’s my understanding that you’ve suggested to us that this committee is actually required to recognize this group because of a vacuum that would otherwise be created in overseeing naturopathic education? I just wanted to ask is it your understanding that this committee’s mandate to ensure covership of professional arenas overrides our obligation to ensure compliance with the regulations because this is not my understanding? I’d like you to clarify that.

MR. FREEMAN: The statute doesn’t speak explicitly to that point, but it does include among the seven mandated functions these two cross-currents, if you will. And what I was suggesting is that it’s incumbent upon the committee to examine the question of how to fill this void and to be prepared to advise the Secretary on that subject before recommending precipitous action that would create a vacuum that doesn’t presently exist.

CHAIRPERSON DELCO: Thank you. Dr. Orr, Dr. Pruitt briefly.
DR. ORR: I want to ask essentially one question and I don't care who answers it. It's very difficult for me having been in higher education for over 30 years to assume that an accrediting agency that's doing its job could look at an institution that has had a total failure and collapse of leadership at the end of July and come back and accredit that institution in the fall. Could you explain to me how that can happen? I don't know that I've ever heard that happening in higher education today.

MR. LOFFT: Go ahead.

DR. BRADLEY: Sitting in your position, I could see why you would ask that question. What I think has to be kept in mind is the infrastructure of this school has been found from the beginning all the way through till now from the start of this area of time that we've been discussing, the educational quality of the program has never been in question, not by the staff of the Department, not even by our opposition.

So what we had was a management failure,
as you accurately described it. That is intimately
tied in to the financial difficulty that came out
of that as well because of just not being very good
managers.

Once this came to a crisis--and I might
add these people were fairly good at concealing
their degree of mismanagement--and we're not the
FBI. We can't go in and, you know, dig in every
file and send in hundreds of investigators and find
out, well, are you really telling us the truth. We
operated in good faith with this school and it's
not clear how that was always reciprocated.

But what we did have was a solid
institution with the top management that left and
that created an August crisis that everybody
responded to. We certainly acted and responded
with a show cause and then the college fixed it.
And it came back in and immediately raised a large
amount of money that satisfied many of the problems
that had been generated by the mismanagement of
these folks and they established people who are
acting responsibly, they have reestablished their
credibility with the banks and the local community, they have set up major clinic associations in the city with medical establishments.

There are wonderful things going on at this school. So what we had was sort of, you know, somebody called it—one of our site visitors called it a healing crisis and they threw out the, in a sense, the organism discharged noxious waste, and what was left was a healthy organism. And now they’re functioning the way they should be functioning. It is important to remember, though, that when we granted accreditation, we required a six month site visit. Am I right about that? A six month site visit or before? I just want to make sure I’m right.

MR. LOFFT: May of 2000.

DR. BRADLEY: And monthly reports on the areas we’re concerned with. We didn’t walk away and say, okay, now you’re accredited, we’ll see you in five years. We know this institution has issues that it needs to continue to deal with and we’re going to make sure that they do. And if they fail
to satisfy those areas, well, then, you know, we'll start the process of show cause again.

DR. RINGDAHL: And also one of our third party speakers, Dr. Frank Kerins, was a member of that site team and will be speaking to that question at the appropriate time.

CHAIRPERSON DELCO: Thank you. We'd like to have our general counsel clarify for us, Ms. Wanner, if you will, the point that was raised by the attorney.

MS. WANNER: You mean regarding the--

CHAIRPERSON DELCO: The regulation, I think.

MS. WANNER: Right. The committee's charge in recognizing an agency is to evaluate an agency under the standards that are set forward in Section 496 of the Act, and the Secretary is strictly limited to that. It says nothing in this act allows us to establish additional criteria. In no circumstances are we to base decisions of recognition or denial on criteria other than those contained in Section 496.
The standard that Mr. Freeman was referring to is in a different section of the Act, Section 114, which relates to the oversight or the general duties of the committee. The duties of the committee have nothing to do with your decision on recognizing or not recognizing this agency.

Now if you should decide to not recognize this agency, there would be an 18 month period in which you could come up with standards to address if there is a void. There’s also, as I understand it, a possibility that the regional accrediting agencies could accredit institutions in this field right now if they thought they were deserving of accreditation.

CHAIRPERSON DELCO: Does that satisfy the committee in terms of clarification of the point, Dr. Pollard? If they’re brief clarifying questions, I’ll recognize you for that, but I think we ought to kind of wind down with editorializing. I think we have a pretty clear picture of the position of the agency. Dr. Pruitt.

DR. PRUITT: I have three questions.
CHAIRPERSON DELCO: Three.

DR. PRUITT: I have three and they can be answered with yes or no.

CHAIRPERSON DELCO: They won't be, but you can try.

DR. PRUITT: Is there a current president in place?

MR. LOFFT: Not a permanent president, an acting president.

DR. PRUITT: There's a search. All right. Is there a functioning board of trustees at this institution?

MR. LOFFT: Yes.

DR. PRUITT: All right. Have you as an agency ever taken an adverse action against any of your member institutions?

MR. LOFFT: Any other institution?

DR. PRUITT: Yes.

MR. LOFFT: Yes.

DR. PRUITT: All right. Thank you.

CHAIRPERSON DELCO: That was pretty good. Any other clarifying questions that members of the
committee feel pressed to ask? If not, thank you very much. We appreciate your time and your information to us. Members, I'd like to remind you that we still have several people who are here as third-party representatives. I'd ask them to, if at all possible, be brief in your comments, but clearly you have the time, ten minutes each, to respond if you would. If you'd like to come up as a group, you're welcome to do that. If not, I'll recognize you individually. You're coming as a group; is that right? The two of you. I just mean the two of you. Would you identify yourselves, please.

DR. KERINS: We're a small group.

CHAIRPERSON DELCO: That works for me.

DR. KERINS: I will be less than five minutes.

CHAIRPERSON DELCO: All right.

DR. KERINS: My name is Frank Kerins, and I am a retired college president. I want to take a moment to tell you a little bit about my background in order to establish the reasons why I think I can
say something about accreditation.

I did spend 22 years as a college president including 15 years at Carroll College in Helena, Montana, 20 years before that in teaching and administration. During that time, I was active in higher education association, served on NAICU committees, did several terms on the ACE board. I chaired CIC and ACCU at different times and that sort of thing. I was also active through my career in accreditation. My first accreditation visit was in 1960 for the North Central Association to one of the State colleges in Minnesota. My most recent accreditation visit was in October of this year, six weeks ago, for the Northwest Association to a university in Idaho.

From 1975 to 1990, I served on the Commission on Colleges of the Northwest Association and for the last seven of those years was chair of that commission. Then thereafter I served a three year term as president of the Northwest Association of Schools and Colleges. So I do know something about accreditation. I would like to specify that
I am not a physician of any kind or an attorney. I do not wish to try to speak to any medical or legal issues. And I have no vested interest or ax to grind in this proceeding. I'm not a member of the council or an official of the group.

My contact with CNME has included helping to give a workshop in January of '98 on accreditation. I served on a team to the Canadian College in Toronto in November of '98. I served on a team to Southwest College in Tempe, Arizona in September of '99, and I attended the public portion of a council meeting in Arizona in March of '99, left for the closed part because I was not a member of the group.

In these contacts, I studied their standards and policies carefully and thoroughly. Regarding CNME, I reached the following conclusions. Obviously, these are my opinions. I think it's an effective agency with good standards and procedures doing a sound job. They're fighting an uphill battle. The profession is not licensed in all States. They're dealing with a very small
number of institutions and a relatively small number of students.

But progress is being made and I think the recognition and reputation of Bastyr University in Seattle illustrates the progress that can be made. Some of you may not be familiar with that institution, but in the western part of the country it is quite highly regarded in many ways. And I have visited Bastyr not for CNME but for the Northwest Association so I have some sense of what’s going on there.

One problem I see is that the council has such limited experience with so few schools that they are inclined to be too harsh and expect from developing institutions the level of performance seen in a mature institution. That’s maybe surprising in terms of other things that have been said here, but that was my considered judgment.

I think they need to understand the range and variety of accreditable postsecondary institutions, but they too are moving along. Finally, let me say a few words about the
accreditation of Southwest College. I did serve on that team. I would say in all honestly that was a good call. We struggled with it on the team. I cannot speak for the council meeting since I was not there, but I voted for accreditation simply because the institution satisfied the standards, admittedly just barely in some cases and of course there are differences of opinion in these matters. I recognize that.

But they have a fine faculty doing an effective job of teaching able students and they’re turning out a good product. That is what the enterprise is about. One very good question was raised about how an institution could be in such dire straits at one time and then shortly thereafter be accredited, and I guess I’d say based on many years of experience that a good institution with a good faculty—I hope I won’t offend anybody who has been an administrator—can survive the most retched of presidents and often that has happened.

They have had some difficult times. They have had some incompetent administrators, but
they've made some progress. They're working with the ATB now. They've improved the administration. They have a president who seems to be competent although still has a great deal to learn. They've done a great deal to improve governance and to get more good people on the board. Their financial situation has improved significantly. The bankers told us that. The supporters in the community told us that. I was impressed by some favorable comments I got from the traditional medical community, the MD people in the Phoenix area. And one example is a series of programs that students in this institution are working with in a clinic in a little town called Guadaloupe in conjunction with MD health care providers.

Throughout the people at the college, the faculty particularly, have continued to do their work well despite all the problems and I think this is remarkable. Can I guarantee that they will make it? No. They have some excellent people running the shop now, but they have to create a governing board and teach it how to function. They have to
get some money.

So I can't guarantee that they'll succeed, but I can guarantee that they should be given a chance. The place has much going for it. It's the only institution of its kind in the fastest growing region of the country. And it has the potential of making a major contribution. Thank you for listening.

CHAIRPERSON DELCO: Thank you very much, sir.

DR. JENSEN: Thank you very much. Madam Chairman and members of the committee, my name is Clyde Jensen. I'm the president of the National College of Naturopathic Medicine, but I am not a naturopathic physician. I have a Ph.D. in pharmacology and I have taught pharmacology and conducted research in just about every type of medical school.

In fact, I'm best known as a higher-education administrator. I may be the only person who has ever served in chief or senior executive leadership roles at allopathic or MD, osteopathic
or DO, now naturopathic or ND programs. I'm still learning about the naturopathic medical profession, but I'm sure that I've been invited here today to speak because I have had that experience in several types of medical schools and I've also participated in several types of accreditation processes. I've participated with the Liaison Committee on Medical Education in the accrediting of MD medical schools. I've been the president of osteopathic medical schools when the American Osteopathic Association's Bureau of Professional Education visited those campuses and engaged in their accreditation processes.

I was the president of a junior college that was accredited by the North Central Association and I've been a consultant to the Middle States Accrediting Association. I'd like to--and I should also mention that in August when the upheaval that you heard about at the Southwest College of Naturopathic Medicine in Phoenix occurred, I was invited by the board of directors of the Southwest College to come in as an external
volunteer consultant to help them through the crisis that they were experiencing and I did visit the campus for at least one to two days a week for every week from the beginning of August until the beginning of November.

In the short time that I wish to speak with you, I just would like to make three points. Number one: as has been pointed out by Department staff, the accrediting policies and procedures and to some extent the standards and criteria that are used by the Council on Naturopathic Medical Education are the same as or certainly very similar to those that I've experienced with the LCME and the AOA Bureau of Professional Education.

As I listened to the chronology about the Southwest College, I'd have to acknowledge that perhaps there was some leniency shown by the CNME that might not have been shown by other agencies but I would also say that this is a very young agency working with a very small staff and a very austere budget. And it does so at a time when the profession is just beginning to grow and to
blossom.

The second point that I would make is that the standards and the processes of that accreditation process, at least to my view, have been uniformly applied at my college, the College of Naturopathic Medicine in Portland and the college in Arizona. My college when I assumed the leadership role was experiencing a show-cause sanction by the CNME and we were required to respond to findings and recommendations by the CNME and we were required to do that in a timely way.

Having been associated with other accrediting bodies in medical education, I was impressed that the CNME was holding our feet to the fire, the National College of Naturopathic Medicine in Portland, just as the LCME or the AOA Bureau of Professional Education would have held their colleges' feet to the fire under similar circumstances.

The third point that I would make is that the credentialing of complementary and alternative medicine providers including naturopathic
physicians is very important at this time in the history of American health care. I don't believe there's ever been a time when the public demand for complementary and alternative medicine and particularly natural health care has ever been higher. One of the reasons I'm here is that I hope to be able to somehow influence an improvement in the quality of education and research and the integration of conventional and complementary medical education programs so that health care consumers can be assured of getting the best trained health care providers in all disciplines to provide them with health care.

In summary, my observation is that the Council on Naturopathic Medical Education is a small, young accrediting agency that is beginning to experience the same experiences that the AOA Bureau of Professional Education was experiencing when I worked with them in the '80s and probably that the LCME was experiencing years before that. I would hope that the Department of Education would help us to find ways to nurture and build and
perfect this little organization and help it to perform the services that are necessary to ensure quality medical education for naturopathic physicians. Thank you, Madam Chair.

CHAIRPERSON DELCO: Thank you very much. We have two more presenters and since they both represent the same agency, I wondered if they would like to come up together? The agency and the--no, wait. Let me see now. Who gets to respond? The agency can respond to third parties and I would ask them to be prepared if they want to respond when we finish with the third-party presentations and then the Department can respond to the agency and the third party. So if the other two third-party presenters who represent the Coalition for Natural Health would come forward, then you have between you a little bit more time.

DR. GOIN: Thank you, Madam Chairlady, members of the committee. My name is Jeff Goin. I am president of the Coalition for Natural Health. To my right is Todd Anderson who is an attorney with the coalition's legal counsel, Patton & Boggs.
I know it's been a long day for everybody here and as such I will keep my testimony brief, concise and to the point.

CHAIRPERSON DELCO: Thank you.

DR. GOIN: The first point I'd like to raise relates to the duration of the deficiencies at the CNME, something that hasn't received a lot of attention thus far this afternoon. We believe it's very important for the committee to recognize that the problems at the CNME, which the Department of Education staff characterizes as being pervasive non-compliance, are not new. It is, in fact, a long-running pattern that has plagued this agency since its inception.

As the staff pointed out, the CNME was first recognized as an accreditor in 1987. Due to numerous concerns of this committee at that time, the agency was recognized for only a one year period. Again, in 1988, at its renewal hearing, the committee saw fit to only renew recognition for a single year. Then in 1990, the CNME's problems had become quite significant and fundamental in
nature.

The agency's deficiencies included a failure to verify that students of schools that it accredits were satisfying all degree requirements before diplomas were conferred. At the same time, the CNME had failed to ensure that institutions it accredited were conferring degrees to only those students that had satisfied all degree requirements. So basic and significant were these deficiencies that the committee voted to withdraw recognition.

The Department of Education's recognition of the CNME was later reinstated and in 1994 this committee voted to renew for a four year period the agency's recognition. The committee, however, was again troubled by the state of affairs at the CNME and ordered an interim study to assure that quote "several deficient criteria" had been remedied.

This spring, as you know, the committee moved to defer a decision on the renewal of the agency's recognition, leaving you with the current situation. The CNME has failed to meet
requirements in 17 sections of the regulations. That puts the committee back not to the same situation but one that's worse and it has been characterized again by the staff as being pervasive and non-compliant.

The CNME has clearly failed in the last 12 years to establish itself as a stable functional organization. The staff has rightfully concluded that enough is enough. If the agency were able to satisfy its mandate, we believe that it would have done so by now.

With regard to the citations of non-compliance by the staff, we'd also like to remind the committee that many of the 17 deficiencies relate to the agency's handling of its evaluation of Southwest College of Naturopathic Medicine, CNME's only Federal link for recognition purposes.

Imperative to note is that the weaknesses cited by the staff in its analysis including deficiencies as fundamental as the CNME failing to follow its own procedures and guidelines in its evaluation of Southwest were made while the
Southwest College was still a candidate for accreditation. This is something that Dr. Orr touched on earlier.

Since the time of the completion of the staff's very negative assessment of the agency, the CNME granted Southwest full accreditation status. It's suspect enough that this agency would disregard its own policies and procedures to an extent that would allow Southwest to retain its candidacy status, but to go ahead and award full accreditation status despite the volatile financial and operational condition of the school is inconceivable and demonstrates that this agency has completely lost its ability to objectively evaluate the institutions it's charged with overseeing.

Next I want to read real briefly from the council's own handbook on accreditation under section of financial resources. It reads, "The quality of a naturopathic medical education program depends to a great extent upon financial resources. It's true also that excellence in program quality is an important factor in enhancing financial
stability. Because program quality and financial resources nurture one another, sound financial management and planning are of critical importance for a college or program seeking candidacy status or accreditation."

It's difficult for me. I hear representatives of the council talk about the progress the school is making and referencing the quality of educational program and saying that it's intact. And on the other hand, I note that the school was closed this year in 1990 [sic] the school suspended operations and its bank accounts were closed, frozen that is. Likewise in prior audited financial statements, the institution was cited in 1996 for seven reportable conditions of non-compliance and material weaknesses.

These are observations by certified public accountants in their annual financial statement. In '97, there were 20 reportable conditions; and in 1998, 13 reportable conditions of non-compliance and material weaknesses. Based on that information, it's hard for me to really reconcile
the language in its handbook and it certainly doesn't characterize in my mind program quality and financial resources nurturing one another.

Finally, Madam Chairlady and members of the committee, I think it's important to point out that the CNME represented to you a lot of language that might lead one to believe that it had been interacting with the institution and was making progress to try and turn it around. I find myself wondering, though, why the CNME kept most of the problems it knew about private and had private discussions instead of following the criteria that it says it follows and obeys to the law.

It's a slippery slope to get on, one that's of great concern to the coalition, and with that I will turn the table over to Todd Anderson. Thank you.

CHAIRPERSON DELCO: You have approximately ten minutes.

MR. ANDERSON: Okay. Thank you. Thank you, Madam Chairwoman and committee members for your time. I, like Jeff I recognize it's been a
long afternoon and I will try and make it brief, well under the ten minutes.

CHAIRPERSON DELCO: Thank you.

MR. ANDERSON: I just actually have some observations. I've been watching today this afternoon the proceedings and actually just have four observations I want to share with you. The first is that there's been a lot of discussion about things like defending CNME's honor against perceived charges of favoritism, a lot of discussion about explaining away some of Southwest's actions, discussion about singing Southwest praises.

These, however, are not the issues before you. The issue before you is whether or not CNME meets the department's criteria for recognition. And the Department staff, as you've already heard, has investigated this issue, investigated it thoroughly, and its conclusions are clear. CNME does not meet the department's criteria for recognition. Further, CNME's conduct over the past two years represents pervasive non-compliance and,
as Jeff just mentioned, there are specifically 17 separate areas of non-compliance including eight areas of total non-compliance.

To this day, based on my observations, CNME rejects outright these conclusions by the staff and refuses to admit that there are any problems at all. That's my first point.

My second point I'll just touch on briefly. I think Ms. Wanner mentioned it. This is the point raised by CNME's counsel about licensing and I guess the argument is that references to CNME in some non-Department of Education documents immunize CNME from having to follow the Department's regulations and recognition criteria. And this is not--I believe this is inaccurate. I also believe that's what Ms. Wanner concluded. I don't need to say anything more about that. You've heard a little bit.

The third point is based on the testimony today, to me it's even clearer that full accreditation of Southwest was improper. Just four months ago, three months before granting full
accreditation, Southwest was in, I believe in the words of an CNME member or presenter today, was in a management crisis. As you saw in our submission --we attached something from an independent, a third party accountant--talked about their financial problems at that time that actually date back prior to this year, but were particularly acute this year. That CPA or that accounting firm talked about major accounting and financial recordkeeping shortcomings and said that Southwest was reliant financially upon pledges promised by I believe just three individual contributors.

CNME talked about how finally after a great deal of time had passed, they finally sanctioned Southwest, I should say, and that's a very serious step. And there's been a lot of discussion about this. That was, I believe, someone said in August, 90 days or so before they gave full accreditation to CNME [sic].

So instead of, after sanctioning CNME, instead of saying, gee, should we withdraw their candidacy status or saying, well, should we just
keep them at pre-accreditation, not even consider
them for full accreditation, they rejected those
two options and in light of this sanction, all
these problems of the management, all these
financial problems and CNME’s own sanction just 90
days earlier, give or take a few days, instead of
saying withdraw candidacy or keep them as pre-
accreditation, CNME’s response was let’s actually
grant them full accreditation.

And that’s something that I think at a
minimum curious to me. One related point on that,
by the way, if Southwest is no longer accredited by
CNME or CNME loses recognition, there are a lot of
options for the students. First of all, though,
before the options, there’s an 18 month grace
period which somebody already referenced so CNME
can keep its students eligible for 18 months for
Title IV funds—Southwest—I’m sorry.

The Southwest students can also transfer
to a different school, as many of them actually did
this summer when Southwest closed down its
operations for awhile. And the other thing is that
Southwest can seek accreditation. If Southwest is in such good shape as CNME contends, then Southwest should have no problem seeking and getting accreditation from the regional accreditation institution. I believe the appropriate one would be North Central Association of Schools and Colleges.

And my fourth point is just that the due process here is indisputable. All the requirements of Section 602.11 have been met. Standard operating procedures followed, the staff's analysis was thorough. It was, I believe, 70 plus pages. The 17 areas of significant non-compliance were clearly identified and specific reasons for this conclusions were articulated. In addition, CNME was even given a deferral, as we all know, at the last meeting six months ago.

And I guess one observation from an earlier agency--I did get here a little bit early and I heard Dr. Pruitt, I believe, ask why we should make a special exception for an agency? And he was not talking about CNME. But he said, you
know, there's no need to bend the rules for the agency. The rules are there. They're clear and it's especially true that there is no need to bend the rules for an agency when it is an experienced agency, and he was talking about a different agency, but it also holds true for the CNME.

They've been in business now for ten years and they should have gotten it right by now. Those conclude my prepared comments. Jeff and I are both willing to field questions if there are any.

CHAIRPERSON DELCO: I think the agency has an opportunity to briefly respond if they choose. Let me ask the committee first while you're coming up, agency, let me ask the committee readers if they have any brief questions they'd like to pose to the third party presenters? Dr. Potts, Dr. Yena, do you have any brief questions you'd like to pose to the third-party presenters? None. Dr. Yena? No.

We did not have, as you noticed, there were several people, both as representatives of the agency and one person as a third-party
representative who are not going to be here. The last one is Paul Sepp and the other two, one was a letter was read for N. Edd Miller, and the other one was William J. Keppler. So they’re listed here as possibilities, but they did not choose to come for whatever reason.

DR. ORR: Madam Chair, just for my curiosity, is there a limit on the time in which they have for response?

CHAIRPERSON DELCO: I’ve asked them to be very brief. There should be, but we’re hoping that they will just specify answers to any specific allegation with which they’d like to take issue with, but other than that, we really don’t need to hear an extensive elaboration again of information that we’ve received in several different forums.

If you have a brief statement to make in response to a third party presentation, you have a right to do that.

MR. LOFFT: A very brief statement, Madam Chairperson.

CHAIRPERSON DELCO: Appreciate it.
MR. LOFFT: Regarding the financial stability of Southwest College, our conversations with bankers, our analyses of the documents that the college submitted to us which included its bank statements, and the fact that the Department of Education conducted its own program review of the institution after we reported certain instances to staff and the college remains today a participant in Title IV student loan programs following that review and report that was issued by the San Francisco office, we feel that the college is financially viable.

CHAIRPERSON DELCO: Thank you. Thank you very much. Committee, you have questions? Brief questions.

DR. YENA: No, no questions.

CHAIRPERSON DELCO: Dr. Pruitt.

DR. PRUITT: Can you tell me very quickly, did you have the option of extending the candidacy with this school? Was there something that prevented you from doing that?

MR. LOFFT: Yes, there's a five year
regulatory limit on candidacy.

DR. PRUITT: Regulatory. Where's the source of regulation?

MR. LOFFT: Yes, it's in the Secretary's criteria.

DR. PRUITT: Thank you.

CHAIRPERSON DELCO: Dr. Rosser.

DR. ROSSER: Could you tell us very briefly why you still have in the view of the Department 17 exceptions, major exceptions in terms of process? You understand what I'm getting at?

MR. LOFFT: Why do we have 17 exceptions?

DR. ROSSER: Yes. Still.

MR. LOFFT: Well, in our response we indicated that some of those exceptions we had already addressed. One of them, of course, was the appeals board, which now only remands decisions back to the council, does not make a decision to grant accreditation over our adverse action.

The other, the substantive change exception, this was what we considered to be a change in the wording of one of the institution's
mission statements which is a substantive change if
the meaning of the statement is altered, if it's
not just an editorial change. We acknowledge that
we failed to follow our procedures there. The
college should have been forced to start all over
again and go through the proper procedure, but when
we looked at it and we saw how insignificant this
change really was in this case, we had a meeting
and we decided to approve it. And we did approve
it just this past November 1.

The other areas in which we are not in
compliance are related to the inconsistent
application of our standards, policies and
procedures which in the staff's view were limited
to this one institution.

DR. KHALSA: I might mention too, with
respect to that, that I addressed a couple of the
other issues that were specifically mentioned. I
would say that the council certainly does not claim
perfection of, would not want this group to assume
that we feel that we've done everything perfectly.
Nobody does and we're certainly open to improving
and refining our own policies and procedures to fully meet all standards.

CHAIRPERSON DELCO: Thank you very much. Any further questions or comments by members of the committee? Dr. Yena.

DR. YENA: Yeah, I'd like to make a couple of concluding comments.

CHAIRPERSON DELCO: To them or-

DR. YENA: To them.

CHAIRPERSON DELCO: To the committee?

DR. YENA: To them.

CHAIRPERSON DELCO: To them. Okay.

DR. YENA: First of all, I don't question the motives of CNME or your intent with regard to the actions you took with respect to Southwest College. It's unfortunate that Southwest College is the whipping boy here. And your actions might even be construed as being noble as well as very well intended.

Nevertheless, we have an obligation to follow our rules and accrediting bodies who come before us for recognition have an obligation to
follow their standards. I mean that's our whole process and procedure here. And, you know, accreditation is a volunteer peer process that's intended to improve the educational landscape and there are a whole bunch of accrediting bodies that we look at.

We've got accrediting bodies on the agenda all day today and all day tomorrow that form a matrix for reliability of the education process and I for one get very piqued with accrediting bodies who think they can arbitrarily exclude or include members with liberal interpretations of criteria. That begins to break down. As soon as one accrediting body is allowed to do that, you know, that diminishes the whole level playing field that every institution deserves to have when it comes before them.

Arbitrary interpretations of accrediting standards and inconsistent application of accrediting processes undermine that whole landscape and makes what we're doing here moot. In my opinion, I've been involved in accreditation all
my life—I’ve served as an accreditor for eight years. My institution is accredited. I’ve been through a whole bunch. I’ve served on ACE boards. And the show-cause process in my opinion is not an option.

It’s an obligation. It’s an obligation. It’s an obligatory process when circumstances warrant it. And it’s required to give public notice that serious issues are present which need to be addressed promptly and I could say arguably that it’s entirely possible that your inaction prolonged Southwest’s trauma and had you taken show-cause action, the whole problem could have been possibly resolved earlier and with your well intent created a circumstance and a situation that delayed and delayed action that was arguably, and I guess there is an argument, and that’s the argument you’re making—I disagree with that argument—those circumstances demanded a show-cause letter to put the public on notice and put students on notice, present and future students, that there was a problem at that institution that needed to be
resolved or its continuance was in jeopardy.

And so I find it really impossible to do anything other than support the staff’s recommendation. I think you have an obligation. You’ve had a history of ten years and if it started with a cardboard box in an office somewhere, in ten years it should have gotten to a point where all accrediting bodies are today, that they live by the rules and the standards, and you apply them consistently and uniformly to institutions or else this whole accrediting voluntary peer process thing is bogus and phony. And I’m sorry to lecture at you that way.

CHAIRPERSON DELCO: Well, thank you very much, and I think we need to proceed. My understanding is that next door they’re getting ready to party hardy in a few minutes and we won’t be able to hear ourselves in here. So if there are no other questions for the third party--I mean from the agency in response to the third-party presentation, then we need to proceed because the Department still has the opportunity to respond to
the agency and the third-party comments if they choose.

MR. FREEMAN: Madam Chairwoman, may I make one brief comment in response? Simply that the 17 areas, many if not most of those boil down to the one same issue which has to do with the treatment of the particular college in question, and it's easy to take the number 17 and extrapolate it as if it constitutes some large percentage of the overall standards, but it does not. Many of them, if not most of them, boil down to that one same issue.

And the other point simply, counsel for the third party said that CNME was given a deferral in May. That's not the case. The deferral came at the request of the Department staff and CNME had not even received its staff analysis until much later. That's all. Thank you.

CHAIRPERSON DELCO: Thank you very much and we do appreciate the effort that you made to clarify the presentation for all of us. And we also appreciate the thoroughness with which our readers and committee members read the information
that was available to them. I think we've gotten a fairly clear picture of as many sides as there were available to us to have.

Dr. Potts, very briefly because we still have to make--

DR. POTTS: Very briefly. I just wanted--

CHAIRPERSON DELCO: I know. We keep saying that, but go ahead.

DR. POTTS: To reiterate the point Mr. Freeman just noted, that when I asked Ms. Griffiths about the other area, she basically only mentioned two others. The one was the show-cause order--not granting that. One was the training issue, which I think is a minor issue, and the other was a conflict of interests. Otherwise, she said the policies and the practices and everything of this agency complied with our criteria. So I think I differ with my friend John's analysis of this and I'm going to have a hard time voting to deny these people recognition. I think we need to look for another option here.

CHAIRPERSON DELCO: I think our procedure
allows us to have that kind of discussion within the committee. That's the appropriate forum for that, and I think all have heard the staff presentation, the agency presentation, the third party presentation. We're at the point now where we need to hear our own Department's response to particularly the agency and the third-party comments. After that, the floor will be open after a motion is made by one of the readers to discuss fully, as long as the committee chooses, the options, the interests, the editorial comments, whatever you choose.

At this point, we would like to hear from the Department, though. Karen.

DR. KERSHENSTEIN: I will be very brief and then I will ask my colleague Carol to make a couple of comments as well. The criteria for recognition require an accrediting agency to have effective standards. The criteria also require an agency to follow its stated policies and procedures in carrying out every aspect of its accrediting operations. And finally the criteria require an
accrediting agency to consistently and effectively apply and enforce its standards in reaching its accrediting decisions.

Reluctantly, for the reasons that Carol has--have been written for you in the staff analysis and that Carol has explained for you in her presentation today, we have concluded that the agency does not follow its stated policies and procedures and consistently and effectively enforce its standards. And for that reason, we conclude that the agency is not complying with the criteria for recognition. And now I would like to turn to Carol to add a point or two.

MS. GRIFFITHS: I would like to address three issues that came up during the agency response and the first was favoritism. There is a lot of talk about the Department recommendation based on the perception of favoritism by the agency and I would like to rebut that and say that the Department staff, what is at issue is not favoritism to one institution, but an inconsistency in the application of the agency's standards and
its policies.

To support that, I need to remind you that we did not attend a meeting. It did not matter whether the agency accredited Southwest College or not. The analysis was completed before the agency met and determined the accreditation of that particular institution. The analysis was done. The recommendation was made. It was based on a record of the agency's activities during two years course of time prior to that time, not favoritism to one institution.

And to further support that, the agency brought up that they had two schools in a similar boat and that it had institutional accreditation providing eligibility for Title IV. The other institution at the time was National and National is actually operating under the 18 month rule to seek other regional accreditation. And as Dr. Jensen said, the CNME held National's feet to the fire imposing a show-cause. And I would think that, okay, it's Department staff's conclusions that that supports the inconsistency of the
application of the agency standards and policies. But it does not indicate any favoritism or perception of agency favoritism, but again inconsistency.

The second would be the agency’s role as an accrediting agency and it seems that there may be a dichotomy in the agency’s role and mission and its policies and procedures and its actions, actually that there’s a dichotomy that its policies and procedures are written with enforcement in mind. Accrediting agencies act as enforcement agencies to hold institutions and programs to standards and what we heard a lot about from the agency was their role as an advocate for the naturopathic profession and as a technical assistance provider to bring along a perhaps floundering at times institution.

And I just pose the question that perhaps the agency ought to review its role and its mission and perhaps put those in alignment with its policies and procedures or the reverse, revisit its policies and procedures and have them reflect more
so its role as a technical assistant or advocate for naturopathic profession.

And finally, the issue of 17 different findings of non-compliance. Yes, there were a great number of them. Most of them all wrap up and boil down to inconsistency in application and therefore I don't separate out 17 individual different issues. Many of the Secretary's criteria boil down to application and enforcement of standards and criteria. That completes my comments. Thank you.

CHAIRPERSON DELCO: All right. Dr. Rees. Are you responding or asking a question?

DR. REES: I think I'm responding to Carol's comment and I want to be sure that I understand what you've said. It's very difficult for us not to be thinking about the action of the agency accrediting the institution, but if I understand you correctly, your recommendation, the staff recommendation did not in any way address the action of the agency to grant accreditation because all of the actions that the staff was responding to
occurred prior to that action?

MS. GRIFFITHS: That is correct.

DR. REES: Thank you.

CHAIRPERSON DELCO: Thank you very much.

Yes, Gordon.

MR. AMBACH: This is a question to staff and it's because I'm not certain about whether it's been answered. As a condition for continuing their recognition, was it or is it necessary that Southwest be accredited?

DR. KERSHENSTEIN: If Southwest is not accredited by the agency, the agency has no link to Title IV. And so it is ineligible for recognition.

MR. AMBACH: Yeah, I thought that was the case, but that's not what's been very clear. And I would just like it repeated, that the fact is that unless Southwest or another of the agencies, another of the institutions providing these programs were, in fact, accredited, then there is no link back to Title IV.

DR. KERSHENSTEIN: That is correct.

MR. AMBACH: And there would be no reason
for even considering whether the rest of the issues as to whether they're in compliance or not in compliance should be dealt with. That's an accurate statement.

DR. KERSHENSTEIN: Yes.

CHAIRPERSON DELCO: Okay. Any other questions of staff before I recognize a reader for a motion? If not, readers?

DR. POTTS: I'm afraid the readers are of different opinions. I'm going to make a motion realizing that it probably from what I've heard may not have even a second. But I'm going to move that we respectfully grant a two-year period of recognition with the requirement that there be a report, interim report, one year from now showing full compliance with all of the criteria. And I base that on the fact that staff has said that these people have operated in good faith, that there are really only three deficiencies, two of which are minor, one of which is debatable as to whether or not there was compliance or not. The agency felt in good faith that it was. And for the
third reason that if we deny recognition, we're going to put at jeopardy some 250 students or so. And this agency is doing a service in the health care area by trying to ensure quality in this whole field and I feel that they serve a valuable purpose and there will be a void if they're denied recognition. So I'll make that motion.

DR. VREELAND: I will second that to get the process moving.

[Motion made and seconded.]

CHAIRPERSON DELCO: The motion has been made and seconded that we recommend extension of two years.

DR. POTTS: Yes.

CHAIRPERSON DELCO: Is that the gist of your motion with a reporting requirement--

DR. POTTS: In one year.

CHAIRPERSON DELCO: --in one year for the reasons that Dr. Potts stated. Is there discussion of that motion?

CHAIRPERSON DELCO: Dr. Rees.

DR. REES: I have a question. If the
agency had withdrawn the candidacy status of the institution, what would have been the status of the students under those circumstances?

CHAIRPERSON DELCO: Ms. Wanner.

MS. WANNER: The students would have no longer been eligible. When the institution loses accreditation, it loses Title IV eligibility. Is that your question?

DR. REES: No. My question was what would have happened if the agency had withdrawn the candidacy, not that it failed to accredit the institution?

MS. WANNER: The same thing.

CHAIRPERSON DELCO: Other questions or comments?

DR. YENA: Yes.

CHAIRPERSON DELCO: Yes, Dr. Yena.

DR. YENA: I would like to remind my colleagues that a show-cause action is not a final action. Nothing happens on a show-cause other than it's a heads up to everybody that there is a severe problem and it forces attention to that problem and
a resolution to that problem in a timely fashion, which in my opinion probably would have brought this institution—there are a lot of good things present at this institution—apparently good teaching and interested students—so they would have gotten resolved earlier.

But I really would encourage you to vote against the motion that's on the floor. I think it's incumbent upon us to fulfil our duty here and our duty is to recognize institutions that comply and follow their own standards in a consistent manner and not an arbitrary manner. And I would urge you to vote against the motion that's on the floor.

CHAIRPERSON DELCO: Further questions?

Gordon and Tanya.

MR. AMBACH: It's a question to staff. I think it very important that we get a quick reminder of what happens with an action for denying recognition, the time table for an appeal process, the status for the extant accrediting body and the status of institutions that are accredited by that
body and their students over the period of time in which there is any appeal of the denial of recognition. Karen.

DR. KERSHENSTEIN: If you were to make a recommendation to deny this agency's recognition, the agency would have the right to appeal. We would have a right to respond to that, to the appeal that the agency made. The whole matter would go before the Secretary for a decision. In the interim, the agency would continue to be recognized and all of the institutions currently using the agency for their link to Title IV would be allowed to continue to do so.

Jump ahead. If the Secretary should decide at some point then on the appeal to deny the appeal and to deny recognition to the agency, at that point, the 18 month clock would begin and the institutions that were relying on the agency for Title IV eligibility would have 18 months from the point of the Secretary's decision, the effective date of the Secretary's decision, to establish eligibility with another accrediting agency to
continue their Title IV.

MR. AMBACH: And what are the periods of time with respect to a right to appeal and the time in which the Secretary has to respond?

DR. KERSHENSTEIN: The agency would have ten days from the date of your recommendation, from the date of today, to file an intent to appeal your recommendation and they would have 30 days to actually file the appeal, 30 days from today to file the appeal. There is no time line in the--oh, let me say. We then have an opportunity, 30 days, to respond to, to file a response to the agency's appeal and then the whole matter goes before the Secretary for decision. There's no set time frame for the Secretary to reach a decision.

MR. AMBACH: But in any event, after and only after the Secretary's decision, then the clock starts running with 18 months more for purposes of resettlement or adjustments on aid, et cetera, for both the students and the institution?

DR. KERSHENSTEIN: That's correct.

MR. AMBACH: Which incidentally takes us--
what--into a new time frame for the reapplication of this agency? When do they apply next?

MS. WANNER: There are no regulations that limit when they could bring a new application.

MR. AMBACH: Okay. Thank you.

Incidentally, this is obviously a very tough one I think for all of us because it’s so tangled. It’s almost a question of whether we’re talking about Southwest or whether we’re talking about the agency itself. And I’m sure for all of us, it’s a problem with respect to trying to find what’s the best solution and we’re caught up in a whole set of regulations and rules and time tables, all with, I hope, the same interest of getting a good solution, but it is a problem of trying to figure out what’s the best way.

With all respects to Dr. Potts and the motion he has made, I will vigorously oppose it. My view is that in this case that the right course is to deny recognition and if, in fact, the agency wants to come back on appeal, and move forward with respect to that, then they certainly have every
right to do so. But I personally believe that's the case. So I will oppose this and if this goes down, I will certainly support a motion to deny recognition.

CHAIRPERSON DELCO: Dr. Pollard.

DR. POLLARD: I would like to concur very strongly with Dr. Yena's proposal and with what Gordon Ambach has been saying. And I would just say that one of the points that most concerns me here is precisely the agency's apparent unwillingness to make information public that was required to be made public. This goes with the show cause and also with certain letters that were described and printed in our third party-materials where requests were made for certain information and these requests were not responded to.

And I think it's really one of the matters we have to be very concerned about is these agencies' public accountability, particularly when they are required by our regulations, and I think again the time frame allowed for appeals and for the searching out of other accreditation agencies
is fairly generous and again as has been said before, if Southwest really is as strong as they're suggesting, it ought to be able to find itself accreditation. So I will vote very strongly for the original motion.

CHAIRPERSON DELCO: Dr. Rosser.

DR. ROSSER: I share with everyone the feeling that this is very difficult situation. On the other hand, these situations where you are involved with the crisis in a school are very messy. They're not neat. And I have seen on a number of occasions where various accrediting bodies have intervened to play a role during a crisis situation and if we held them to a very strict standard in terms of process, probably nothing would happen.

I do worry that if we take away the recognition of this agency and of this school that it will not be all that easy for that school to find another accrediting body. And I think as a result, we would put these students in a very difficult situation and I know if I were a student,
I'd be looking for another institution right away. I wouldn't wait for 18 months. So I think I would suggest that we need to show a certain degree of forbearance to an agency which after all is still relatively young in terms of its own experience. It has had very few experiences actually with the accrediting process. And I would suspect that they would learn a very good lesson from this as a result and any further action ought on their part with other institutions they would have a better process than they do now.

CHAIRPERSON DELCO: Dr. de los Santos.

DR. DE LOS SANTOS: Madam Chair, I just wanted to announce that or make public the fact that I support Dr. Ambach's position. I think that it's clear to me from everything that I've heard and everything that I've read, and I went back and read the materials again last night, that the agency has not been consistent in the application of its own criteria over time. It's not one incident and I'm glad that it was pointed out because I was getting confused towards the end,
that it has little or nothing to do with whether or not they accredited Southwest because the report was written before that happened. It's an inconsistent application of criteria that they themselves define.

CHAIRPERSON DELCO: There's a motion before the committee that Dr. Potts made that would defer, grant two-year extension of recognition with a reporting required next year, a year from today, or at least a year from this meeting, to report their progress.

DR. KERSHENSTEIN: Show full compliance with the criteria.

CHAIRPERSON DELCO: Show full compliance. You wrote it down so maybe you ought to repeat it, Karen.

DR. KERSHENSTEIN: To grant a period of two years continued recognition with a report in one year showing full compliance with all the criteria cited in the staff analysis.

CHAIRPERSON DELCO: That's correct. All right.
MR. HAWKINS: Call for the question.

CHAIRPERSON DELCO: Question has been called. All those in favor of the motion, please let it be known by raising your right hand.

[Show of hands.]

CHAIRPERSON DELCO: Those in opposition to the motion, let it be known by the same sign.

[Show of hands.]

CHAIRPERSON DELCO: The motion fails for adoption. Is there another motion?

DR. YENA: I'll make a motion to support the staff recommendation.

MR. HAWKINS: Second.

DR. YENA: Denying accreditation.

[Motion made and seconded.]

CHAIRPERSON DELCO: Motion has been made and seconded to support the staff recommendation for this agency. Is there discussion of that motion? All those in favor of the motion, let it be known by raising your right hand. I'm sorry, Dr. Potts--

DR. POTTS: Okay. You already--
CHAIRPERSON DELCO: I did call for it, but I did not want to be unfair if you were moving forward at the time when I was talking.

DR. POTTS: Would there be any support from anyone that's going to vote that voted against the other motion for a deferral rather than an extension?

CHAIRPERSON DELCO: I cannot recognize you for that because a subsequent motion has been made.

DR. POTTS: Okay. All right.

CHAIRPERSON DELCO: People can vote up or down on this and then you can offer another alternative if it does not pass.

DR. POTTS: Okay.

CHAIRPERSON DELCO: Okay. All those in favor of the motion let it be known by raising your right hand.

[Show of hands.]

CHAIRPERSON DELCO: All those opposed. Have you counted?

MS. LeBOLD: Yeah.

CHAIRPERSON DELCO: All those opposed by
the same sign.

[Show of hands.]

CHAIRPERSON DELCO: The motion passes. So your proposal, Dr. Potts, is moot. I would like to take this opportunity to thank the committee for a very, very, very difficult afternoon. This was one of the toughest ones we've had. I appreciate your patience, your willingness to explore, your willingness to be fair and to listen, and hope that you have a very pleasant evening, and I'll look forward to seeing you bright and early in the morning.

I'd also like--I don't know how much of the audience that is here this afternoon will return tomorrow, but we're instituting a new rule and that is that it is extremely disruptive to have telephones in the meeting during the course of the hearing, and I would ask those of you who participate in this hearing with telephones to turn them off while you're here. We would appreciate it. It is distracting when we're trying to conduct very serious business.
[Whereupon, at 5:30 p.m., the meeting was adjourned, to reconvene at 8:35 a.m., Tuesday, December 7, 1999.]