

Bermuda Health Business Licensing Stakeholder Engagement Report

18 November 2023

Prepared for the **Bermuda Health Council** and the **Ministry of Health** by:



Executive Summary

The Bermuda Health Council Act 2004 (“the Act”) (Appendix I) received Assent on 20 July 2004, with an operative date of 1 January 2006, except for section 13, which required a Notice in the Official Gazette. The Act established the Bermuda Health Council (“the Health Council”) as a body corporate with the general purpose “to regulate, coordinate and enhance the delivery of health services” in Bermuda. Part III of the Act anticipates and provides for the licensing of all people and organisations carrying on a business as a health service provider (“health businesses”).

The current Government is proceeding with the operationalisation of health business licensing. In addition to Gazetting section 13 of the Act, regulations to govern the licensing application process must be drafted. The intention is for the regulations to emphasise patient safety, high quality of care, and best practices. The Ministry of Health (“the Ministry”) and the Health Council have highlighted a desire for authentic and productive stakeholder consultation to inform the licensing requirements and in particular “to ensure the regulations consider the practical realities” of the health businesses that will be licensed, while balancing the need of the health system overall.

To inform the development of the regulations, the Ministry and the Health Council cohosted a formally facilitated, half-day stakeholder engagement session with health businesses on 14 October 2023 using a World Café methodology. Approximately 520 identified health businesses were invited to participate in the session. 47 health businesses participated in the session, which was facilitated by consultants from New Beginnings Limited and Worldview Intelligence LLC.

Session participants were seated in tables of four to five people and asked to move through a series of three conversations. The conversations were seeded by the following three, open-ended questions:

1. How can health business licensing move us toward a more unified healthcare community in Bermuda?
2. What health system data do we need to know for us to achieve the best system outcomes? And, as a health business, what data would be helpful to support your delivery of services?
3. When it comes to the implementation of health business licensing, what do we need to know about your practical operational realities?

There was a high level of engagement during the session with a diverse representation of professions within the health business sector. Everyone participated in the conversations and the report-outs, post-it notes, and table notes reflect broad discussion and diverse perspectives.

There are a variety of views relating to health business licensing in general and the potential benefits that may come as a result of it. It is clear, however, that health businesses require more clarity on the overall intent, purpose, intended approach, and potential impact of introducing the supporting regulations and operationalising health business licensing.

Engaging the diversity of health businesses together provided a more holistic view of the level of support, concerns, and opportunities of health business licensing system wide. While there is some outright opposition to health business licensing, this position is not representative of the majority of feedback provided by health businesses that participated in the 14 October 2023 session and/or pre-session interviews.

Those who support health business licensing share a perspective that it will add credibility overseas for other types of licensing or accreditation that might be required or pursued. Importantly, health businesses were clear that they want licensing to be as streamlined as possible. There is concern over the administrative impact of the licensing process on their businesses and the level of support that will be provided or needed from the Health Council.

Regarding data, there is broad support for data sharing island wide, for patients to have access to their own medical information, as well as information about health businesses (e.g., who provides what services, who is licensed, etc.). Within that is a strong position on protecting the privacy and security of the data that is shared.

Recommended next steps include *broad distribution of the Session Report*, which is in keeping with the commitment to transparency as communicated by the Ministry and Health Council at the beginning of the planning process, within the invitation itself, and confirmed during the 14 October 2023 session.

Several questions were raised and documented, seeking clarity on health business licensing in general and the use and meaning of specific terminology (e.g., health business vs. health service provider, etc.). It is recommended that a *Frequently Asked Questions (“FAQ”) or similar document be created and distributed to all health businesses* (and in particular to the business owners) as soon as possible.

Given the number of participants (and some who were unable to attend) who asked if further engagement would take place on health business licensing and if a similar format would be used, it is recommended that *consistent communication and engagement continue through the full process of developing and implementing health business licensing*.

While it is recognised that there will be a need to engage and consult profession-specific groups as implementation progresses, it is recommended that *the Ministry and Health Council continue to engage the broad group of approximately 520 health businesses together* so that a ‘system perspective’ can be progressed and the diversity of voices and perspectives may continue to be heard by the Ministry, Health Council, and throughout the breadth of health businesses.

Finally, it is recommended that *the Ministry and Health Council communicate with health businesses on a regular cadence* to provide updates on the progress of health business licensing, any future engagement opportunities that may be undertaken, and the outcomes from them.

The licensing of health businesses is a work in progress. Authentic engagement and transparent communication provide the opportunity to develop balanced and helpful regulations for all.

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Background

The Bermuda Health Council Act 2004 (“the Act”) (Appendix I) received Assent on 20 July 2004, with an operative date of 1 January 2006, except for section 13, which required a Notice in the Official Gazette. The Act established the Bermuda Health Council (“the Health Council”) as a body corporate with the general purpose “to regulate, coordinate and enhance the delivery of health services” in Bermuda.

Part III of the Act anticipates and provides for the licensing of all people and organisations carrying on a business as a health service provider (“health businesses”). Specifically, section 13 states that “(1) *No person, group of persons or organization shall carry on a business as a health service provider unless licensed to do so under regulations made under section 15*”.

Since 2006, two successive Governments have begun the process of operationalising section 13 of the Act. Both times the efforts were halted because of challenges to the process from some health businesses. Earlier this year, the Government made the decision to proceed with the licensing of health businesses. The first step will be to develop the regulations that will govern the licensing application process. It is intended that regulations will emphasise patient safety, high quality of care, and best practices.

Currently, there are select health businesses, such as clinical labs and pharmacies that are already required to be licensed. An opportunity exists to take learnings from the current system to inform the new licensing process that will govern all Bermuda health businesses and create a uniform and streamlined data collection process.

The Ministry of Health (“the Ministry”) and Health Council are confident that health business licensing will contribute to a more coherent, aligned health system in Bermuda. It will support more equitable access to affordable, quality healthcare for all residents, improving health outcomes while supporting principles of cost effectiveness. Importantly health business licensing will be informed by a data-driven approach. It could also help facilitate workforce management and address business gaps for the health system.

The Ministry and the Health Council are preparing to Gazette section 13 of the Act and have highlighted a desire for authentic and productive stakeholder consultation to inform the development of regulations and licensing requirements. To facilitate this, on 14 October 2023, the Ministry and the Health Council cohosted a formally facilitated, half-day stakeholder engagement session with health businesses “to ensure the regulation considers the practical realities of those businesses”. Approximately 520 health businesses were invited to attend St. Paul’s Church Hall in Paget. 47 health businesses participated in the engagement session. 47 health businesses participated in the engagement session including representation from GPs and specialist care providers, allied health providers, non-profits, Bermuda Hospitals Board, pharmacies, and mental health service providers.

Approach

Planning for the October session was thoughtfully undertaken to ensure clarity of need and purpose, not only for the engagement session itself, but for each phase of the overall initiative. Both the Ministry and the Health Council made it clear that this was not to be a ‘check the box’ consultation exercise. Importantly, the focus was on listening to the participants versus being a typical information session where a presentation was made, followed by a question-and-answer period.

It was also understood that the participants would be a microcosm of Bermuda’s health care system and that questions, concerns, or ideas raised would be reflective of the larger system. Information shared throughout the session by participating health businesses would help ensure the needs of the health system could be met, while regulations that were developed and implemented could be as “cost-effective, transparent, and non-intrusive as possible for health businesses.” Importantly, whatever approach was selected, it needed to ensure that everyone who had something to say, had the opportunity to share their thoughts.

Planning Team & Process

A Planning Team (“the Team”) comprised of team members from the Ministry, the Health Council, and consultants from New Beginnings Limited and Worldview Intelligence LLC was formed. The diverse and collaborative nature of the Team assisted in bringing understanding and awareness to the various insights, opportunities, and challenges that needed to be considered to ensure the October session was as impactful and productive as possible.

The Planning Team began by formulating an invitation (Appendix II) that was sent to approximately 520 identified health businesses in Bermuda. Invitees were asked to provide input and feedback to the Ministry and the Health Council through the engagement process. The Invitation provided the background, purpose, and logistical details of the engagement session. The Planning Team also worked together on designing the overall session, crafting open-ended discussion questions that would provide the desired insights from participants, and overall event logistics.

It should be noted that in the middle of the invitation process, the Government of Bermuda was subjected to a cyber-attack, which meant that anyone with a gov.bm email address had no access to that email for a number of weeks. The Planning Team persevered, finding ways to continue communication and reach as many health businesses as possible.

Stakeholder Interviews

The first step in the ongoing commitment to engagement, consultation, and communication were interviews with a cross-section of health businesses that were representative of the diversity of health services overall. The interviews were conducted by the Consultants and invited reflections on previous experiences with health business regulations and licensing; thoughts about the challenges that might be encountered in creating a standard licensing framework; benefits to uniform licensing; and hopes for the future of healthcare professions and healthcare overall in Bermuda. Refer to Appendix III to

view the Interview Guide that was used for each interview. Themes from the interviews were used to inform the 14 October 2023 session and have been incorporated into this report.

Stakeholder Engagement Format

While use of a Town Hall format is often employed for consultation purposes, the Ministry and Health Council were committed to using an engagement methodology that invited the diversity of health business voices into the process. They desired an approach that allowed every voice to contribute, rather than one where only a few voices or opinions are heard. The World Café methodology (Appendix IV) was chosen, recognising that it might disrupt expectations of what would happen.

The Café began with a short welcome by Aideen Ratteray Pryse, Chief Strategy Officer for the Ministry, followed by a video message from the Minister of Health, the Hon. Kim Wilson, JP, MP, who was off island at the time. Participants were seated at small tables of four to five people each and invited into a series of three conversations, approximately 20 minutes each.

Conversations were guided by a series of three questions (see below). After 20 minutes of conversation, each table was asked to identify three main themes coming from the conversation, write them on post-it notes, and then share one of the themes into the room.



Post-it notes were then collected and clustered into themes in each round of conversation and this was done on one wall in the meeting space. Those themes are being shared in this report. Following each round of conversation, participants were invited to move tables and sit with a different group of people for the next conversation.

The three questions that informed each conversation were:

1. How can health business licensing move us toward a more unified healthcare community in Bermuda?
2. What health system data do we need to know for us to achieve the best system outcomes? And, as a health business, what data would be helpful to support your delivery of services?
3. When it comes to the implementation of health business licensing, what do we need to know about your practical operational realities?

Throughout the Café, participants were invited to post any ‘out of scope’ questions that might arise for them about health business licensing or the overall process that would be undertaken in its

implementation on an easel at the front of the room. The Ministry and Health Council committed to answering those questions and sharing both the questions and answers with the broader group of 520 session invitees as a matter of priority.

At the conclusion of the event, participants were invited to share their experience of the session itself. This was followed by a confirmation of next steps by CSO, Aideen Ratteray Pryse and closing comments.

Key Findings/Observations

1. There was a high level of engagement during the 14 October 2023 session. Everyone participated in the conversations and the report-outs, post-it notes, and table notes reflect broad discussion and diverse perspectives.
 2. There are a variety of views relating to health business licensing in general and the potential benefits that may come as a result of it. It is clear, however, that health businesses require more clarity on the overall intent, purpose, intended approach, and potential impact of introducing the supporting regulations and operationalising health business licensing.
 3. Those who support health business licensing share a perspective that it will add credibility overseas for other types of licensing or accreditation that might be required or pursued.
 4. There is a strong desire that health businesses want licensing to be as streamlined as possible. There is concern over the administrative impact of the licensing process on their businesses and the level of support that will be provided or needed from the Health Council.
 5. While there was some confusion about the intended scope of data collection for health business licensing (i.e., it would not include patient information) there is broad support for data sharing island wide. Support for data sharing included patients having access to their own medical information, as well as information about health businesses (e.g., who provides what services, who is licensed, etc.). Within that is a strong position on protecting the privacy and security of the data that is shared.
 6. Engaging the diversity of health businesses together provided a more holistic view of the level of support, concerns, and opportunities of health business licensing system wide.
 7. While there is some outright opposition to health business licensing, this position is not representative of the majority of feedback provided by health businesses that participated in the 14 October 2023 session and/or pre-session interviews.
 8. There is a history of relationship and communication challenges amongst the various entities including the Government, the Health Council, insurers, discipline-specific regulatory bodies, health businesses, and health service delivery that indicates the need to build trust as this initiative moves forward.
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Themes and Feedback

After each discussion during the 14 October 2023 engagement session, feedback written on post-it notes was collected and organised by theme. This section of the report shares that feedback, along with feedback received during the pre-session interviews, and is organised first by conversation and then by theme.

Conversation 1: How can health business licensing move us toward a more unified healthcare community in Bermuda?

Outcomes and Improving Health System Outcomes

Participants wanted to better understand the intended outcome of the licensing of health businesses. They sought clarity about the definition of a health business (versus a health service provider) and an understanding of who fits under the banner of “health business”. Clarity on what was meant by “a unified healthcare community” was also desired, as well as a better understanding of the roles of both the Ministry and the Health Council, including scope of the Health Council’s oversight.

Participants wanted to be sure collecting data is not just a recreational exercise. They queried how licensing plays a role in meeting health system needs and what types of information needs to be available to achieve system improvements. Identifying the types of information or data collection that will support achieving system improvements is one of the goals of engaging health businesses.



Safe, Unified Care for Patients with a Single Platform

There were a variety of views regarding how health business licensing can contribute to a more unified healthcare community in Bermuda. Participants noted that licensing will allow for safe and unified care for all patients and will let everyone know what services are available. It is also believed licensing should allow for collaboration between services for the most holistic care.

Other feedback included:

- If all parts of the system could collaborate more, it would reduce silos and improve patient outcomes.
- A single platform that is streamlined, collecting only the most relevant information and is accessible to businesses and consumers would be best.
- The licensing process needs to be clear and transparent, and this includes introducing new health services and medical equipment to Bermuda.

- Access to patient information and care island wide with island-wide access to imaging, investigations and treatment would ensure continuity of care. The cost of licensing needs to be reasonable with sensible parameters.
- A unified licensing system should contribute to standardisation of care with each discipline body having an adequate role in determining licensing authority and registration of them. This also means having more healthcare providers involved directly in policy making, including where there are existing boards, to ensure effective liaison between parties.
- Policies and standards need to be updated periodically to ensure continuity of care.

Code of Conduct

Feedback included perspectives on the development of a code of conduct; specifically, that a code of conduct could be established that describes how to utilise available systems to share necessary information with permission from the client, taking confidentiality into consideration. Licensing could identify operating standards for all health businesses, including communication standards (update to email, stop fax) and ensuring contacts are updated in a consistent way.

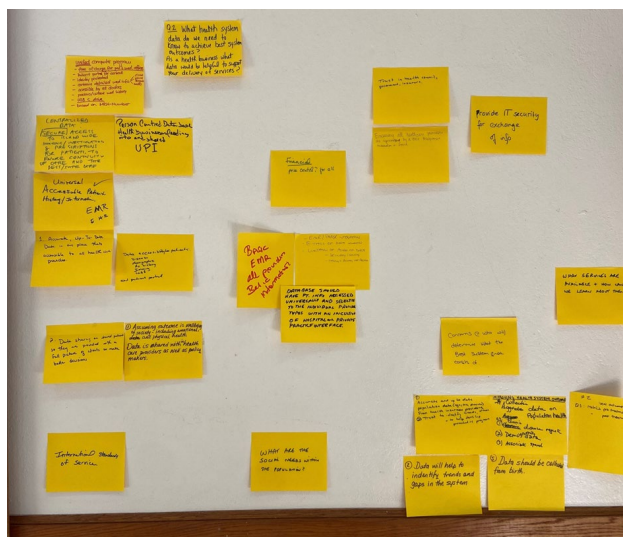
It would be essential to ensure business ease and continuity of licence renewal, and that sustainable standards that are relevant and avoid duplication are in place.

Participants want to ensure licensing is representative of all disciplines, eligibility for insurance coverage is based on qualification, safety in facility and inspection, and coding is completed accurately according to pain and treatment. This requires fair and consistent standards of practice. It was queried whether insurance companies should also be licensed in this system.

Conversation 2: What health system data do we need to know for us to achieve the best system outcomes? And, as a health business, what data would be helpful to support your delivery of services?

Health Business versus Health Service Delivery Data Requirements

Responses to this question indicated confusion about the difference between information and systems required for service delivery and patients and what is needed for health business licensing. As indicated during the closing of the engagement session, the Ministry and Health Council will be addressing this confusion in communications to health businesses. Other responses varied from business specific information to health population data to the need for improved trust and relationship amongst all entities.



Trust

The acknowledged relationship and communication challenges amongst all stakeholders and the need to build trust as this initiative moves forward, informs questions that were posed, like who will make the decisions about how the system will be developed and what data will be collected? It was noted that decisions should be informed by what is already being done, and of that, what is beneficial and useful and what is not.

Feedback included that it would be good to know the types of services available and how many businesses offer what services, as well as how people can learn about what is available.

It was suggested that all healthcare providers be represented by a BHE¹ recognised accreditation or board. Standards developed should be on par with international standards.

It was also suggested that Councils and Boards should be responsible for creating standards and regulations for businesses, that licensing needs to be specific to each type of business, and that the database available to other providers indicates services that are available from each business.

Ideal Health Outcomes

There was support for data collection that would inform the identification and achievement of ideal health outcomes. Questions posed included:

- What are the ideal health outcomes for Bermuda and what are the metrics that will demonstrate progress toward these outcomes?
- What are the social needs within the population? Assuming an outcome is the well-being of society, emotional, psychological and physical health would be part of the record.
- How can access for low SES² be assured?
- Other feedback included the position that population and disease data should also be collected from health insurance providers and that insurance should not dictate access to medical care.

There is a recognition of the desire for ideal health outcomes that would include appropriate population health data and might require a refocusing of some resources to preventative programmes. Feedback included a potential need to refocus some efforts to preventative programmes by collecting population health and demographic data, perhaps having a chronic disease register, and identifying the associated spending with this kind of data collection and benefits to population health. This includes collecting accurate and up-to-date population data (age, sex, disease) from health insurance providers. Data collected should be able to identify trends and gaps in the system.

It was suggested that with any regulation that requires maintenance or inspection of equipment, there must be local support to provide these services and that medical equipment needs to be maintained to code.

¹ It is assumed “BHE” is a reference to BHeC (Bermuda Health Council)

² It is assumed “SES” stands for socio-economic status.

Feedback also included that standardisation should reduce or prevent over-utilisation of services.

Security of Data

Cybersecurity or IT security is a paramount concern for medical records and business licensing and was mentioned by the majority of groups. There was broad consensus that data and systems need to be protected from hacking and other related risks.

While electronic medical records (“EMR”), are different than health business licensing, given the many ideas that were shared out during the debriefing session, it has thus been captured in this report.

The ethics of data collection should be clear. A secure, centralised, country-wide, data system that is person centred and confidential, with identity protected, to ensure continuity of care and the best, safest care for the patient is needed. A basic EMR would contain basic patient information. Paper records need to be integrated into the EMR.

It was suggested that the EMR would contain detailed medical information – CT, years of diagnosis, prescription history, imaging, labs, demographic and diagnosis data, etc. Previous and current medical history would be part of it, and it would be accessible by all healthcare providers involved in the care of this individual, with the data being accurate and up to date, to provide a full picture of clients, to make better decisions all around. This would include hospital-private practice interface.

The following feedback was also shared:

- Collect data from birth and include metrics pre and post any treatments.
- Data that helps identify trends and gaps in the system is needed and should be shared with policy makers, as well as healthcare providers.
- Patients should have access to a portal they can control for access to their own health information. It could be based on the MRN-number and possibly accessed through a USB C Drive.
- It would be ideal if there was a unified computer programme that is free of charge for patients and medical offices.

Conversation 3: When it comes to the implementation of health business licensing, what do we need to know about the practical, operational realities of Health Businesses?

Clearly Articulate Purpose, Outcomes, and Definitions

Feedback included the need for the purpose and outcomes for health business licensing to be clearly articulated in all places that people will go for information and that it must be part of the communication process at all times, even if that is simply providing a link to more detailed information. How it improves quality of care is important information to know, track, and share. A recommendation to incorporate international best practices into the licensing requirements was also made.

Logistics, Timelines, Cost, Training

There are logistical matters about which health businesses are seeking more information. This includes the cost of implementation or transition and the time designated for implementation or transition. It was noted that health businesses are expensive to run, and licensing should not add undue burden. People want to know the distinction between licensing and the registration of a business, noting that some healthcare professions are already licensed. There were a few people who believed that professional licensing should suffice.



Questions from participants included:

- What are the timelines for the Health Council to complete licensing requirements?
- When will the Health Council complete registration/licensing of Master's level mental health practitioners (i.e., counsellors/clinical social workers)?
- What will the documentation process look like, how can it be standardised and not be a duplication of something already in place?
- Will there be requirements like clinical supervision and liability insurance?
- What support, including training, will be available from the Health Council? The process needs to be efficient and eliminate duplication.

Streamline, Standardise, and Eliminate Duplication

Participating physicians indicated that the current physician licensing process is very cumbersome and felt it essential that this not be another layer of bureaucracy or duplication of an existing process.

Questions/feedback included:

- Can licensing in another country serve as a model?
- Regulations should be "regulatable" and not just data collection.
- There are questions about who will be doing inspections and licensing and regarding medical people being included in decision-making bodies. Will there be experts? Will they be independent?

It was suggested that it would be helpful to have a clear checklist with the same rules for everyone. This includes definitions of terminology used, including noting differences in things like business or practice or service provider.

Other recommendations included:

- Standard interprofessional standards including communication

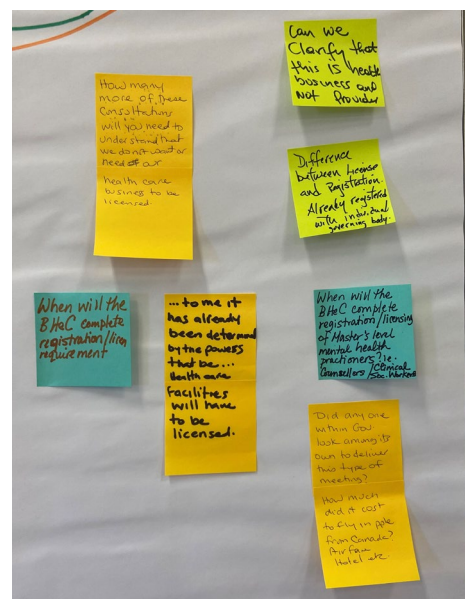
- Adopting the same communication technologies, including eliminating fax and moving, at a minimum, to email.
- The checklist could also include patient safety requirements, hygiene/cleanliness, quality of care, patient satisfaction ratings.

It was suggested that standards should be minimal (not star rating), sustainable, and in service of patients. Ensure the continuity of workforce during licence renewal; make it a business-friendly process.

Questions

As mentioned previously, participants were invited to post any questions they might have about the operationalisation of health business licensing, that was outside of the scope of the morning's session, on an easel. The Ministry and Health Council have committed to responding to all questions and sending out those responses to all health businesses. Questions included:

1. When will the BHeC complete registration/licensing requirements?
2. When will the BHeC complete registration/licensing of Master's level mental health practitioners – i.e., Counsellors/clinical social workers?
3. Can we clarify that this is health business and not providers?
4. Difference between licensing and registration – already registered with individual governing body.
5. How many more of these consultations will you need to understand that we do not want or need our healthcare businesses to be licensed?
6. ... to me, it has already been determined by the powers that be... healthcare facilities will have to be licensed.
7. Did anyone within government look among its own to deliver this type of meeting? How much did it cost to fly in people from Canada? Airfare, hotel, etc.?



Recommended Next Steps

1. *Report out Findings* – As already committed by the Ministry and Health Council at the beginning of the planning processes and confirmed during the 14 October 2023 session, we support the broad distribution of this report to the 520+ health businesses as well as to the public.
2. *Clarity* – Several questions were posed during the individual conversations and posted on the question board seeking clarity on health business licensing in general and the use/meaning of specific terminology (e.g., health business vs. health service provider). It is recommended that a

Frequently Asked Questions (“FAQ”) or similar document be created and distributed to all registered health businesses (and in particular to the business owners).

3. *Ongoing Engagement* – As evidenced by the number of participants (and some who were unable to attend) who asked if further engagement would take place on health business licensing and if a similar format would be used, it is recommended that consistent communication and engagement continue through the full process of developing and implementing licensing.
 4. *Continue to engage health businesses broadly throughout the process* – While it is recognised that there will be a need to engage and consult profession-specific groups as implementation progresses, it is recommended that the Ministry and Health Council continue to engage the broad group of approximately 520 health businesses together so that a ‘system perspective’ can be progressed and the diversity of voices and perspectives may continue to be heard by the Ministry and Health Council and within health businesses themselves. This may be done through both formally facilitated engagement sessions and informal engagement.
 5. *Communications* – It is recommended that the Ministry and Health Council communicate with health businesses on a regular cadence to provide updates on the progress of health business licensing and any future engagement opportunities that may be undertaken and the outcomes from them. It will be critical, however, to ensure the contact information being used to distribute communication materials and future invitations is the right contact information for the people who need to see the information being shared. Using a generic ‘info@’ business email will not be optimal for achieving this.
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APPENDICES

APPENDIX I - Bermuda Health Council Act 2004





BERMUDA

BERMUDA HEALTH COUNCIL ACT 2004

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SCHEDULE CONSEQUENTIAL AMENDMENTS

WHEREAS it is expedient to provide for the establishment of a Bermuda Health Council to regulate, coordinate and enhance the provision of health services in Bermuda:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

- 1 This Act may be cited as the Bermuda Health Council Act 2004.

Interpretation

- 2 In this Act—

“Council” means the Bermuda Health Council established under section 3;

“health professional” means a person who is registered to practise his or her health profession by the relevant regulatory authority;

“health service provider” means a person, group of persons or organization that operates a business offering health services to the public, but does not include a person who is an employee under a contract of service;

“health services” includes hospital, medical, dental and professional services related to health, including residential care;

“licence” means a licence issued under Regulations made under section 15;

“Minister” means the Minister responsible for Health.

[Section 2 definition "health services" amended by 2020 : 53 s. 5 effective 4 January 2021]

PART II

BERMUDA HEALTH COUNCIL

Establishment of the Council

3 (1) There is hereby established a body to be called “the Bermuda Health Council” which shall perform the functions assigned to it by this Act and by any other statutory provision.

(2) The Council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

BERMUDA HEALTH COUNCIL ACT 2004

(3) The Council may enter into contracts and do all things necessary for the performance of its functions.

General purpose of the Council

4 (1) The general purpose of the Council is to regulate, coordinate and enhance the delivery of health services.

(2) In pursuance of subsection (1) where there is any inconsistency between this Act and any Act dealing with health professionals or health service providers, this Act shall to the extent of the inconsistency prevail over that Act.

Functions of the Council

5 The functions of the Council are—

- (a) to ensure the provision of essential health services and to promote and maintain the good health of the residents of Bermuda;
- (b) to exercise regulatory responsibilities with respect to health services and to ensure that health services are provided to the highest standards;
- (c) to regulate health service providers by monitoring licensing and certification, establishing fees in respect of the standard health benefit, and establishing standards and codes of practice;
- (d) to regulate health professionals by monitoring licensing, certification, standards and codes of practice;
- (da) to perform the administrative functions relating to the registers for, and registration and re-registration of, health professionals that are conferred on the Council by this Act and by any other provision relating to health professionals including the collection of fees, and matters connected thereto;
- (e) to licence health insurers;
- (f) to identify and publish goals for the health care system, to coordinate and integrate the provision of health services, and make recommendations to the Minister on the prioritisation of initiatives with respect to health services;
- (g) to licence health service providers;
- (ga) perform the functions assigned to it under the Residential Care Homes and Nursing Homes Act 1999;
- (h) to regulate the price at which drugs are sold to the public;
- (i) to establish and promote wellness programmes;
- (j) to conduct research, collect, evaluate and disseminate to the public information on the incidence of illness and other relevant information

BERMUDA HEALTH COUNCIL ACT 2004

necessary to support objective decision making with respect to public health and the optimal use of resources; and

- (k) to advise the Minister on any matter related to health services that may be referred to the Council by the Minister.

[Section 5(e) amended by 2009:10 s.17 effective 1 April 2009; section 5(e) amended by 2009:49 s. 13 effective 15 December 2009; section 5(c) amended by 2017 : 25 s. 2 effective 1 June 2017; Section 5 paragraph (da) inserted by 2020 : 47 s. 132 effective 11 December 2020; Section 5 paragraph (ga) inserted by 2020 : 53 s. 5 effective 4 January 2021]

Composition etc. of the Council

6 (1) The Council shall consist of the following ex officio members—

- (a) the Chief Medical Officer;
- (b) the Chief Executive Officer;
- (c) the Permanent Secretary of the Ministry responsible for Health;
- (d) the Financial Secretary,

and not less than nine nor more than eleven other “ordinary members” appointed by the Minister.

(2) Ordinary members of the Council shall hold office for such term as may be specified in their instrument of appointment and on the initial appointment the term of office shall be varied to ensure continuity in the management of the Council.

(3) Ordinary members are eligible for reappointment.

(4) The Minister shall appoint a Chairperson and a Deputy Chairperson from among the ordinary members of the Council who shall hold such office at the Minister’s pleasure.

(5) Subject to this section, the Council may regulate its own procedure.

(6) The Minister may at any time declare the office of an ordinary member of the Council vacant if he is satisfied that the member—

- (a) has failed without sufficient cause to attend three consecutive meetings of the Council;
- (b) is incapacitated by physical or mental illness; or
- (c) has otherwise become unable or unfit to perform his duties as a member.

(7) A person appointed to fill a vacancy left by an ordinary member who did not complete his term of office may be appointed for the unexpired portion of that member’s term and no longer, but an appointment to such a vacancy need not be made where the unexpired portion of the term is less than three months.

(8) Seven members constitute a quorum at any meeting of the Council.

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(9) Any question for decision by the Council shall be decided by a majority of the members present and voting and each member shall have one vote, except that the person presiding shall have a second vote if there is a tie.

(10) An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.

(11) The Council may establish committees for such purposes as it sees fit.

(12) Fees shall be paid to members of the Council in accordance with the Government Authorities (Fees) Act 1971.

[Section 6 subsection (1)(c) amended by 2020 : 47 s. 132 effective 11 December 2020]

Policy directions

7 The Minister, after consultation with the Council, may give general directions as to the policy to be followed by the Council in the performance of its functions as appear to the Minister to be necessary in the public interest, and the Council shall give effect to any such directions.

Employment of staff

8 (1) Subject to sections 9 and 10, the Council, after consultation with the Minister, may appoint such officers and engage such employees as it considers necessary for the purposes of this Act.

(2) Subject to subsection (1), the terms and conditions of employment of persons appointed or engaged shall be as determined by the Council.

Chief Executive Officer

9 (1) There shall be a Chief Executive Officer of the Council who shall be appointed by the Council with the approval of the Minister and whose services shall not be terminated by the Council except with the like approval.

(2) The remuneration, emoluments, terms and conditions and period of service of the Chief Executive Officer shall be fixed by the Council with the approval of the Minister and shall not be altered except with the like approval.

Secondment of public officers

10 (1) A public officer may be appointed to employment with the Council by way of secondment, subject to such conditions as the Public Service Commission may determine.

(2) A public officer seconded in accordance with subsection (1) to employment with the Council shall, in relation to pension, gratuity or other allowance and rights and obligations of a public officer, be treated as continuing in a public office notwithstanding the secondment.

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Accounts of Council

11 (1) The Council shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of each financial year a statement of its accounts in such form as the Accountant-General may direct.

(2) The statement of accounts referred to in subsection (1) must—

- (a) present fairly the financial transactions of the Council during the financial year to which they relate; and
- (b) present fairly the financial position of the Council at the end of the financial year.

(3) The Council shall within three months after the end of the Council's financial year cause to be submitted to the Auditor General the statement of its accounts.

(4) The Council's financial year is to end on 31st March in each year or on such other day as the Council may, with the approval of the Minister, determine.

Annual report

12 (1) The Council shall, as soon as practicable after the end of each financial year, forward to the Minister—

- (a) a report on the operations of the Council during that year; and
- (b) a copy of the accounts of the Council for that year certified by the Auditor-General.

(2) The report prepared for the purpose of subsection (1)(a) shall set out any directions given by the Minister to the Council during that year.

(3) The Minister shall cause copies of the report of the Council and the accounts of the Council forwarded to him under subsection (1) to be laid before both Houses of the Legislature.

PART III

REGULATION AND LICENSING OF HEALTH SERVICE PROVIDERS

Licensing of health service providers

13 (1) No person, group of persons or organization shall carry on a business as a health service provider unless licensed to do so under regulations made under section 15.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$20,000.00 or to imprisonment for twelve months or to both such fine and imprisonment.

[Section 13 effective by notice in Gazette]

Inspection

14 (1) The Minister may designate public officers as inspectors.

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(2) An inspector may at all reasonable times enter and inspect any premises operated by a health service provider and may require the production of records relating to fees and services provided by that health service provider.

(3) Any person who obstructs an inspector in carrying out his functions or fails to produce any records reasonably required by an inspector commits an offence and is liable on summary conviction to a fine of \$5,000.00.

Regulations

- 15 (1) The Minister, after consultation with the Council, may make regulations—
- (a) governing applications for the issue of licenses to health service providers;
 - (b) prescribing, in respect of the standard health benefit, fees for services provided by health service providers;
 - (c) establishing an appeals procedure where a licence is refused, suspended or cancelled by the Council;
 - (d) prescribing professional and other qualifications required by health service providers;
 - (e) requiring licensed health service providers to supply such returns, statistics or other information as the Council may, by notice in writing, require;
 - (f) governing inspections, their management and conduct;
 - (g) creating offences for any contravention of the regulations;
 - (h) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made under subsection (1) are subject to the affirmative resolution procedure.
- (3) Regulations made under this section may provide—
- (a) that any part or extract of the regulations shall be displayed in any prescribed manner or place; and
 - (b) for offences subject to a fine not exceeding \$50,000 for breach of the regulations.
- (4) The Bermuda Drug Formulary provided for under the Bermuda Health Council (Drug Formulary) Regulations 2021, may be amended in regulations subject to the negative resolution procedure.

[Section 15 subsection (1)(b) amended by 2017 : 25 s. 2 effective 1 June 2017; Section 15 subsections (3) and (4) inserted by 2021 : 15 s. 2 effective 10 September 2021]

Council notices

- 15A (1) The Council may, by notice, publish information relating to its functions and required to be publicised as may be provided in the regulations made under section 15.

- (2) The Council may publish a notice as provided for in subsection (1)—
- (a) in the Gazette;
 - (b) on its website, at an address as may be specified in the regulations; or
 - (c) in such other manner as the Council may determine.

(3) Sections 6, 7 and 8 of the Statutory Instruments Act 1977 shall not apply to a notice published by the Council under this section.

[Section 15A inserted by 2021 : 15 s. 2 effective 10 September 2021]

Fees

16 The fees for the issue or renewal of licences under this Part shall be prescribed under the Government Fees Act 1965.

PART IV MISCELLANEOUS

Immunity

17 No proceedings shall lie against the Council, any member of the Council or any person acting on the direction of the Council for anything done in good faith in the exercise of their functions under this Act.

Confidentiality

18 (1) Except in so far as may be necessary for the due performance of a person's functions under this Act or any other statute and subject to subsections (3), (4) and (5), any person who is a member of the Council or who is acting as an officer, a servant, an agent or an adviser of the Council shall preserve and aid in preserving confidentiality with regard to all matters relating to the affairs of the Council or of any person, that may come to his knowledge in the course of his duties.

- (2) Any member, officer or servant of the Council who—
- (a) communicates any matter relating to the affairs of the Council or of any person, that may come to his knowledge in the course of his duties to any person other than—
 - (i) the Minister;
 - (ii) a member of the Council; or
 - (iii) an officer of the Council authorized in that behalf by the Chief Executive Officer; or
 - (b) permits any unauthorized person to have access to any books, papers or other records relating to the Council,

commits an offence and is liable on summary conviction, to a fine of \$10,000.00 or to imprisonment for a term of six months or to both such fine and imprisonment and on

SCHEDULE

(section 19)

CONSEQUENTIAL AMENDMENTS

1. (1) The Hospital Insurance Act 1970 ("the Act") is retitled as "the Health Insurance Act 1970".

(2) Section 1 of the Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of "the Commission" and substituting the following—

"the Council" means the Bermuda Health Council established under section 3 of the Bermuda Health Council Act 2004",

(ii) by deleting the definition of "the Fund" and substituting the following—

"the Fund" means the Health Insurance Fund established under section 12",

(iii) in the definition of "hospital insurance" by deleting "hospital insurance" and substituting "health insurance" in both the definition and the text of the definition,

(iv) in the definition of "indigent person" by deleting "of Health and Social Services" and substituting "responsible for Health",

(v) by deleting the definition of "Minister" and substituting the following—

"the Minister" means the Minister responsible for Health",

(vi) in the definition of "school leaving age" by deleting "26 of the Education Act 1954" and substituting "40 of the Education Act 1996";

(b) in subsection (3), by deleting paragraph (d).

(3) Sections 6 to 11 of the Act are repealed and the heading to Part II is deleted and "BERMUDA HEALTH COUNCIL" substituted.

(4) Section 40(1) of the Act is amended—

(a) by inserting after "may" where it first occurs ", acting on the recommendations of the Council,";

(b) in paragraph (l) by deleting "\$250" and substituting "\$2,000.00".

(5) The Act is amended generally by deleting "Commission", "Hospital Insurance Fund" and "hospital insurance" wherever they appear and substituting "Council", "Health Insurance Fund" and "health insurance" respectively.

Amendment of statutory instruments

2. The following statutory instruments—

Hospital Insurance (Licensing of Insurers) Regulations 1971

Hospital Insurance (Approval Scheme) Regulations 1971

Hospital Insurance (Certificate of Entitlement) Regulations 1971

Hospital Insurance (Audit of Accounts) Regulations 1971

Hospital Insurance (Portability) Regulations 1971

Hospital Insurance (Standard Premium) Regulations 2003

Hospital Insurance (Health Insurance Plan) Regulations 1987

Hospital Insurance (Health Insurance Plan) (Premium) Order 1987

Hospital Insurance (Health Insurance Plan) (Additional Benefits) Order 1988

Hospital Insurance (Standard Hospital Benefit) Regulations 1971

Hospital Insurance (Deductions) Regulations 1971

Hospital Insurance (Cover) Regulations 1971

Hospital Insurance (Procedure for Subsidy Payments) Regulations 1971

Hospital Insurance (Health Insurance Plan) (Enrolment) Rules 1981

Hospital Insurance (Inspection of Records) Regulations 1971

Hospital Insurance (Maternity Benefit) Regulations 1971

Hospital Insurance (Artificial Limbs and Appliances) Regulations 1971

Hospital Insurance (Exemption) Regulations 1971

Hospital Insurance (Statistical Reports) Regulations 1986

Hospital Insurance (Double Cover) Regulations 1971

Hospital Insurance (Portability of Subsidy) Regulations 1973

Hospital Insurance (Mental Illness, Alcohol and Drug Abuse) Regulations 1973

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Hospital Insurance (Mutual Reinsurance Fund) (Prescribed Sum) Order 1999

are amended—

- (a) in the title and generally throughout the text by deleting “hospital insurance” and substituting “health insurance”;
- (b) generally by deleting “Commission”, “Hospital Insurance Fund” and “hospital insurance” wherever they appear and substituting “Council”, “Health Insurance Fund” and “health insurance” respectively.

[Assent Date: 20 July 2004]

[Operative Date: 1 January 2006]

[Amended by:

2009 : 10

2009 : 49

2015 : 23

2017 : 25

2020 : 47

2020 : 53

2021 : 15]

APPENDIX II – 14 October 2023 Session Invitation

Dear Stakeholder

Over the past three years, the Ministry of Health, Bermuda Health Council, and other health sector stakeholders have come together to collectively progress initiatives to build a more sustainable, agile, and evidence-based health system for Bermuda and to support the implementation of universal health coverage (“UHC”). The work of the UHC Steering Committee, the Clinical Senate, and several project-specific working groups, is a testament to what is possible when authentic collaboration occurs.

I write today to share with you the next collaborative initiative, which relates to the licensing of health businesses.

As you may be aware, the Bermuda Health Council Act 2004 (“the Act”) anticipates and provides for the licensing of all people and organisations carrying on a business as a health service provider (“health businesses”). As part of the ongoing commitment to strengthening Bermuda’s health system and achieving Universal Health Coverage in alignment with the Bermuda Health Strategy 2022-2027, the Government has decided to move forward with the operationalisation of this section of the Act. In doing so, members of the public will benefit from more accurate data collection, better service provider pricing transparency and service availability, knowing there are baseline standards in terms of quality and safety, and having the confidence that we have the right equipment and services on island to serve their health needs.

The immediate next step for its implementation is to develop the regulations that will govern the licensing application process, with an emphasis on patient safety, high quality of care, and best practices. This will ensure Bermuda has world-class standing, commensurate with the best health system regulators around the World.

As the Ministry of Health considers the regulations required to appropriately licence health businesses, we want to ensure the regulations consider the practical realities of those businesses. To that end, the Ministry, in collaboration with the Bermuda Health Council, will be engaging with health system stakeholders over the coming weeks to identify implementation strategies. It is essential that the regulations put into place are as cost-effective, transparent, and non-intrusive as possible for health businesses, whilst also ensuring the needs of the health system are met. Please note that these regulations do not relate to patient care or guidelines for clinical practice.

For those health businesses that are already required to be licensed, we want to learn from your experiences. Rest assured; you will not be subjected to two licensing processes. The intent is to design one unified system that efficiently identifies and collects only the most relevant information and data to make the best decisions possible for Bermuda’s health system and its users.

We believe it is critical that your input is invited and considered. The ultimate goal is to provide quality care that is accessible, affordable, and sustainable for all Bermuda residents. To this end, Kerry Judd of

New Beginnings Limited and Jerry Nagel and Kathy Jourdain of Worldview Intelligence LLC have been engaged to work with the Ministry and Health Council to create a Stakeholder Engagement Process that gathers the appropriate input to inform the development of regulations.

On Saturday, 14 October 2023, the Ministry will be co-hosting a half-day stakeholder engagement session with the Bermuda Health Council at St. Paul's, Paget in the Peter Evans Hall. The session will begin at 10:00 AM and will last approximately three hours. Kerry, Jerry, and Kathy will be facilitating the session, which will be highly interactive, strategy- and solutions-focused, and will offer all participants the opportunity to share their views.

An event page has been created for easy access to information about the engagement session: **Building Smart Business Licensing Together event page**. Please register your attendance **here**.

During September, the Consultants will be conducting interviews with a representative sample of stakeholders to ensure we maximise the group's productivity during the October engagement session.

This is a real opportunity to bring your thoughts, ideas, and perspectives to inform the development of regulations for your business. Input will be collected and a summary report on the proceedings will be published and shared with both participants and the public shortly afterward. Representatives from all health businesses (whether currently licensed or not), and other support organisations are being invited to participate.

If you have any questions about this event, please email healthengagement@gov.bm.

On behalf of the Ministry of Health and Bermuda Health Council, thank you for all you do to elevate the health and well-being of our community. We look forward to hosting you next month.

Sincerely,

Aideen Ratteray Pryse
Chief Strategy Officer

APPENDIX III - Interview Question Guide for Interviewers

Interview Introduction/Framing

Thank you for agreeing to be interviewed as part of the Stakeholder Engagement Process regarding developing supporting regulations for the implementation of section 13 of the Bermuda Health Council Act 2004.

The interview will likely take approximately 45 mins to 1 hour. This interview is intended to:

- Inform the planning and approach to the Stakeholder Engagement Process, which will receive input from health businesses regarding the implementation of the licensing of health service providers,
- Check assumptions we might be making, and
- Identify questions, gaps, or blind spots in our thinking and, also, opportunities and possibilities the Planning Team may not have considered.

These conversations are confidential. We will identify themes and patterns we hear to aid in our event planning.

Beginning the Interview

We would like to start with a few questions to get to know you a bit and better understand your background before moving into specific questions about the regulation and licensing of health businesses.

1. How long have you been with _____ (or been a _____)?
2. I'm curious to hear about the background you bring to your role there.

Targeted/Issue Questions

3. What's been your involvement or experience, if any, with attempts to create supporting regulations for the licensing of health businesses in the past?
 4. What kind of challenges do you think the Ministry of Health or the Health Council might face in developing the regulations?
 - *If past experience is surfaced, ask:* What, if anything, do you think was learned through that?
 5. What scope of regulatory oversight do you think should be included in the licensing of health businesses?
 6. How do you think the licensing of health businesses might benefit you/your practice or your profession?
 7. What might be getting in the way of the willingness or ability to move forward on the regulations?
 8. What is not being talked about or done, that might make a difference to the ability to create this regulation? (What are the blind spots?)
 9. What opportunities do you see for your profession/discipline in the future?
 10. What is one hope you have for the future of healthcare in Bermuda?
-

Interview end

11. Do you have questions for me/us?
12. Is there anything else you want to share?

Thank you for your time and helpful input.

APPENDIX IV – Outline for World Café





Outline for World Café

The World Café refers to both a vision and a method of dialogue. World Café Conversations are an intentional way to create a living network of conversation around questions that matter. A Café Conversation is a creative process for leading collaborative dialogue, sharing knowledge and creating possibilities for action in groups of all sizes.

The challenges of life require us to find new ways to access the wisdom and intelligence inherent in groups both small and large. The need for collaboration, insight and coordinated action has never been greater. Café Conversations are one way that communities, businesses, governments, and people from all walks of life are using to create a common purpose, share knowledge, make more intelligent decisions, and call forth life-affirming action together.

The methodology of is simple: The environment is set up like a café, with tables for four to eight, tablecloths covered by flip chart or butcher paper, flowers, some colored pens and, if possible, candles, quiet music and refreshments. People sit at a table and have a series of conversations in rounds lasting from 20 to 45 minutes about one or more questions which are meaningful to them.

One person remains at each table as the host, while the others travel to separate tables. Table hosts welcome newcomers to their tables and share the essence of that table's conversation so far. The newcomers relate any conversational threads which they are carrying -- and then the conversation continues, deepening as the round progresses. This process repeats a third time.

At the end of the third round, participants return to their original table to review the information that has been captured in words and drawings. With their help, the table host prepares a summary of key emerging themes, insights, and learnings. These are harvested and shared with the whole group, captured on flipcharts or other means for making the collective intelligence of the whole group visible to everyone so they can reflect on what is emerging in the room. At this point the Café may end.

The seven design principles of World Café are:

1. ***Set the context:*** Clarify the purpose and broad parameters within which the dialogue will unfold.
2. ***Create hospitable space:*** Ensure the welcoming environment and psychological safety that nurtures personal comfort and mutual respect.
3. ***Explore questions that matter:*** Focus collective attention on powerful questions that attract collaborative engagement.
4. ***Encourage everyone's contribution:*** Enliven the relationship between the "me" and the "we" by inviting full participation and mutual giving.
5. ***Cross-pollinate and connect diverse perspectives:*** Enable people to visit different tables and hear different perspectives. They act as pollinators, and begin to create a sense of the whole by hearing the "buzz" from the room.

6. ***Listen together for patterns, insights, and deeper questions:*** Focus shared attention in ways that nurture coherence of thought without losing individual contributions.
7. ***Harvest and share collective discoveries:*** Make collective knowledge and insight visible and actionable.

Finding the Right Questions:

In World Café, the formulation of powerful questions is a fundamental art and skill. Questions like "What's important to you about this situation, and why do you care?" and "What are we not seeing (or talking about) that is vital to our progress?" can open up new possibilities and energy. If you (as planner or host) don't know what question(s) are right for a particular Café, you can ask as a first round question "What question, if answered, could make the greatest difference to the future of the situation we're exploring here?"

Here are some questions to facilitate the formulation of "the questions."

- What question, if explored thoroughly, could provide the breakthrough possibilities we are seeking?
- Is this question relevant to the real life or real work of the Café participants?
- Is this a genuine question to which we don't know the answer?
- What work do we want this question to do? What kind of conversation, meaning, and feeling do we imagine this question evoking in those who will be exploring it?
- What assumptions or beliefs are embedded in the way this question is constructed?
- Is this question likely to generate hope, imagination, engagement, new thinking, and creative action, or is it likely to increase a focus on past problems and obstacles?
- Does this question leave room for new and different questions to be raised as the initial question is explored?

Report Out Plenary Discussion:

Questions for the group or for individual reflection.

- What is emerging here?
- If there was a single voice in the room, what would it be saying?
- What deeper questions are emerging as a result of these conversations?
- Do we notice any patterns and what do those patterns point to, or how do they inform us?
- What do we now see and know as a result of these conversations?

Sources:

Juanita, B. and I. David (2005). *The World Cafe; Shaping our Future Through Convesations That Matter*. San Francisco, Berrett-Koehler Publishers, Inc.

Holman, P., et al (2007). *The Change Handbook: The Definitive Resource on Today's Best Methods for Engaging Whole Systems*. San Francisco, Berrett-Koehler Publishers, Inc.