OFFICE OF HEALTH STRATEGY PUBLIC HEARING

IN RE:	:	
HHC PLAINFIELD AMBULATORY	:	DOCKET NO.
SURGERY CENTER, LLC	:	19-32311-CON
	:	

HELD BEFORE: MICHEALA MITCHELL, ESQ.

DATE: Wednesday, August 12, 2020

TIME: 10:00 a.m.

** ALL PARTIES APPEARED REMOTELY **

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(The hearing commenced
at approximately 10:05 a.m.)

HEARING OFFICER MITCHELL: This public hearing today before the Health Systems Planning Unit, identified by Docket No. 19-32311-CON is being held on August 12, 2020, to establish an Outpatient Surgical Center in Plainfield, Connecticut by Hartford HealthCare.

On March 14th of 2020 Governor Ned Lamont issued Executive Order 7B, which, in relevant parts, suspended in-person opening meeting requirements. To ensure the continuity of operations while maintaining the necessary social distance to avoid the spread of COVID-19, the Office of Health Strategy is holding this hearing remotely.

We ask that all members of the public and all participants mute the devices that they are using to access the hearing and silence any additional devices that are around them.

This public hearing is being held pursuant to Connecticut General Statutes

Section 19a-639a and will be conducted as a contested case in accordance with the provisions of Chapter 54 of the Connecticut General Statutes.

My name is Micheala Mitchell. Victoria Veltri, the Executive Director of The Office of Health Strategy has designated me to serve as the hearing officer in this matter.

My colleagues, Brian Carney and Jessica Rival, are also here to assist me in gathering facts related to this application.

The certificate of process is regulatory, and as such the highest level of respect will be accorded to the parties, members of the public, and to our staff.

Our priority is the integrity and transparency of the process. And we just ask that the quorum be maintained by all those present during these proceedings today.

The hearing is being recorded and will be transcribed by BCT Reporting, LLC.

All documents related to this hearing that have been or will be submitted to

The Office of Health Strategy are available for review through our CON portal, which is accessible on The Office of Health Strategy CON web page.

In making its decision, the Health Systems Planning Unit will consider and make written findings concerning the principles and guidelines set forth in Section 19a-639-639 of the Connecticut General Statutes.

Hartford HealthCare is designated a party in this proceeding.

Day Kimball Hospital has been designated as an Intervenor with full rights of cross-examination of this proceeding.

At this time I'm going to ask staff to read into the record those documents already appearing in HS's table of record in this case. And I'm going to note that all documents have been identified in the table of record for reference purposes.

Mr. Carney, thanks.

MR. CARNEY: Brian Carney of OHS. At this time I'd like to read into the table of the record Exhibits A through AA.

HEARING OFFICER MITCHELL: Are there any additional exhibits that you're aware of that we will need to enter into the record besides those?

MR. CARNEY: None that I'm aware of, no.

HEARING OFFICER MITCHELL: Okay. I'm going to turn my attention to Attorney Monahan and Attorney Fusco just to make sure that there's nothing new that we need to consider adding to the table of record.

MS. FUSCO: Thank you, Attorney Mitchell. This is Jennifer Fusco, counsel for HHC Plainfield.

There are no additions to the record. The revisions were made yesterday that I e-mailed you about.

Two things. I do note there are some letters of support in the record from elected officials. I had mentioned, and I do see, that Kevin Cunningham, the First Selectman of Plainfield, is on to speak this morning. We did have several doctors who are interested in speaking, but

they're very busy right now. Their schedules are packed sort of dealing with the pent up demand from the COVID shutdown. Patient care is obviously the most important thing. So I told them that if they wanted to put in a written statement they could get that to you in the form of a letter in the next day or so. Is that okay?

HEARING OFFICER MITCHELL: That works. Yeah. That's fine.

MS. FUSCO: Thank you.

MS. MITCHELL: Attorney Monahan.

MR. MONAHAN: Good morning.

Thank you for hosting this and giving us the opportunity to participate as you have.

There are no new documents that I'm aware of at this moment that would be entered into the record. And I'll leave it at that.

HEARING OFFICER MITCHELL: All right. I do thank you both.

I'm just going to ask really quickly do either of you have any objections to what's already been included in the table of

record?

MS. FUSCO: I have no objections.

MS. MITCHELL: All right. Attorney Fusco.

And then Attorney Monahan?

MR. MONAHAN: I have no objection at this moment. But I'd like to reserve the right, as is commonly done in the course of a hearing, in the event that information comes up through testimony where there might be an appropriate motion to strike a particular document. Not that I have that in mind, but I do want to reserve that ability. Right now I have no objection.

HEARING OFFICER MITCHELL: All right. I'm going to note that.

Thank you both.

All right. If you wouldn't mind just muting your devices just for a few more moments.

So we are going to proceed today in the order established in the agenda. I do reserve the right to allow public officials and any members of the public to testify outside of the order in the agenda. If

there's anybody that comes to your awareness that, you know, needs to go out of order, just let me know.

I'd like to advise the Applicants that we may ask questions related to your application that you may feel you've already addressed. And we do this for the purpose of ensuring that the public has knowledge about your proposal for purposes of clarification and to ensure that the record is complete.

I just want to reassure you that we've read all of the information that you've submitted. We've looked at completeness responses and pre-filed testimony. So just kind of bear with us if you feel like you've already responded to a question that we are asking.

As this hearing is being held virtually, we ask that all participants, to the extent possible, enable the use of video cameras when testifying or commenting during the proceedings.

We ask that anyone who is not testifying or commenting mute their

electronic devices in creating, you know, any devices that are in the vicinity of you that maybe you're not using to access the hearing. So that would include telephones, televisions, and any other devices like cell phones, just in case you accidentally un-mute yourself.

My colleagues and I are going to monitor the participants during the hearing. And to the extent possible -- you know, we've discussed this previously -- if counsel wants to let me know that something is going on, I'm going to ask that you use the "raise hand function". If that's not immediately recognized, you have the option to un-mute your device yourself and just indicate that you have an objection or you want to make a statement and then I'll intervene.

All participants can mute their devices and disable their cameras when we go off the record or take a break.

Just so that we make sure that we capture everything, we are not going to stop the recording. So you need to be very

careful, if you're conferring with your clients or talking, that you make sure that you mute your device so that your conversations are not captured during recording. We're not going to stop the recording.

I'm going to provide a warning to all the parties one minute prior to going back on the record any time that we take a break.

And I noted that Attorney Fusco asked about submitting written comments. I just want to make sure that I reiterate that public comment taken during the hearing is going to go in the order established by OHS. I'm going to call each individual by name when it's his or her turn to speak. If there's anybody that wants to submit written comment after the hearing has been adjourned, I will give you instructions about how to do that.

At this time I'm just going to ask the attorneys, if they wouldn't mind, un-muting their devices, if they're still muted, and I'm going to ask all of the individuals who are going to testify on behalf of the

parties to be identified by their attorneys.

MS. FUSCO: Okay. I can start. We have -- in terms of written testimony and presentation, we have David Whitehead, who is the executive vice president and chief strategy and transformation officer for Hartford HealthCare.

We have Karen Goyette, who is the senior vice president for strategy and system integration for Hartford HealthCare.

Also here in the room we have Bill Bitterli for Constitution Surgery.

We have Donna Sassi, who is the -- I wrote it down. But she's the director of the ambulatory services for HHC.

And we have Barbara Durdy, who you know is the director of strategic planning.

We also have other witnesses remotely. We didn't want to have everyone in the same room. So I don't know if anyone who is on the call on behalf of HHC and the Applicant that might testify could then un-mute and identify themselves.

I see Gerry. I know Gerry Boisvert, Donna Handley, Laura Sasser-Cuff.

I can't see everyone on our screen.

MR. ROSENQUEST: Ken Rosenquest for Constitution.

MS. FUSCO: Yes. Ken.

MS. HANDLEY: Donna Handley from Hartford HealthCare, east region president.

MR. CUNNINGHAM: Ken Cunningham, Plainfield.

HEARING OFFICER MITCHELL: Can you repeat your name again?

Kevin Cunningham. I see. I have you.

MR. CUNNINGHAM: Town of Plainfield, First Selectman.

HEARING OFFICER MITCHELL: Thank you. Sorry about that.

MS. FUSCO: Is Gerry Boisvert on?

He might be muted.

HEARING OFFICER MITCHELL: I want to just confirm that there -- one of the people is Steven Gordon.

MS. FUSCO: I think he's on. He may be muted. I thought I saw his name.

Oh, he's there. I see him. He's right in the middle of our screen now with headphones on, Gerry Boisvert. He's muted.

But he's an HHC witness, as well.

HEARING OFFICER MITCHELL: All right. Let me just go through the list. I have David Whitehead, Karen Goyette, Bill -- is it Bitterli?

MR. BITTERLI: Correct.

HEARING OFFICER MITCHELL: Okay. Donna Sassi.

MS. FUSCO: Sassi.

HEARING OFFICER MITCHELL: Sassi. Got it.

Barbara Durdy.

MS. DURDY: Yes.

HEARING OFFICER MITCHELL: Gerry Boivert, Laura Sasser-Cuff, Donna Handley, Kevin Cunningham.

Did I miss anybody?

MS. FUSCO: No. I think that's everyone.

Oh. Ken Rosenquest from Constitution is on, as well.

MR. ROSENQUEST: Yes.

HEARING OFFICER MITCHELL: Got it.

All right. Attorney Monahan, for you?

MR. MONAHAN: Yes. First, as a point

of clarification, just based on the number of names that were just read, is it my understanding that those are individuals on behalf of the Applicant who are present, but with respect to the order for pre-filed testimony, we only have two witnesses intending to testify on behalf of the Applicant, namely Mr. Whitehead and Ms. Goyette? Is that correct?

MS. FUSCO: Yes, that's correct.

Those additional individuals have been brought, as is typical in OHS proceedings, to answer questions in different substantive areas to help get questions by OHS and intervenors answered properly. So they're all available to answer questions.

MR. MONAHAN: I appreciate that.

Okay. On our end we have one witness, Paul Beaudoin, who is the chief financial officer and most recently interim chief executive officer of Day Kimball Healthcare. And he submitted pre-filed testimony, and he will testify here today.

We have Mary Heffernan here in the room with me, who has worked with us and

consulted on the case, who is not -- has not filed pre-filed testimony but may be available to assist Mr. Beaudoin or the hearing officer in answering any questions that may come up.

HEARING OFFICER MITCHELL: All right. Perfect.

So I'm going to ask everybody who has been identified by name if you wouldn't mind raising your right hand and I'll go ahead and swear you in.

So I'm going to ask: Do you solemnly swear or affirm that the testimony that you are about to give will be the truth, the whole truth, and nothing but the truth so help you God?

I'll start with you, Mr. Whitehead.

MR. WHITEHEAD: I do.

HEARING OFFICER MITCHELL: Okay. Ms. Goyette?

MS. GOYETTE: I do.

HEARING OFFICER MITCHELL: Mr. Bitterli?

MR. BITTERLI: I do.

HEARING OFFICER MITCHELL: Ms. Sassi?

MS. SASSI: I do.

HEARING OFFICER MITCHELL: Okay.

Ms. Durdy?

MS. DURDY: I do.

HEARING OFFICER MITCHELL: Mr. Boisvert?

MS. FUSCO: I think he's on mute.

HEARING OFFICER MITCHELL: Okay. I'm going to come back to him.

Ms. Sasser-Cuff?

MS. SASSER-CUFF: I do.

HEARING OFFICER MITCHELL: Okay.

Ms. Handley?

MS. HANDLEY: I do.

HEARING OFFICER MITCHELL: Mr. Cunningham?

MR. CUNNINGHAM: I do.

HEARING OFFICER MITCHELL: And Mr. Rosenquest?

MR. ROSENQUEST: I do.

HEARING OFFICER MITCHELL: All right.

Mr. Boivert?

MR. BOIVERT: I do.

HEARING OFFICER MITCHELL: Thank you.

And Mr. Beaudoin?

MR. BEAUDOIN: I do.

HEARING OFFICER MITCHELL: And

Ms. Heffernan?

MS. HEFFERNAN: I do.

HEARING OFFICER MITCHELL: All right. So we're going to go back and have everybody mute themselves again.

Thank you so much for doing that.

All right. So we're going to go ahead and get started. I appreciate you letting me know that.

So when giving your testimony, just make sure that you state your full name, that you adopt your pre-filed testimony, if you submitted pre-filed testimony. And then, also, just for the purpose of the individual that's going to be transcribing the testimony, just make sure that when you initially give your testimony that you spell your full name for them.

At this point we're going to go ahead and get started with the technical portion.

I'm going to ask the Applicants to proceed with their presentation or their testimony.

Go ahead, Ms. Fusco.

MS. FUSCO: Okay. Thank you.

We're going to be starting with David Whitehead.

MR. WHITEHEAD: Good morning, Attorney Mitchell and members of the OHS staff. My name is David Whitehead. D-a-v-i-d, W-h-i-t-e-h-e-a-d. I am executive vice president and chief strategy and transformation officer for Hartford HealthCare.

I adopt my pre-filed testimony.

HEARING OFFICER MITCHELL: Thank you.

MR. WHITEHEAD: Thank you for this opportunity to speak about our plan to establish a freestanding, non-hospital based ambulatory surgery center in Plainfield as part of a joint venture with Constitution Surgery Alliance.

This proposal will offer an affordable, high quality, alternate care setting for outpatient surgery not currently available in the community. It will also add capacity to meet the needs of physicians and their patients, as more procedures are steered towards ambulatory surgery centers.

First and foremost, I want to extend my thanks on behalf of Hartford HealthCare to you, Attorney Mitchell, and to the OHS staff

in these unprecedented times to continue to be able to move forward with this public hearing and other public hearings as part of the overall CON process. I think we're all learning to live in a virtual meeting world, and I think this is your first CON public hearing that's being done virtually. Just kudos to you and the team for being able to pull this together and get us all together so that we can work through this proceeding.

At Hartford HealthCare we have spent virtually all of our time for the last six months responding to the COVID-19 Pandemic, adapting the ways in which we provide care to those we serve and planning for a post-COVID world where a delivery of health care services will necessarily be very different than it was before.

My remarks today, in addition to addressing the more traditional basis for CON, will highlight the ways in which COVID-19 has shaped health system planning and made a joint venture like the proposed Plainfield ASC all the more important.

In addition to serving as chief

strategy and transformation officer for the Hartford HealthCare system, I also serve on the Governor's health care cabinet as a health care industry representative appointed by the Governor. This affords me additional insight into the health care policy objectives of our state, which I use to guide Hartford HealthCare's development efforts.

This proposal presents an opportunity for Hartford HealthCare and the State of Connecticut to advance our common goals of decreasing health care costs and promoting higher quality, better access, and more value for health care consumers.

As the health care landscape in Connecticut evolves, the conversation is quickly focused around these key issues, how do we contain the growing cost of health care while at the same time ensuring safety, quality, and equitable access for all Connecticut residents, including the vulnerable and underserved patient populations.

In January, Governor Lamont signed

Executive Order Number 5, which acknowledges the need to improve health outcomes for Connecticut residents while reducing the rate of growth of health care costs and proposes doing so through the implementation of health care cost growth benchmarks.

This benchmark initiative was lauded by OHS's executive director, Vicky Veltri, as good for families, business, and the state.

As I mentioned in my written remarks, the state's policy objectives are aligned with the vision of Hartford HealthCare, which is to be a high-value health system providing patients with access to affordable high quality patient centered care close to home.

The proposed ASC fits with these objectives by allowing patients to choose a care setting that provides the highest quality care while reducing their out-of-pocket expenses. This is particularly true for the Medicare population, which comprises 35 percent of the payer mix for the Plainfield Ambulatory Surgery Center.

The Plainfield Ambulatory Surgery Center will also bring freestanding, non-hospital based outpatient surgical capacity to the community, which has become increasingly important as payers, including Medicare, are driving more procedures to the ambulatory surgery center setting. This proposal also presents an opportunity for Hartford HealthCare to enhance the services we are able to provide outside of the acute care hospital setting. This has become increasingly important in light of the COVID-19 Pandemic and a strong physician and patient preference to receive the safe, high-quality care, and alternate care settings like ambulatory surgery centers.

Going forward we intend to offer as many services as possible outside of our hospitals in order to conserve hospital resources and provide patients with care in the settings that they prefer when clinically appropriate.

The proposal before you today, if approved, would pave the way for the first and only freestanding, non-hospital based

ambulatory surgery center in northeastern Connecticut.

As you will hear from my colleagues, the proposed Plainfield Ambulatory Surgery Center will enhance access, affordability, and quality of care and ensure meaningful choice for consumers of outpatient surgical services. At a time when controlling costs and promoting equitable access to high-quality care are at the forefront of the conversation approving a safe, accessible, and affordable option like the Plainfield Ambulatory Surgery Center is essential.

For these reasons I urge you to approve our CON request and allow Hartford HealthCare and Constitution to help the state achieve the policy objectives we all share on behalf of Connecticut residents.

Thank you.

MS. FUSCO: We will now turn our presentation to Karen Goyette.

Bear with us while we move the camera.

MS. GOYETTE: Thank you.

Good morning, Attorney Mitchell and members of the OHS staff. My name is Karen Goyette. K-a-r-e-n, G-o-y-e-t-t-e. I am a senior vice president of strategy and system integration for Hartford HealthCare. I adopt my pre-filed testimony and HHC rebuttal testimony.

Thank you for the opportunity to testify in support of our proposal to establish the joint venture surgery center in Plainfield, along with our partner Constitution Surgery Alliance.

I share in Mr. Whitehead's comments of our thanks of finding innovative ways for you to engage the public on these discussions.

HHC is proposing the establishment of a state-of-the-art, two operating room, freestanding surgery center. The focus of the center will be orthopedics, pain management, urology, and gastroenterology services.

As you've heard from Mr. Whitehead, this will be the first of its kind, a freestanding, non-hospital based ASC in the

region. The center would serve as a long overdue enhancement to this community and the residents of this community, some of which today drive over 20 miles to have like types of services.

The proposed Plainfield center is consistent with HHC's current vision of delivering value to patients through a robust ambulatory network that offers affordable, safe, high quality care with an exemplary customer service, safe to the homes and close to the homes that we serve in our community.

For reference, Hartford HealthCare currently operates over 400 locations across Connecticut. They include nine ambulatory surgery centers, five gastroenterology centers, 28 imaging centers, 18 urgent care centers, as well as a number in over a hundred medical offices.

The point of me bringing this up today is the fact that the Hartford HealthCare is not afraid to disrupt themselves to provide innovative ways to bring care close to home.

The model that we'll talk about today

and structure of this partnership is one we've developed with Constitution throughout the State of Connecticut.

In the nine centers that we currently operate, we have seen firsthand the impact that they have had on cost, access, and quality for both physicians and the patient experience. We will speak to many of those factors this morning.

In lieu of time, I will focus my remarks this morning on some of the ways this proposal is aligned with both the state policy objectives that Dave referenced. Although, it also meets the key statutory requirements that OHS must consider while looking at CONs.

The first, the Plainfield center would improve access to care, specifically for the types and treatments and procedures where demand for care is anticipated to grow the most based on patient demographics. This is going to be demonstrated in a number of ways. The demand for outpatient services in the Plainfield area is expected to grow due to an aging population where those patients

have the most health care needs. Specifically, areas expected to see a growth in outpatient procedures identified raging from three to five percent annually. This is in stark contrast -- and that is annually over the next five to ten years. This is in stark contrast to the most recent inpatient projections for the same service area is anticipated to remain flat and even decline three and a half percent.

Another factor is demand will also grow. As technology advances, more procedures migrate to the ambulatory surgery setting.

In HHC's experience with orthopedics specifically, we estimate that over the next five years, approximately, 50 to 60 percent of total joint cases will be performed in an outpatient basis. Again, this is in stark contrast to five years ago with virtually no or very few total joint cases were handled in the outpatient setting.

While there are various methodologies and associated pluses and minuses as we look at tracking population growth in the state

and nationally, but you look at the census, state town profiles, independent studies, the one thing that is constant for this market is that there will be a double digit growth within the sixty-five to eighty-four-year-old population. And this, again, is the population that represents the greatest group of the most significant health care needs.

The second factor and criteria I'd like to touch upon is patient choice in a more affordable setting.

Ambulatory surgery centers are generally reimbursed at lower rates than hospital outpatient departments for the same procedures. For example, when we detailed this in our application, for Medicare patients who comprise, approximately, 35 percent of our proposed Plainfield center payer mix, the differential -- and is significant -- with ASCs being reimbursed on average at 50 percent of what you would expect in a hospital outpatient department.

These savings are passed on to patients in the form of lower, out-of-pocket expenses

such as co-pays and deductibles. And it's particularly important for patients with high deductible health plans which create barriers for many families seeking that care.

And as true -- and I think this is extremely important to highlight -- of any of Hartford HealthCare surgery center joint ventures, we ensure access for all patient populations. This includes Medicaid recipients, which is projected to be about 17 percent of the patients that would seek care here. And the Plainfield center will also adopt all of Hartford HealthCare's financial system policies.

The third criteria, the center will enhance both physician and patient satisfaction in a market that's been historically very hard to recruit to for top physician and surgical talent. There are a number of reasons why physicians enjoy an ambulatory surgery alternative. Physicians appreciate the increased control of their environment, the professional autonomy over their work environment, including ease of

scheduling and access to specialized staff and equipment. To have this option in a state-of-the-art facility in Plainfield will assist in drawing top surgical talent to the area.

Similarly, patients are highly satisfied with personalized care given smaller settings. This includes shorter wait times, fewer unforeseen delays.

Our existing surgery centers and patient satisfaction scores typically range from 90 to 100 percent in willingness to recommend to others.

And additionally -- and this is an unfortunate situation. And David highlight -- Mr. Whitehead highlighted this. In an environment that will now operate in the foreseeable future with COVID, we found it to be extremely important for many of our patient populations to offer a safe environment alternative in a non-acute care setting, especially in older adults and those with preexisting conditions.

Finally, we would anticipate a limited to no impact on any area providers for the

Plainfield Ambulatory Surgery Center.

The ChimeData that we provided in the CON submission shows a total demand for orthopedic, pain management, urology, and gastroenterology surgical services in the area at about 5,750 cases. That was in 2019. This does not include patients who are to travel, out of pocket, and out of this service area and most likely understated.

I can state that in 2019 a thousand cases originated from the Plainfield service area and were seen at the Waterford surgery center some 35 miles away.

In that time frame, 60 percent of the cases occurred in that service area at an HHC hospital. Therefore, the projected volume that we have included in the CON of 2,350 to 2,500 over the first three years annually, we anticipate reflects a shift from HHC hospital based center and an increased demand for the services based on demographics and need that I spoke of earlier.

Based on the foregoing and as further

supported by our written submissions, we believe that all criteria has been met for a CON. As such, we respectfully ask OHS to approve this proposal for a Plainfield surgery center and it truly will benefit the residents of this community.

Thank you for your time.

I have with me today colleagues from both Hartford HealthCare and Constitution Surgery Alliance to answer any additional questions you may have.

HEARING OFFICER MITCHELL: Thank you.

Attorney Fusco, anyone additional that you wanted to present for your direct?

MS. FUSCO: That concludes our presentation. Thank you.

HEARING OFFICER MITCHELL: Thank you.

I'm going to turn it over to you, Attorney Monahan, for your presentation.

(Pause.)

HEARING OFFICER MITCHELL: Attorney Monahan, are you still there? It looks like you're still muted.

MR. MONAHAN: Can you hear me now?

HEARING OFFICER MITCHELL: Yes.

Perfect. Thank you.

MR. MONAHAN: I am prepared to have Mr. Beaudoin testify. My question is whether you would like that preceding any cross examination?

HEARING OFFICER MITCHELL: Yes. So the testimony will go first.

MR. MONAHAN: Okay.

HEARING OFFICER MITCHELL: We'll do testimony for both sides.

MR. MONAHAN: Okay.

HEARING OFFICER MITCHELL: And then after that I think I'm going to take a statement from the First Selectman and then we'll go into cross.

MR. MONAHAN: Absolutely.

Mr. Beaudoin.

MR. BEAUDOIN: Good morning. My name is Paul Beaudoin. That's B-e-a-u-d-o-i-n.

I'm the vice president of finance here at Day Kimball Hospital.

Thank you for giving me this opportunity this morning to testify.

I do adopt my pre-filed testimony.

(Technical connection issue.)

MR. CARNEY: It looks like we lost him.

HEARING OFFICER MITCHELL: Yes. Mr. Beaudoin, you are muted again for some reason.

MR. BEAUDOIN: Sorry. Sorry about that. Are we back?

HEARING OFFICER MITCHELL: Yes. That's okay. That's okay.

I just want everybody to kind of bear with us. We're going to have these hiccups throughout, and it's totally fine. We'll make sure that we get all the information that we need. Don't worry about it.

MR. BEAUDOIN: Thank you.

HEARING OFFICER MITCHELL: You're welcome.

MR. BEAUDOIN: So Day Kimball for over 125 years has been an integral part of the health care delivery --

Are you able to hear me?

HEARING OFFICER MITCHELL: I can hear you.

MR. BEAUDOIN: Okay.

HEARING OFFICER MITCHELL: There we go.

MR. BEAUDOIN: Okay.

HEARING OFFICER MITCHELL: You're echoing now because you must --

MR. BEAUDOIN: It's because Pat and I are in the same room.

HEARING OFFICER MITCHELL: No worries. It's fine now. You're fine.

MR. BEAUDOIN: As I was saying, Day Kimball Hospital, for over 125 years, has been an integral part of the region's health care delivery system.

In many respects, Day Kimball is a safety net providing essential services to the residents of northeast Connecticut with, roughly, 70 percent of the Hospital's revenue derived from servicing Medicare and Medicaid patients.

Just a couple examples of how we are really a safety net here in northeast Connecticut. One being that we provide over 22,000 emergency department visits, with nearly 40 percent of those visits being provided to Medicaid patients. Another is that we are the only obstetrical service within a 30-plus mile radius with over 50 percent of the births at

Day Kimball being mothers on Medicaid. Nearly 50 percent of the patients that we provide behavioral health services to are Medicaid patients. We are the primary provider for behavioral health services in this region.

From an economic perspective, Day Kimball Hospital is extremely important to northeast Connecticut. We are the -- one of the largest, if not the largest, employers in the 13-town region of northeast Connecticut, employing, approximately, 1,000 people, the vast majority of those being residents of northeast Connecticut.

This application is extremely important to Day Kimball. We have some very significant concerns regarding what the loss of outpatient surgery volume could mean to our ability to provide needed services to this community and, frankly, potentially to its ability to survive, which, as you can imagine, again, during the period that we're in now with the Pandemic and the COVID crisis, that's critical.

We believe that this CON application

is, frankly, not about need but about an initiative to capture outpatient surgical market share that has the potential to severely impact our community hospital. And we have been working very, very hard to find ways to survive.

From an access perspective, we do not believe the applicant has demonstrated the need in the proposed service area for additional outpatient service suites, as typically demonstrated by indicating there are scheduling delays, lack of available block time, demand that exceeds capacity.

While I cannot speak to the indicators in other facilities servicing the proposed service area, I can tell you that Day Kimball has significant capacity to meet current and future demand for outpatient surgery and endoscopy procedures. In fact, we are currently using only three out of our four surgical suites at Day Kimball Hospital. We are running at about 62 percent capacity for the three suites that are in operation. And our endo suites are running at, approximately,

64 percent capacity. And those are all pre-COVID percentages.

We're concerned that transfer of existing volume out of our surgical suites to the ASC in Plainfield -- to the proposed ASC in Plainfield will decrease the cost effectiveness of our existing surgical service line given the overhead we're forced to cover. We have concerns clearly around the proposed service area and the overlap between the service area as proposed for the Plainfield ASC and the Day Kimball service area for outpatient surgery. Whether that's 40 percent or 50 percent, those numbers -- that overlap is very significant. And we are concerned that the service area, as identified in the application, could very much reach further north towards Day Kimball than what was identified in the application.

And, again, Day Kimball -- between Day Kimball Hospital and the proposed site of the ASC, we're talking about a 20-minute drive.

By providing investment opportunities

in the ASC and the associated financial incentives to surgeons who currently operate at Day Kimball, including orthopedic surgeons who provided letters of support as part of the CON application filing, we do believe there is a high likelihood that these physicians will refer their patients to this proposed ASC. This would, in turn, negatively impact Day Kimball, as outpatient surgery and endoscopy is one of the service lines that does generate positive contribution margin. And what that does is allows us to continue providing the services that generate negative margins, and for which our Medicaid and Medicare patients depend so heavily on Day Kimball to provide.

A real life example of the potential financial impact of the loss of surgery volume, endoscopy volume, is what happened just a few months ago during the COVID-19 crisis. When you look at the one month of April, which is really a full month of impact of the drop in elective surgery and drop in endoscopy procedures, Day Kimball experienced a $1 million decrease in net

revenue just from outpatient surgery and endoscopy procedures being canceled during the heart of the COVID crisis. On an annual basis, that would be the equivalent of a $12 million drop in revenue, with an analyzed bottom-line impact of, approximately, eight million.

I realize that represents a -- represents nearly a 100 percent drop in cases. But even a 30 to 40 percent drop in outpatient surgery and endoscopy cases migrating away from the hospital to the proposed ASC would result in a two and a half to three and a half million dollar reduction in our operating results.

While this impact may be relatively insignificant to large systems, for Day Kimball this has major implications, especially given the already fragile financial situation we and many small community hospitals find ourselves in, which has been further negatively impacted by the COVID crisis.

For all those reasons I noted, I request that you deny this application. I

thank you for your time this morning.

HEARING OFFICER MITCHELL: Thank you so much for your statements.

I'm just going to ask, Attorney Monahan, do you have anybody else that you wish to have speak?

MR. MONAHAN: There is no one else.

HEARING OFFICER MITCHELL: Okay.

MR. MONAHAN: Yes, ma'am.

HEARING OFFICER MITCHELL: All right. So I'm going to ask if the First Selectman for the Town of Plainfield is available. We're going to go a little bit out of order. I just want to make sure that the First Selectman is able to offer their comments. And then after that, we can go into cross, unless somebody needs a break.

Is the First Selectman available?

MR. CUNNINGHAM: Yes, I am.

HEARING OFFICER MITCHELL: All right.

MR. CUNNINGHAM: Good morning, Attorney Mitchell and the members of the OHS staff.

My name is Kevin Cunningham. K-e-v-i-n, C-u-n-n-i-n-h-a-m. I am the

First Selectman for the Town of Plainfield, Connecticut.

First of all, I want to thank you for the opportunity to speak about the benefits for the freestanding, non-hospital based ambulatory surgery center in Plainfield and what it will have for our community.

I know that this proposal will offer an affordable, high quality, alternative care center for outpatient surgery that is not currently available in our community.

Currently the residents of the greater Plainfield community, they do drive about 30 to 45 minutes each way to have their procedures performed for outpatient surgery centers and other areas of the state, and this distance -- and travel requirements are sometimes a burden for the patients who will rely on others, family and friends, for transportation to and from that outpatient center. In many areas of the rural northeast Connecticut public transportation or medical transportation is simply not available or it's limited in the geography that is covered.

This proposal will allow individuals to stay in the community, close to home, minimize the barriers in receiving the care that they need.

In a post-COVID-19 world, many members of our community are very reluctant to receive the care in a hospital setting. This is especially true for the elderly and those individuals with underlying health conditions.

The proposal is important to the health and wellbeing of all residents of greater Plainfield community and will allow the individuals to choose to have their surgery in a care setting of the highest quality close to home.

Access to this high quality care close to home is one of the highest important issues for our residents, and I do urge your approval for this application.

Again, thank you very much to allow me the opportunity to speak in support for this proposal on behalf of the community that I serve.

HEARING OFFICER MITCHELL: All right.

Thank you so much, Mr. Cunningham.

So I'm going to ask Attorneys Fusco and Monahan if they need a little break to get their cross-examination together or if you want to go ahead and proceed.

We'll start with Attorney Fusco.

MS. FUSCO: I'm ready to proceed.

HEARING OFFICER MITCHELL: You're ready. Okay.

Attorney Monahan, you are, too?

MR. MONAHAN: I am prepared, yes.

HEARING OFFICER MITCHELL: All right. Perfect.

Okay. So we're going to go ahead and start with the Applicant's cross-examination of the Intervenor.

MS. FUSCO: Okay. Thank you, Attorney Mitchell.

I just have a few questions for Mr. Beaudoin.

I'm looking for him up on the screen. I don't know if it would help -- there you go. Thank you.

CROSS EXAMINATION

BY MS. FUSCO:

Q. To start, I wanted to direct your attention to the Petition For Status that was filed in this matter. It was filed on March 12th, and its Exhibit P, I believe, in the table of the record. If you could locate that.

A. (Paul Beaudoin) I'm sorry. Could you repeat that?

Q. Yes.

I'm looking at the request to participate as an intervenor, the Petition For Status that your attorney filed in this matter on March 12th. It's a two or three-page document.

(Pause.)

A. I think I have it now.

Q. Okay. Super.

So in that document on the first page, the very last line, you suggest that Day Kimball is going to provide evidence concerning current access to care and surgical capacity in the Applicant's targeted service area. Do you see that line? It goes over onto the next page.

A. Yes.

Q. Okay. But when you submitted your pre-filed

testimony you didn't include any information regarding Day Kimball's surgical capacity, utilization, excess capacity; correct? There's none of that in your written testimony?

A. I believe the specifics were not included in that. Correct.

Q. Okay. But you have brought -- in lieu of pre-filing, you've raised some specifics today that I would like to talk to you about.

So if I heard you correctly, you said that you're currently only using three of your surgical suites, and you're running at -- was it 65 percent capacity or did I -- was it lower than that?

A. It was 62.

Q. 62 percent capacity.

A. Yes. Three out of four. And those are surgical suites.

In addition, we have two endoscopy suites. And the combination of those suites, the utilization is 64 percent. And that was a six-month period pre-COVID. So through February of 2020.

Q. Okay. So you have -- I mean, from what I can see on the OHS website, you have six ORs

registered total; right? So that includes the four you're referring to as general ORs, and then you count your endoscopy suites as ORs in your OHS inventory?

A. That's correct.

Q. Okay. I'm trying to figure out how you arrived at that number. So you're talking about this being a six-month period post-COVID. So the only -- I'm sorry. Pre-COVID. We wish we were six months post-COVID. Wishful thinking.

The only data that we are able to look at is ChimeData from 2019. When we look at ChimeData from 2019, it shows that in total you did around 8,100 surgical cases for the year. Does that sound like the right number?

A. I would have to look at notes. I am not -- I'm not sure if that's correct.

Q. Okay. But assuming that is the correct number, all of -- all of the cases within that eighty, one hundred that are endoscopy, you do in those two separate endoscopy rooms; correct?

A. That's correct. Yes.

Q. Again, I have looked at the ChimeData. You can certainly verify it. But I think if we backed out the endoscopy cases, it gets us down

to about 5,300 cases that are not GI for 2019? Does that sound about right?

A. Again, I would need to access the actual information.

Q. Yes. That would be in an outpatient. Although, that's a clarification question. I think a majority of what you're doing is outpatient; correct?

A. Yes. That's definitely true.

Q. Okay. So back in 2019, were you operating all four OR suites or just the three? How long have you been doing three only?

A. Approximately -- so for all of fiscal '19 that would have been the case.

Q. Okay. So -- sorry. I need to revise my math there.

So assuming that number --

HEARING OFFICER MITCHELL: If I can interrupt. I just want to make sure -- I'm sorry to interrupt. I want to make sure.

You said that was the case. Was it you were operating the three or the four? I just want to make sure that I understand.

A. The three.

BY MS. FUSCO:

Q. The three.

HEARING OFFICER MITCHELL: Okay.

A. The three ORs. Right.

BY MS. FUSCO:

Q. So if -- you know, again, you can verify my numbers. These numbers we pulled from Chime and, you know, you have your own data. If you were doing 5,300 surgical cases in 2019 and three ORs, that's about -- I have my calculator up here. I think that's over -- that's 1,767 cases per year, per OR?

A. Yeah. That would be the math. But, again, I can't confirm right now the numbers that you're referring to.

Q. Well, I'll let you know where I'm going.

MS. FUSCO: And I can put this to, Attorney Mitchell, to you to see if you need clarification.

BY MS. FUSCO:

Q. If you look at the state health planning guidelines, which you've cited in your pre-filed testimony, they talk about both maximum and optimal utilization of an outpatient operating room. So you were talking primarily outpatient

OR. And I believe the maximum capacity number is somewhere in the 1,300, 1,330 range, and optimal being just over 1,000, like 1,070.

So if you're doing -- if my numbers are correct based on Chime and you're doing almost 1,800 cases per OR, I don't understand how you could claim you're only operating at 65 percent capacity.

MR. MONAHAN: I'm going to --

MS. FUSCO: Micheala, I think Pat has a --

Pat, can you guys hear?

I think Pat has a question.

Attorney Monahan. I'm sorry.

MR. MONAHAN: I do. I object to this question and really to the line of questioning, because the witness has indicated that -- while Attorney Fusco is going down a road of spouting out numbers, he has indicated that he cannot verify the numbers or the information without looking at additional information. So I do not want -- I do not think it's fair or appropriate to have an implication of an affirmative answer or any answer when the

witness has stated that he's not in a position.

Now, if there needs to be a late file with information, we can do that. But this is -- this is just a calculation -- a one-sided calculation going down a road where the witness has declared that he has not -- he does not have the information at his fingertips.

MS. FUSCO: I understood. And I'm certainly not looking for an affirmative answer. But your client is the one who raised this capacity issue in his remarks. It's not something that was pre-filed. Although, the testimony was supposed to be pre-filed. He's provided no evidence to support a claim that you're operating at 65 percent capacity. The numbers we have show different.

Frankly, I'm surprised that, you know, in a CON where you're objecting to the construction of an ASC because there's an overlapping service area and you think we're going to take some of your surgical cases that you wouldn't actually have your

surgical data at the ready. So I assumed he would. And I understand that he doesn't.

If we need to do it by way of a late file that we're allowed to reply to, I'm certainly fine with that.

HEARING OFFICER MITCHELL: I'm going to -- in terms of the objection, I'm going to -- I'm definitely going to allow the objection. But let me ask.

Mr. Beaudoin, do you -- how did you come up with the 62 and 64 percent capacity that you included in your pre-filed testimony? If you're able to kind of explain how you got those numbers, that would be helpful.

A. All right. So I would have to -- so these were numbers that were provided to me by our surgical services director, as well as our chief nursing officer, who are not currently present.

HEARING OFFICER MITCHELL: Okay.

A. So I would need to -- I would need to confer with them in terms of the exact calculation relative to the percentages.

HEARING OFFICER MITCHELL: Okay.

MS. FUSCO: I'm sorry to interrupt,

Attorney Mitchell.

Just to clarify, and so you know, the source of ours was ChimeData. That's where those numbers came from.

HEARING OFFICER MITCHELL: All right. Since he is unable to respond with specificity to the line of questioning on the capacity and the numbers, are there any other questions that you want to ask him?

MS. FUSCO: I do. I have just a couple more cross questions.

BY MS. FUSCO:

Q. So also in that petition for status that we looked at before you state that there -- that there's an absence of demonstrable need for an outpatient surgical facility in the proposed location.

I believe you also said that in your remarks, you know, that there are no scheduling delays, that you're operating below capacity.

So can we assume that Day Kimball Hospital has no plans to open its own freestanding, non-hospital based ASC, whether on its own or with a JB partner?

A. There are no plans at this time for that,

no.

Q. Okay. You know, having seen the announcement come from your website about your relationship with Pinnacle Healthcare, it indicates that you are still looking for a strategic partner. So is it safe to assume that if you found a strategic partner and they wanted to go down the route of doing an ASC in the area, that you might determine there is, in fact, a need or that one is necessary for all of the reasons we've advanced in this proceeding?

MR. MONAHAN: I object.

A. That would --

MS. FUSCO: I think Attorney Monahan has an objection, but he's muted.

MR. MONAHAN: I'm raising my hand because I do have an objection.

The witness has answered the question that there are no plans.

Is it -- the question now calls for speculation. Given that there has been discussion in testimony about various projects across the state, absent any concrete plans, I think it is unfair to ask this witness to speculate about what might

or might not happen if there is nothing happening now.

HEARING OFFICER MITCHELL: All right. Any response on that, Attorney Fusco?

MS. FUSCO: I think he has answered my question for me, which is, you know, if there is -- if their position is that there's no need for this facility, that they themselves do not intend to file a certificate of need --

MR. MONAHAN: I'm going to object. I would object.

When the response to you, Attorney Mitchell, is that now the attorney is trying to supply what she believes is the answer that the witness gave. I objected to the question before an answer was given. There should be no speculative answer now given by the attorney.

MS. FUSCO: With all due respect, you objected to my second question, Attorney Monahan, which had to do with the Pinnacle Healthcare relationship and the strategic partner. The first question I asked, which Mr. Beaudoin answered, was

whether there are any plans to develop an ASC, either Day Kimball on its own or its joint venture, and he answered that no. And I think that answer was clear.

HEARING OFFICER MITCHELL: All right. So with regard to the first question, that was answered, that was with regard to whether or not they wanted to establish an ASC on their own. And the second with regard to Pinnacle, I'm going to go ahead and sustain that objection, because it is speculative if he doesn't know.

So we'll move on.

MS. FUSCO: Can we just have one minute on mute to confer? I may be done. I just wanted to check here.

HEARING OFFICER MITCHELL: Absolutely. Yes.

Attorney Monahan, I can hear you guys. I just want to let you know if you guys are conferring, it's fine to mute.

(Pause.)

MS. FUSCO: Okay. Thank you. I'm sorry for that.

We do have one more question.

BY MS. FUSCO:

Q. Mr. Beaudoin, one of the things you said in your testimony was you laid out the financial impact to Day Kimball, I believe you said, if you were to lose 30 to 40 percent of your volume, surgical volume; is that correct?

HEARING OFFICER MITCHELL: He's on mute.

BY MS. FUSCO:

Q. Oh. I'm sorry. You're on mute.

A. Sorry. Sorry about that.

Yes. That is what I said.

Q. Okay. So on what are you basing a belief that this project could cause you to lose 30 to 40 percent of your surgical volume?

A. So those are -- we -- I mean, it is difficult to predict how -- what percentage of the volume we may lose. I was using that as a point of reference.

In Exhibit B in your -- in your reply or your rebuttal to my pre-filed testimony, Exhibit B does indicate a very direct overlap in terms of service area that's in the 41 percent range.

And as I mentioned, in my oral testimony,

you know, we believe that proposed service area that was identified in the application is somewhat subjective, and that it's -- you know, it's from Plainfield, generally, broken on south and doesn't really include towns to the north of that, which I'm not sure how that was derived. Because the reality is it's about the surgeons. If the surgeons are practicing in Putnam and they have, you know, a relationship with the ASC, they're going to take Putnam patients to the ASC, as well.

The 30 to 40 percent that I referenced was not based on any specific knowledge of exactly how many cases could migrate. It was -- clearly, it was an example and a concern that we have around the overlap and the primary service areas and, again, you know, the attracting physicians that are currently operating at Day Kimball, to practice at the ASC and take patients out of our primary service area to the ASC.

Q. Okay. But just to clarify -- thank you. I appreciate the answer.

But the chart we referred to is Exhibit B of our rebuttal. So what this chart is, is it

shows all of Day Kimball's outpatient surgeries across all surgical subspecialties. Okay? And that is where you're seeing that 41 percent number. Okay? And that's 3,136 cases.

So for this proposal to impact Day Kimball at 40 percent, we would have to take every single one of those cases across every single one of your subspecialties, including patients, you know, with comorbidities or who otherwise need to be in a hospital setting, and that number is -- would you agree -- significantly more than we're even projecting for the facility in total and it wouldn't account for the patients that we know are going to shift from our own facility.

I mean, I ask you only because you've thrown out some pretty big numbers, and I want OHS to understand if you have a reason to believe that all 41 percent of those cases could conceivably be moved to the ASC.

MR. MONAHAN: I'm going to object, if I may, Attorney Mitchell.

If I may, the Exhibit B and the rebuttal that was provided to us speak s very plainly. It is not appropriate at this

point to try to introduce background detail and facts about how, methodology, or calculation. We are relying on the rebuttal that was provided. And, indeed, we discussed yesterday that that's what we would rely on.

It is inappropriate, in my opinion, to now try to have the attorney explain methodology that is not specified with this document.

MS. FUSCO: I'm not explaining. With all due respect, again, I'm not explaining methodology. I'm asking -- I'll ask him these questions.

BY MS. FUSCO:

Q. Mr. Beaudoin, do you know what the charted Exhibit B reflects? Do you know which outpatient surgical services are included in that chart?

A. Yes.

Q. Okay. What are they? Are they all? Are they all, or are they a select group of your services?

A. No. Again, without completely confirming the numbers, generally speaking, they would

include all, including endoscopy cases. And it would be for -- I mean, the chart is -- obviously goes beyond -- you know, the top part is just what the Applicant has identified as the primary service area, which, even within the Town of Killingly, turned out to be just one zip code, as opposed to all the zip codes that make up Killingly.

Again, it seems somewhat arbitrary that they would be able to identify only one zip code as being in the service area but not others.

So really the opportunity is more than just the 3,100, you know, in terms of the -- you know, the available cases that could be attracted.

And the fact that the application specifically calls out orthopedic, GI, pain, and urology, there really is nothing stopping the applicant to quickly move into other -- other surgical specialties in addition to -- or that were noted in the application.

Q. Are you aware how many cases you do in that service area just in the subspecialties of orthopedics, urology, G I, and pain?

A. Yes. I can certainly get at that

information.
Q. Okay. If I point you to the chart that is at Exhibit E in the rebuttal, would that help you?
A. I'm sorry. What exhibit was that?
Q. Exhibit E.
MR. MONAHAN: May I?
HEARING OFFICER MITCHELL: Yes. Go ahead, Attorney Monahan.
MR. MONAHAN: I believe Mr. Beaudoin has testified that he has access to those numbers. The numbers that now the attorney is referring -- Attorney Fusco is referring to are from her exhibits.
I would like to have a late file if you want precise information from Day Kimball Hospital, not from the Applicant.
HEARING OFFICER MITCHELL: Attorney Fusco.
Oh. Go ahead.
Hold on.
Attorney Monahan, finish with what you were saying.
MR. MONAHAN: No. I'm finished.

HEARING OFFICER MITCHELL: Okay. Go ahead, Attorney Fusco.

MS. FUSCO: That is fine. But I will, again, state for the record that this is ChimeData.

So to the extent they would want to provide different data, I think part of that late file is going to be a response by us asking them to reconcile the ways in which it's different or, you know, we would like an opportunity to respond to that data. Because my understanding was that we would have a free right to cross examine them on anything that was in the record. And nothing in the record was objected to, either before this proceeding or at the beginning of this proceeding. So I have no issues with the late file, as long as we're given the appropriate ability to respond.

HEARING OFFICER MITCHELL: All right. Let me just ask.

Attorney Monahan, do you have any issue with the veracity of what is in the rebuttal?

MR. MONAHAN: Yes, we do.

HEARING OFFICER MITCHELL: So you have -- it's not accurate?

MR. MONAHAN: Yes, we do.

HEARING OFFICER MITCHELL: All right. So what I'm going to do is, rather than have Mr. Beaudoin testify based upon that -- I mean, it's still going to be included in the record. We'll make a determination about whether or not that information is needed at the end of the hearing. And if we need to do a late file, we'll do it then.

MS. FUSCO: Okay. Thank you.

MR. MONAHAN: Thank you.

HEARING OFFICER MITCHELL: Thank you both.

Any other questions, Attorney Fusco?

MS. FUSCO: No. I have no more questions. Thank you.

HEARING OFFICER MITCHELL: All right. So let me just ask. Attorney Monahan, are you ready to go forward with your cross or do you need a couple minutes?

Does anybody need a break?

I don't want to keep going if you need a break. We can keep going if you want.

MR. MONAHAN: I respectfully request. Can we take a two to three-minute break?

MS. FUSCO: Thank you.

HEARING OFFICER MITCHELL: How about -- Attorney Fusco, were you going to say something?

MS. FUSCO: Yes. I was going to ask for the same thing, Pat.

All right. So how about we do this? Instead of two minutes, how about we take about ten minutes.

MR. MONAHAN: Thank you.

HEARING OFFICER MITCHELL: And we'll come back -- it's 11:15. We'll come back at 11:25.

You guys can turn off your cameras and mute.

Just remember we're still recording. So anything that you say that's not muted is going to be recorded. So just be very careful.

All right. We're off the record.

(A recess was taken from 11:15 a.m. to 11:25 a.m.)

HEARING OFFICER MITCHELL: So it is

11:25 now.

I see Attorney Monahan looks ready.

Attorney Fusco, are you all ready on your end?

(Pause.)

HEARING OFFICER MITCHELL: Is everybody set with the Hartford HealthCare board room?

MS. FUSCO: We are reconvening. We need just one more second.

HEARING OFFICER MITCHELL: Okay.

(Pause.)

HEARING OFFICER MITCHELL: Okay.

MS. FUSCO: Thank you.

HEARING OFFICER MITCHELL: Attorney Monahan, if you're ready, you can un-mute yourself and begin with your cross.

MR. MONAHAN: Thank you.

HEARING OFFICER MITCHELL: You're welcome.

MR. MONAHAN: If I may, I'd like to cross-examine Mr. David Whitehead.

HEARING OFFICER MITCHELL: Is Mr. Whitehead available?

MS. FUSCO: He's here.

HEARING OFFICER MITCHELL: Okay. Thank

you.

CROSS EXAMINATION

BY MR. MONAHAN:

Q. Hello, Mr. Whitehead.

A. (David Whitehead) Attorney Monahan.

Q. I'm just going to ask you a few questions about your testimony and your remarks. You are aware, aren't you, that there is an ASC in Norwich, which is River View ASC; is that correct?

A. That is correct.

Q. And you are aware that if persons in Plainfield, this day or before, wanted to utilize that facility, they are free to utilize that facility for ASC procedures; correct?

A. That is correct.

Q. So that's an option for them; correct?

A. Correct.

Q. So it is -- it is really not an accurate statement to say that, if approved, the Plainfield ASC will be the only freestanding, non-hospital based outpatient surgery option for patients residing in and around Plainfield; isn't that correct?

A. It is true, because it would be the only

freestanding, non-hospital based ambulatory surgery center in Windham County serving northeastern Connecticut and its community.

Q. No. My question is whether there is an option for a person in Plainfield with a Plainfield ASC or a River View ASC to go to either?

A. Correct.

But if the service area that we've identified goes beyond Plainfield, Connecticut, then, yes, consumers of health care have options.

Q. Correct.

A. And Ms. Goyette actually pointed out that we have data that supports -- because we are a joint venture partner in the Waterford ambulatory surgery center -- that people are being disadvantaged to have to travel more than 30 miles to afford themselves, as you had stated, the option to use an ambulatory surgery center.

It is our belief that northeastern Connecticut deserves and should be afforded the opportunity to have an ambulatory surgery center, which is non-hospital based, to reduce

the out-of-pocket expenses for those individuals who would choose to use that facility based on their preference and their physician's preference.

Q. Can you point me, Mr. Whitehead, to a national standard or benchmark that prescribes the permissible limit of driving distance to an ASC from a location that is appropriate for a person to travel to an ASC to be a timely distance?

A. I would turn to my colleague and partner, Mr. Bitterli, on that as an operator of a number of our joint venture ambulatory surgery centers. To my knowledge, there is no benchmark that I am aware of.

Q. Okay. Thank you.

Similarly, is there any state benchmark that you are aware of that has been published that sets a specific mileage to demonstrate what is a timely or an untimely distance from a patient's location or residence to an ASC of their choice?

A. Not that I am aware of.

Q. Okay.

A. Again, I would turn to my colleague, Mr. Bitterli, for any additional insights on

that question.

MS. FUSCO: Pat, I know you can't see me. I'm off camera. This is Attorney Fusco.

Mr. Bitterli is here. He's just not sitting at a table in front of a microphone, because we need to be spaced not to have masks on.

He can certainly answer these questions for you, as well, if you want us to get him to the table.

MR. MONAHAN: That's not necessary. Thank you.

MS. FUSCO: Okay. Just let us know.

BY MR. MONAHAN:

Q. Now, Mr. Whitehead, you did reference in your testimony and in answers to my question the -- one of the -- what you believe and then what you have put forth as the benefits of the potential ASC as the cost savings to patients; correct?

A. For their out-of-pocket expenses. Correct.

Q. Well, the population that you've focused on, at least in the written testimony and in the rebuttal testimony, is on the Medicare

population and the distinction between the Medicare reimbursement or payment, I should say, for an ambulatory surgery center and a hospital outpatient surgical location; correct?

A. Let me just clarify. In an outpatient non-hospital based surgery center? Is that your question?

Q. Well, maybe I should get to your numbers. In the rebuttal testimony you talked about a cost savings of about 35 percent of Medicare dollars when one looks at the Medicare differential between what would be taking place at Day Kimball Healthcare for lack of -- let's focus on the Intervenor at issue and your ASC based on current Medicare rates.

MS. FUSCO: Attorney Monahan, can you point us to exactly what you're looking at, the page of the testimony, so we can all look at it?

MR. MONAHAN: Just one moment, please.

MS. FUSCO: Thank you.

MR. MONAHAN: I apologize. I need a moment, Ms. Mitchell.

HEARING OFFICER MITCHELL: That's no problem.

(Pause.)

BY MR. MONAHAN:

Q. Okay. I am able to refer Mr. Whitehead to the rebuttal testimony, dated August 7, 2020, and in particular to pages 9 and 10.

The question -- or the statement in the rebuttal that the Intervenor does not dispute that the ASCs represent a cost savings under -- over HOPDs and goes on from there to talk about a difference in reimbursement which will amount for 35 percent of procedures of the Plainfield ASC. Do you see that, Mr. Whitehead?

A. I do.

And, Attorney Monahan, I think you may be misinterpreting the statement. It is -- the 35 percent is the procedures, not the variation and the out-of-pocket expense for Medicare patient.

Thirty-five percent represents the total procedures for Medicare beneficiaries that would take place at the surgery center.

If you refer to page 13 in the CON application under table A, you will see the variation.

Q. What about the other 65 percent?

MS. FUSCO: Can he finish what he's saying, please.

A. If you refer to table A on page 13, it will give you the data that you are looking for, which is the variation in CMS payment and patient payment for -- in 2019 for ASCs and in 2019 for hospital outpatient departments.

BY MR. MONAHAN:

Q. Okay. My point being, though, is it -- is it fair to say that you are professing that there will be a differential in the savings for a patient who is a Medicare patient, whether that goes to an ASC, as opposed to the HOPD?

A. I would -- again, I would turn to my colleague and partner, Mr. Bitterli, from an operational perspective within these ASCs.

Yes, I am putting that forth, that there will be a differential in the out-of-pocket expenses for Medicare beneficiaries if they were to have those procedures done in an ambulatory surgery center.

Q. Okay. What about commercial payers? Do you have -- withdrawn.

Isn't it the case that on the side of commercial payers Hartford HealthCare, as an

owner or a prospective owner of this contemplated ASC, given the multiple -- and you gave numbers of over 400, you know, involvements in other ventures and so on, perhaps nine ASCs or thereabouts. But you have significant negotiation power to drive commercial payer reimbursement up to the benefit of the provider; isn't that true?

A. I think you're making a generalization and maybe giving us more credit than we deserve in our negotiating power.

Q. Well, do you read statements that are published in the New York Times made by Hartford HealthCare executives?

A. I do.

Q. Isn't it the case --

MS. FUSCO: If I may.

Attorney Monahan, I'm going to object to this line of questioning. Similar to the objections that were made to me --

I mean, Mr. Whitehead is saying that he's -- this is not information that we're going to disclose, first of all, in a public proceeding, and he's given a response to the question.

If going down this procedure he's going to try to get us to disclose proprietary information about commercial insurance bargaining and negotiations, that's not something that we're going to be doing. I'll continue to object.

MR. MONAHAN: Well, Ms. Mitchell, I am -- to make it clear, I am not seeking any proprietary information. I am seeking an outright admission by Hartford HealthCare individuals made to the New York Times on November 14, 2018, in which there was a statement made by the chief executive saying we're actively trying to move care toward places that are accessible. And it goes on to state that Hartford executives talk about reducing the total cost of care in the same breath that they discussed the need to charge insurers more. Quote, the math for us is how we move the care out of the hospitals while maintaining our financial stability, Mr. Joseph said.

MS. FUSCO: And if I may -- first, if I may object to the fact that Attorney Monahan is reading from a document that he has not

pre-filed, that I have not seen a copy of, that Mr. Whitehead has not seen a copy of.

MR. MONAHAN: We'll gladly submit it in a late file. But I'm giving you --

MS. FUSCO: Well, we're not --

MR. MONAHAN: -- November 14 --

HEARING OFFICER MITCHELL: I'm going to interrupt. I'm going to ask everyone to stop speaking.

I'm going to go ahead and sustain the objection, because that is information that is not in the record, and it wasn't a statement that was made by Mr. Whitehead.

So I'm just going to ask, Attorney Monahan, if you wouldn't mind moving on.

MR. MONAHAN: Okay. Thank you.

BY MR. MONAHAN:

Q. Well, when you -- were you involved in -- Mr. Whitehead, were you involved in the development of the rebuttal to the testimony of Mr. Beaudoin?

A. I was not involved in the development of it. I did review it.

Q. Okay.

A. There are other members of our team who directly --

MR. MONAHAN: May I have a moment?

A. -- developed that --

BY MR. MONAHAN:

Q. I'm sorry?

A. There are other members of our team who directly were involved in the development of that rebuttal and can respond to any questions you may have.

Q. Okay. Thank you.

MR. MONAHAN: May I have one moment, please?

HEARING OFFICER MITCHELL: Absolutely Attorney Monahan.

(Pause.)

MR. MONAHAN: I have no further questions of Mr. Whitehead.

Thank you very much, Mr. Whitehead.

HEARING OFFICER MITCHELL: All right. Did you have questions for their other witness, that would be Ms. Goyette?

MR. MONAHAN: Yes, I do have just a few questions.

HEARING OFFICER MITCHELL: All right.

CROSS EXAMINATION

BY MR. MONAHAN:

Q. Hello, Ms. Goyette.

A. (Karen Goyette) Hello, Attorney Monahan.

Q. Ms. Goyette, similar to the question that I started with Mr. Whitehead, have you personally had the opportunity to drive from Plainfield to Norwich?

A. I have.

Q. Is it fair to say that the approximate time period is 20, 30 minutes, give or take?

A. I don't recall in that drive calculating the time, but that would sound right.

Q. Okay. Now, Ms. Goyette, much of the data that you provided, at least as I've read it in various places regarding the aging population in the application and in the rebuttal, relies on information from a document or an entity called the advisory board; is that correct?

A. Correct.

Q. What is the advisory board?

A. The advisory board is a nationally recognized think tank for health care leaders. They do a lot of research education.

Q. Okay. Is Hartford HealthCare a member of

the advisory board?
A. Of their research arm, yes, we are.
Q. Okay. So you have access to data from them that the general public does not necessarily have access to; correct?
A. They have both public and private information. But, in general, that is a fair statement.
Q. Okay. Every bit of information that you relied on in terms of the methodology that you arrived at for your conclusions, has it been presented to The Office of Health Strategy and to the Intervenor in this case?
A. Well, as I provided in my testimony, we actually look at a number of factors. We looked at the U.S. Census; we looked at the advisory board; we looked at the information you provided and the other state agencies that the public had access to in terms of town profiles. We actually took the most conservative approach on that.
Q. I under- --
A. We'd be happy to provide any of that in a late file.
Q. I understand that you took a conservative

approach.

What I'm asking is there's an indication of the -- there were certain proprietary information that you relied on. And the advisory board that was linked into your rebuttal led one to a demographic profiling that, as I understand it, and having tried multiple times, is not accessible to nonmembers.

So my question is this: Have you provided all of the underlying information in that demographic profiler to

The Office of Health Strategy and to this Intervenor?

A. As it relates to the projected service area population that we've identified, yes, we have.

Q. So there is no information -- it's your testimony that there is no proprietary information that you had withheld in this proceeding?

A. Relative to population growth, no, there is not.

Q. Is there any information proprietary that you have withheld with respect to any subject that you commented on in this application?

MS. FUSCO: I'm going to object to

that. That's an incredibly broad question. I mean, health systems --

MR. MONAHAN: Okay. I'll --

MS. FUSCO: -- proprietary information all the time when you're planning.

MR. MONAHAN: -- narrow down --

MS. FUSCO: We're talking about the application itself in a particular chart.

And Ms. Goyette has testified that, that information that they received, that they've provided it to OHS.

HEARING OFFICER MITCHELL: He's going to rephrase and make the question more specific.

MR. MONAHAN: Certainly.

May I have one moment and put myself on mute so I can go look at a document next to me?

HEARING OFFICER MITCHELL: Yes.

(Pause.)

MR. MONAHAN: Thank you for your patience.

BY MR. MONAHAN:

Q. I'm referring back to question 27 in the initial application. And question 27 in that

initial application provides that, "If population estimates or other demographic data are submitted, provide only publicly available and verifiable information. For example, U.S. Census Bureau, Department of Public Health, and Connecticut State Data Center and document the source."

Do you see that question?

A. I do.

Q. The response refers back to earlier answers, which, in turn, refer the reader to the advisory board demographic profiler, which on the face of the page says, "Full access to this content is reserved for planning 20/20 members. Log in to determine how membership works." Is that a correct statement?

A. Sure. Yes.

MS. FUSCO: Again, we don't have that in front of us, so we can't answer that. We can fire up the website if you need us to.

MR. MONAHAN: Well, what I'm asking is I've been referred -- this Intervenor has been referred and I believe that The Office of Health Strategy has been referred to advisory board demographic

profiler that is dated August 11, 2020. And it's located at www.advisory.com/solutions/planning, which is a members only site.

And that site, which is not available to this Intervenor, certainly -- and I don't believe it is available to the general public or The Office of Health Strategy -- has information that you relied on in this application. Am I correct?

MS. FUSCO: What is the -- what is the question? If I may interject, Attorney Mitchell. I'm sorry.

What --

MR. MONAHAN: I'm asking the simple question --

MS. FUSCO: What is the question --

MR. MONAHAN: The simple question is --

MS. FUSCO: -- because you're asking it in a very convoluted way. What is the question?

HEARING OFFICER MITCHELL: Hold on. I don't want you two to argue. I just want to make sure that we have all of the information that we need.

MR. MONAHAN: Okay.

HEARING OFFICER MITCHELL: So let me just ask, Attorney Monahan. Attorney Fusco is asking what is the question of the witness. It sounds to me like you're asking them if they relied upon data that's inaccessible to the public.

MR. MONAHAN: That is -- the simple question is are they relying on data in a demographic profiler that is not available to the general public.

HEARING OFFICER MITCHELL: Okay.

A. The advisory board relies on data in the background that is available to the public.

BY MR. MONAHAN:

Q. That's --

A. If you would like us to resubmit and recalculate based on the information that you provided under the town profiles, you'll note that it actually turns the -- what we projected to be a decrease in the market to an actual 2.7 percent increase. We can provide that in late file.

Q. Okay. If I understood you correctly -- because I didn't hear all of what you said. I

understand what you just said is that you relied on the advisory board which puts together information that you believe to be reliable?

A. Correct.

Q. But you did not produce all of their methodologies and all of their calculations. You relied on it to produce --

A. For population projections, correct, as it would any applicant.

Q. Okay. But my -- so the -- so for me to verify the methodology -- or for The Office of Health Strategy to verify the methodology used by the advisory board that you relied on, I would need to see, wouldn't I, the methodology that they used?

MS. FUSCO: If I may interject. Ms. Goyette offered if --

The issue here -- and we addressed this in our written rebuttal -- is that Attorney Monahan has provided public statistics and tried to compare them to ours. Set aside the fact that the date ranges are different. What we're offering is if you'd like us to use the public data and run them for the years we ran them or

run them the same years you did, we can do that.

I mean, we explained in our rebuttal that the advisory board is a tool. It is based, in large part, on public data. And it is something that has been presented to, accepted, and cited by the Office of Health Care Access and the Office of Health Strategy in many, many, many CONs over the years. And that's why we felt it was appropriate to use it. Many -- Hartford HealthCare has used it, as have many.

If you -- what we are offering -- Attorney Mitchell, if you need us to recast our information with publicly available data, we can do that.

HEARING OFFICER MITCHELL: So if that is an issue that's being raised by the Intervenor in terms of being able to verify that data and if this is going to be information that's going to be useful for us to make a determination, I would say yes for that.

MR. MONAHAN: There was some echoing

here. I believe I heard what you just said, Attorney Mitchell, but I -- if it wasn't clear, I am asking for that submission of that underlying verifiable data.

HEARING OFFICER MITCHELL: Right, right. And that's what I requested.

MR. MONAHAN: Thank you very much.

HEARING OFFICER MITCHELL: Okay.

Any other questions, Attorney Monahan?

MR. MONAHAN: If I may have one moment.

HEARING OFFICER MITCHELL: Okay.

(Pause.)

MR. MONAHAN: I'm sorry. My screen slid down a little bit, so I am going to place it back up here.

BY MR. MONAHAN:

Q. Ms. Goyette, I don't see you. I don't know. Maybe you can hear me.

A. I'm here, Attorney Monahan.

Q. Okay. Thank you.

Can you hear me?

A. Absolutely.

Q. All right. Thank you.

In putting together this application, did you at all go to the River View ASC that was

mentioned earlier and determine what type of excess capacity, if any, they had for their ASC?
A. It's a private surgery center. I've never been inside the building or have had access to their data.
Q. Does that mean the answer is no, you didn't get that data?
A. I think you actually asked if I've ever been inside it. No, I've never been inside it.
Q. But you don't have -- you don't have data about whether -- what their excess or non -- what their capacity is, do you?
A. I have never reviewed it. I'm assuming as part of their former applications there's things publicly, although dated, that we could look at. But I have not reviewed it.
Q. Okay. Until you heard Mr. Beaudoin's testimony here today, did you have any -- when you filed your application, did you have any factual information, other than what you saw in Chime, but personal information from anyone here at Day Kimball about the situation with respect to excess capacity in their OR?
A. I've never had a conversation with any -- I think what you're asking is a Day Kimball

representative about the capacities in their ORs. No.

Q. Okay. Is it your position that Norwich is outside of your proposed service area?

A. Yes.

Q. And on what basis is that?

A. We looked at the historical data from the Plainfield region and chose the -- you know, the most statistically relevant zip codes that fell into that care.

I have the analyst who did that calculation in the room, and we'd be happy to answer any questions you have.

Q. Okay. Thank you.

MR. MONAHAN: There's no need to address any questions of the analyst, Ms. Mitchell, at least for me.

HEARING OFFICER MITCHELL: Okay.

MR. MONAHAN: I have no further questions.

MS. GOYETTE: Thank you, Attorney Monahan.

HEARING OFFICER MITCHELL: All right. I do thank both Attorneys Monahan and Fusco.

I'm going to ask that we take a quick

five-minute break to allow OHS to kind of review our questions and see what's already been answered through the cross. And then we will come back and we'll do our questions.

I'm just going to kind of do something informal here, because it's something I would do if we were all in person.

Is there anybody who has a public comment who didn't pre-register? I'm going to ask you to un-mute yourself and state your name.

(Pause.)

HEARING OFFICER MITCHELL: Anybody?

(Pause.)

HEARING OFFICER MITCHELL: All right. So I'm hearing no one.

The time now is 12:01. We're going to come back at 12:06, 12:07. I'll give you a one-minute reminder.

Just make sure that you mute yourself. And you can turn your camera off during this period, because we're still going to go ahead and record.

We'll be right back.

(A recess was taken from
12:01 p.m. to 12:12 p.m.)

HEARING OFFICER MITCHELL: So OHS is going to begin with our line of questions.

We tried not to be duplicative in terms of what has already been asked, but there may be a little bit of -- a few questions that we may ask that, you know, may have been covered by counsel. We just want to make sure that we have everything in the record and that everything is clear so that we can make a decision that's, you know, based upon all of the information that we need and make sure the record is complete.

If somebody is going to testify who has not previously testified, just make sure that when you do that you state your full name and then you also spell it for the court reporter.

So the first question, question number one, it's a four-part question. It's for the Applicant. I will be happy to go back and repeat portions of the question if the Applicant needs.

So first -- I know this is already in

the record -- I'm just going to ask that you enumerate or list the types of surgical procedures that you plan to perform at the proposed ASC.

Second, I'm going to ask that you indicate whether there is existing access to those surgical procedures that you plan to offer within the service area. And if there is, I want you to explain why this proposal is necessary.

And then, finally, if you can, the fourth part of the question is I'm going to ask you to differentiate the surgical services that you plan to offer as the ASC versus what the Intervenor currently offers.

So I'll turn it over to the Applicant for that.

MS. FUSCO: Okay. Micheala, can we just figure out the right people to answer each question? Can we just have a minute?

HEARING OFFICER MITCHELL: Absolutely. Yes.

MS. FUSCO: Okay. I'm going to move around, so I'm going to mute this.

(Pause.)

MS. FUSCO: Bill is going to answer the question about the procedures.

MR. MONAHAN: We can't hear you.

MS. FUSCO: Okay. Now you can?

HEARING OFFICER MITCHELL: Yes.

MS. FUSCO: Okay. Now you can hear. Sorry about that.

I just want to make sure we have everything covered.

So we can start with Bill.

Can you hear us, Micheala?

HEARING OFFICER MITCHELL: We can.

MS. FUSCO: All right. Thank you.

MR. BITTERLI: My name is Bill Bitterli. I'm senior vice president of business development with Constitution Surgery Alliance.

Last name is B-i-t-t-e-r-l-i.

As far as the types of surgical procedures we expect to provide, I'd refer you to 171 of the second completeness filing, Exhibit A. I'm almost sure you don't want me to read you the list.

But it is, you know -- this is from our scope of care at surgery centers that

provide orthopedic pain, urology, and GI procedures. So we, essentially, use what is existing at other centers for this filing.

HEARING OFFICER MITCHELL: Okay.

MS. FUSCO: And then Karen can answer.

So the second question, correct, was existing access to these services within the Plainfield service area; correct?

HEARING OFFICER MITCHELL: Right.

MS. FUSCO: Okay.

MS. GOYETTE: Karen Goyette. I'm responding.

So in response to any other providers in the identified service area, it is only Windham Hospital on a hospital outpatient basis that is in that service area.

I think the question is around access. During the last two weeks -- and we certainly can get you additional data -- we have been at, approximately, 86 to 110 percent capacity.

HEARING OFFICER MITCHELL: Okay.

MS. GOYETTE: And I believe the last question is what differentiates the Plainfield surgery center that we're

proposing from the one existing center, which would be Windham. And it would really probably just bring us back to the one option of affordability to the patient experience being a smaller setting, which inherently has less delays and a more controllable setting.

HEARING OFFICER MITCHELL: Thank you for that.

So I asked so many questions that -- I'm sorry. The question actually was differentiate the surgical services that you all are proposing versus what the Intervenor currently offers, because they are alleging that their -- you know, the future of their hospital is in jeopardy as a result of this proposal.

So we're looking at whether or not the services that you're proposing are going to be duplicative. So I want you to talk about that and why this proposal is necessary.

MS. FUSCO: Would you be able to speak to just generally what they would provide and --

MS. GOYETTE: I apologize. I was

just -- I guess I'm not familiar enough with Day Kimball to know what their exact capabilities are and how it would be different. I could make assumptions regarding the types of complex cases.

HEARING OFFICER MITCHELL: No. Only what you know. No. No assumptions. No. That's okay.

If you can possibly speak to the difference between, I guess, outpatient services provided by a hospital versus an ASC, that would be helpful.

MR. BITTERLI: A key difference is going to be inpatient selection. Ambulatory surgery centers generally only take healthier patients in what's called ASA categories one, two, and three.

Hospital outpatient departments still remain the service site of choice for patients four and five, which have substantial comorbidities.

So you have healthier patients, maybe patients who are -- a healthier patient naturally might be more afraid or have more options to go to an ASC versus acute care

setting, especially in a COVID environment, whereas a -- you know, a patient with severe comorbidities doesn't really have that option to begin with.

HEARING OFFICER MITCHELL: Okay. This is actually out of what me and my colleagues discussed, but since you mentioned it. I think someone in their pre-filed testimony -- I want to say it was Mr. Whitehead -- talked about the advantages of having an ambulatory surgical center available to people during this period that we're going through with COVID. Can you talk about some of the planned safety measures that will be implemented and how those will be different versus someone who might get that same service, whether or not it be outpatient in a hospital setting or an acute care setting.

MS. FUSCO: We're going to have Donna Sassi answer that. She just needs to get a chair up to the table.

HEARING OFFICER MITCHELL: Okay.

MS. FUSCO: There you go.

Sorry. We have some disinfecting

protocols that need to be followed when we switch seats.

HEARING OFFICER MITCHELL: Not a problem.

MS. FUSCO: Thank you.

MS. SASSI: Good afternoon. My name is Donna Sassi. D-o-n-n-a, S-a-s-s-i. I'm the vice president for ambulatory services in the Connecticut Orthopedic Institute at Hartford HealthCare, and I also sit on the boards for our ambulatory centers.

During the COVID crisis we had the opportunity to support our ambulatory surgery centers from a resource perspective, that being needs for masks or physical barriers, as well as we help them design their physical space to accommodate continuing to do surgery in a safe manner, social distancing, you know, access to hand sanitizers. So they -- they had -- so we worked closely with them for that, as well as we were able to provide them access for their patients for pre-op COVID testing. And, once again, we automated that for them. They would do an auto entry and then the

test results would come back electronically.

So we also are working to increase the communication as we move forward with any kind of a crisis, whether it be COVID or any unknown.

That was an example. But we have the resources and the technology to support them. And we offered that to them, and we work together in partner.

HEARING OFFICER MITCHELL: All right. Thank you.

The last part of that question was based around -- it's just kind of a part of the larger need criteria that we have to look at.

So, you know, I just want someone to explain why this proposal is necessary given what's already in the area. And then the fact that it's common knowledge that the population in that area is rather low compared to, like, say, for example, central Connecticut. If someone can speak to that, that would be helpful.

MS. GOYETTE: We've based the need based on -- regardless of the population

density in that market -- the need to provide an affordable alternative, you know, within that region that has no options.

HEARING OFFICER MITCHELL: All right. Thank you.

We're going to go ahead and move on to the second question. I think throughout the application there was an indication that there was going to be, I think, about 75 percent debt financing required to initiate the proposal, and we wanted to follow up to see if you had secured that debt financing, and if you have, from whom.

MS. FUSCO: Is Gerry Boisvert still on the -- is that a question for you, Gerry?

MR. BITTERLI: I can do it if you want.

MS. FUSCO: Or Bill.

Do you want to do it, Bill?

MR. BITTERLI: Sure.

MS. FUSCO: Bill Bitterli can do it.

MR. BITTERLI: The answer is we have not secured that level of financing from any bank, both with respect to the recruitment of, you know, potential owners in terms of the equity piece, as well as the bank.

Nobody is really interested in talking to us in any detail until we have a CON. So it's a little bit of a chicken and the egg.

We do have pretty extensive experience with the banks in Connecticut in terms of financing projects like this, so it was touch and go there for a couple of months in COVID when elective surgeries were cancelled and the ASCs were shut down. The banks were, obviously, nervous about that. But we've had numerous conversations on projects since then, and we believe -- you know, we're confident we'll be able to come up with that debt financing.

HEARING OFFICER MITCHELL: Thank you.

All right. The next question is statements provided on pages 12 and 23 of the main application assert that ambulatory surgical centers offer a lower cost of care. We see this in every application that we get for ASCs or OSCs. And then, you know, most applicants will tell us that the utilization of those outpatient or ambulatory surgical centers results in a cost savings directly to patients. And one of the things that we

have started asking for more now is an explanation of -- not an explanation, because I think that we look more for evidence. But we ask people to cite evidence and provide examples to support a finding that that's actually true. And so we're asking you if there's any evidence that you can provide that would indicate that this specific proposal, in fact, is going to offer patients a lower cost of care versus what they would receive in a hospital.

MS. FUSCO: We can put something together on that in a late file. I will tell you that there is -- there are articles attached, I believe, to the main CON that talk about it in terms of cost savings. Those being evidence. But if there's other information, we can kind of huddle up and see.

Bill, I don't know if you --

MR. BITTERLI: Yeah. Sure.

On page 9 of the original CON file we have a table. It's specific to orthopedics, but it applies kind of across the board that

shows what Medicare would pay and -- in an ASC environment for both, you know, Medicare directly to the center and what the patient co-pay would be. That's for 2019.

You know, we -- it may sound like we harp on that, but that's the only consistent -- one of the only consistent fee schedules is you can see exactly what Medicare will pay an HOPD in any certain geography versus what it will pay an ASC in the same geography. We can do the same for workers' compensation. And there is a -- in Connecticut there's about an 8 percent delta there. But it's virtually impossible to make a hard comparison for commercial contracts, because they're all over the board. Suffice it to say that commercial payers are not interested in -- not interested in paying ASCs more than they pay HOPDs and that those -- you know, those negotiations are ongoing.

So I would put the -- you know, the savings delta somewhere between the, you know, workers' compensation and Medicare.

HEARING OFFICER MITCHELL: So if this

proposal were to be approved, then I think I read that there would be a transfer agreement between the ASC and Backus Hospital; is that right?

You're nodding your head.

MR. BITTERLI: Yes.

MS. FUSCO: Yes.

HEARING OFFICER MITCHELL: I guess the question would be -- I think in my review of the record that there -- that you guys gave us kind of the average commercial cost for the procurement of surgical services at the ASC. Is there any way to get a comparison between that average commercial cost and what it would cost for those same kind of procedures if they were done at, for example, Backus?

MS. FUSCO: It -- I mean, I -- I just want to make sure I understand the need for the information. So if we're talking about the transfer agreement, that would be someone leaving for emergency reasons; correct?

HEARING OFFICER MITCHELL: Right, right.

MS. FUSCO: They wouldn't necessarily be going to Backus to have the procedure that they were having at the ASC, correct, Bill?

MR. BITTERLI: Right.

MS. FUSCO: So are you looking for --

HEARING OFFICER MITCHELL: We're just looking in terms of cost, in terms of the assertion that having a procedure at the ASC is less costly than at a hospital. We can't really ask you about a partner hospital in that area, because you may not have access to that. We're just kind of looking for a similar comparison in terms of the average commercial cost.

MS. FUSCO: Yeah. We can look at that.

HEARING OFFICER MITCHELL: Okay. I think that's all of my questions. I think Brian is going to go next. Let me just take a quick look.

MR. CARNEY: Jess is going.

HEARING OFFICER MITCHELL: Oh. Jess is going. Okay.

MS. RIVAL: What is the approximate distance between the proposed service

location for the ASC and Backus Hospital?

MR. BITTERLI: I believe it's thirteen and a half miles, but I --

MS. FUSCO: We can look it up.

MS. RIVAL: Okay. Can you list for the record the towns that are included in Backus Hospital's primary service area?

MS. FUSCO: Donna Handley is with us.

Donna, do you happen to have the Backus PSA towns somewhere accessible?

MS. HANDLEY: We're going to pull it up.

Jen, can you hear me?

MS. FUSCO: Yes.

MS. HANLEY: Laura and I are pulling it up right now.

MS. FUSCO: Okay.

MS. HANDLEY: This is Donna Handley. D-o-n-n-a, H-a-n-d-l-e-y.

And the towns servicing the Backus primary service area are Killingly, Brooklyn, Canterbury, Plainfield, Sterling, Voluntown, Griswold, Lisbon, Sprague, Franklin, Lebanon, Bozrah, Colchester, Salem, Norwich, Montville, Ledyard, Preston,

Waterford, and Groton.

MS. FUSCO: May I ask, just to clarify, Donna, is that the primary service area or is that the --

MS. HANDLEY: That is the primary service area, Jen.

MS. RIVAL: Thank you. What is the approximate distance between the proposed service location and Day Kimball Hospital?

MS. FUSCO: We're looking these things up. I can give you the information. This is Jen. Or Karen can testify. We've looked up Backus.

MS. GOYETTE: It's, approximately, 19 miles -- I'm sorry. Eighteen miles and nineteen minutes.

MR. BITTERLI: Is that driving?

MS. FUSCO: That's driving for Backus.

HEARING OFFICER MITCHELL: You're looking that up on, like, Google or MapQuest?

MS. FUSCO: Yes. Like Google Maps. Yes. Google Maps.

HEARING OFFICER MITCHELL: I guess I'm going to take official notice of

Google Maps.

MS. FUSCO: Sorry.

MS. GOYETTE: And the mileage and minutes between Day Kimball and the proposed location is 18.9 miles and 22 minutes. Again, the same source, Google Maps.

MS. RIVAL: Great. Thank you.

Can you indicate for the record the towns that are included in Day Kimball Hospital's service area?

HEARING OFFICER MITCHELL: If you know.

MS. FUSCO: We wouldn't have that information. We wouldn't have that information available.

HEARING OFFICER MITCHELL: Okay.

MR. CARNEY: Can we ask the Intervenor to provide that information?

HEARING OFFICER MITCHELL: Yeah. We'll do that. We'll do that at the end.

MR. CARNEY: Okay.

HEARING OFFICER MITCHELL: Are those all your questions, Jess?

MS. RIVAL: Yes. Thank you.

HEARING OFFICER MITCHELL: Okay.

MR. CARNEY: Okay. This is

Brian Carney again.

I have several questions for the Applicant related to service area. Specifically, I'd like to know how was the service area defined for the proposed ASC?

MS. FUSCO: Barbara, do you want to do it?

MS. DURDY: Sure.

MS. FUSCO: Barbara Durdy is going to answer that question. We're just going to try to hand the camera around. Do you see her? There you go.

MS. DURDY: My name is Barbara Durdy. I'm director of strategic planning for Hartford HealthCare. B-a-r-b-a-r-a, D-u-r-d-y.

So when we looked at the -- we defined the service area by taking the 20-mile drive radius -- 20-mile radius around the proposed site.

MS. FUSCO: I think it was -- I think it was like a -- it was more approximate than that.

MS. DURDY: That's why Killingly was included, because it fell within the 20-mile

radius.

MS. FUSCO: Here. Barbara, this is how we described it.

MS. DURDY: Yes.

MS. FUSCO: For the most part 20 miles. Yes.

HEARING OFFICER MITCHELL: Barbara, I missed the last part that you said about Killingly. Can you repeat that? I just want to make sure I heard it.

MS. DURDY: So that's why only one zip code was included, right, because we -- it's only that one zip that fell within the, approximately, 20-mile radius.

HEARING OFFICER MITCHELL: Okay. I'm sorry, Brian.

MR. CARNEY: So the Intervenor asserts that the service area for the proposed ASC overlaps with its service area. Provide us a detailed explanation regarding why your proposal will not result in any unnecessarily duplication of services.

And, also, maybe you could include sort of a discussion of Exhibit B of your rebuttal, which this topic related.

MS. DURDY: Do you want me to speak to this, Jen?

MS. FUSCO: Sure.

MS. DURDY: So can I refer you to Exhibit A. It might be helpful to look at the map as we talk about the service area and the overlap.

So as you can see on the map, there are only two towns, Brooklyn and Plainfield, that overlap and one zip code.

MR. CARNEY: Do you have a page for that? Exhibit 8. Page?

MS. DURDY: Exhibit 8 in the rebuttal.

MS. FUSCO: In the rebuttal.

MR. CARNEY: In the rebuttal. Okay.

MS. FUSCO: Yes.

MR. CARNEY: Okay. Give me one second.

(Pause.)

MR. CARNEY: I'm just going to rotate it. I have it up.

MS. DURDY: For the light -- the towns that are light purple or lavender, those are the area towns that overlap. And that area also includes the southernmost portion of Killingly, which is that one zip code.

That's the overlap.

MR. CARNEY: Okay.

MS. DURDY: So Exhibit B, which is the detail of the Day Kimball Hospital outpatient surgery cases, HOPD cases, that lists all of their surgical cases, all specialties, by patient town of origin.

The top part of that chart that puts them to 41.4 percent, those places originate in the service area that we've defined for the Plainfield ASC.

MR. CARNEY: Okay. So it looks like three instances of overlap in that top part, Plainfield, Brooklyn, and Killingly.

MS. DURDY: Correct.

MR. CARNEY: But then you said that's where all procedures and not just for the procedures proposed by the ASC?

MS. DURDY: That's correct.

So what's represented there are cases from all surgical specialties, not just -- not only from the four that we've identified for this proposal. But that represents all surgical cases.

MR. CARNEY: And that doesn't factor in

your cap -- your anticipated capture rate either, does it?

MS. DURDY: I'm not sure. What are -- can you clarify that? What do you mean by "capture rate"?

MR. CARNEY: Yes. So, like, the main application on page 31, you're assuming a certain capture rate.

MS. DURDY: No, it doesn't.

So we assumed a certain shift in cases based on the market intelligence. We have interest from physicians. A certain percentage of each, you know, identified specialty would shift to the ASC.

MR. CARNEY: If I add those three percentages that are the overlap, I come up with 33.7 percent. But that's for all procedures. And that's not factoring in that you wouldn't capture necessarily all --

MS. DURDY: That's correct.

MS. FUSCO: Brian, if you --

MS. DURDY: Brian, if you want to refer to -- if you could take a look at Exhibit E in our rebuttal testimony.

MR. CARNEY: Okay.

MS. DURDY: I think it's probably more clear how our volume was determined, proposed volume was determined.

MR. CARNEY: Okay. I have it up.

MS. DURDY: Okay. So let me just walk you through what the data on this chart depicts.

So if we look at the top part of this chart, what we have here is -- first of all, the source of this data is Chime HOPD surgical volume for these four specialties originating in the service area towns. It's sorted by hospital or provider. And then across from left to right you have the surgical specialties.

So if you look under the column labeled "Ortho", there are 1,112 hospital-based orthopedic cases originating from this service area, and you can see which hospitals they were performed at.

Out of the providers, Hartford HealthCare hospitals performed 674 or 61 percent of the orthopedic volume originating in that service area.

We projected in our CON that we

would -- year one the orthopedic volume would be 647. So we estimated that 58 percent of that volume would shift largely from our hospitals is what we're anticipating.

Day Kimball Hospital did 189 of those orthopedic cases, and that represents 17 percent of the volume.

And then, you know, you can just walk across -- it's the same calculation for each specialty.

MR. CARNEY: Okay. So the 58 percent is calculated how? One more time. It's --

MS. DURDY: The 58 percent represents our best estimate, you know, based on interest -- physician interest that's been expressed, market intelligence. You know, we know the types of cases that physicians do in ASCs, and it's our best guess what percentage of those cases would shift to the proposed ASC.

MR. CARNEY: So it's 647 divided by 1,112, and that's --

MS. DURDY: Correct, correct.

Is that helpful?

MR. CARNEY: Yes, it is.

Just to follow up about an overall sort of answer. The Applicant is asserting -- or the Intervenor is asserting that this would be a duplication of service, a duplication of services. How would you respond to that?

MS. FUSCO: Yes. I think Karen can answer that if we hand the camera over.

MS. GOYETTE: We're really offering an alternative care setting. If anything, I think it's a duplication of our care services in the Windham market, not of the Intervenor's.

MS. HANDLEY: This is Donna Handley. If I may also add, at Windham Hospital our physicians have frequently come to discuss that they are having increasing denials from payers for patients who can have surgery in an outpatient setting and denying surgery at our hospitals.

So this is being driven by patients and physicians, as well, to have an alternative fight that is convenient and really fits into the coordinated and continuum of care for our patients.

MR. CARNEY: Okay. Thank you.

I just have a follow up, too. We talked a little bit about -- it was brought up about two alternative ASC providers. It was brought up in Mr. Beaudoin's pre-filed testimony on page 2 stating that Eastern Connecticut Endoscopy Center, LLC, and River Valley ASC are other providers in the area.

Is the reason that those were omitted from your application due to the fact that they're not as specifically defined or part of your primary service area?

MS. FUSCO: Yes. That's correct.

Also, I believe, there is a legal matter I included in my rebuttal that the state health plan specifically states when you're applying for a multispecialty ASC that you can exclude the volume of a GI only of an endoscopy center. So that particular center wouldn't be relevant regardless. River Valley ASC is not within the service area.

MR. CARNEY: Okay. It's kind of an apples to oranges comparison?

MS. FUSCO: Absolutely.

MR. CARNEY: All right. The last one has to do with a quality of patient care kind of question.

So the question is enumerate and elaborate upon the benefits of alignment between Hartford HealthCare and the proposed ASC as it relates to the quality of patient care.

So how is this going to improve patient care? What are the benefits of being a member of Hartford HealthCare system?

MS. FUSCO: Donna Sassi can answer that.

MS. SASSI: So from a quality perspective, we partner with our ASCs in a way to provide resources. We also share best practices, policies, standards. We open up our councils, our periodic councils to our ASCs. Our employee physicians are available. Specifically, ID during COVID, they were able to access and question and validate practices. From an infection prevention perspective, we share best practices. Our ID staff is available to

them.

We have technology that can backup. If they have technology that goes down, we do share during COVID. The ASC's provided us with a list of their equipment and services that -- and staff that they could loan us in order for us to continue to care for the COVID patients during the acute phases.

So in every situation we optimize our relationship to be able to provide the highest quality of care and safety to our patients and communities that we serve.

MR. CARNEY: Okay. Do we -- I'm sure you probably said this. How many physicians will be owners or part owners of this new facility?

MR. BITTERLI: As I mentioned, we have not syndicated yet to owners. But we are anticipating -- I think we provided that somewhere for orthopedic owners. Three urology. I would say about ten or twelve.

MS. FUSCO: I'm just looking for it.

MR. BITTERLI: We would expect, because of the nature of the placement of this ASC, in a less dense market, as we've been

discussing, that there would be a number of nonowner -- a greater percentage of nonowner utilizers of the center. In particular, the orthopedists that we've been talking to are sort of community surgeons that have privileges at HHC hospitals, at Day Kimball, at other hospitals around the state. But a lot of the demand, as Donna Handley mentioned, for urology, GI, and pain is coming out of HHC employed physicians. So we're really responding to the demands from surgeons and their patients for a more convenient option.

And with no ASC in that area, their only option is an HOPD site, which is not the same thing.

MR. CARNEY: So the physicians that are going to be practicing at the new ASC are likely to have privileges at one or more of the other Hartford HealthCare hospitals?

MR. BITTERLI: Absolutely. That's true of every ASC. You know, no -- very few physicians do 100 percent of their work anywhere. They're following their patient population.

MR. CARNEY: Those are risk factors?

MR. BITTERLI: I'm sorry?

MR. CARNEY: Those are risk factors, the risk factors, the comorbidities?

MR. BITTERLI: Exactly. Exactly.

So every surgeon at ASC will have privileges at, at least one nearby hospital. At an area like this we would expect them to have at multiple hospitals.

MR. CARNEY: Okay. So we have about a dozen? Is that what you came up with?

MS. FUSCO: 13, Bill.

MR. BITTERLI: 13.

MR. CARNEY: Lucky 13.

Okay. Thank you. I don't have any further questions. Thank you very much.

HEARING OFFICER MITCHELL: Thanks, Brian.

Thanks, Jessica.

So at this time I'm just going to ask, again, if there's anybody that has a public comment that they un-mute themselves and just state their names so I can go ahead and let you speak.

(Pause.)

HEARING OFFICER MITCHELL: It's quiet. I just want to give it another second in case somebody is trying to figure out the technology.

MR. CARNEY: I'm not seeing any hands raised or movement.

HEARING OFFICER MITCHELL: Got it. Okay.

Thanks, Brian.

All right. So before we go to the closing remarks, I'd like us to talk about some late files that I want to request.

I will say, just for the record, that we are going to go ahead and leave it open for a week. So it's going to be open until August 19th, unless attorneys indicate to me that they need additional time for the late files. That is for the submission of any additional comments that people want to send us.

So those comments can be addressed to CONComments, with an S, @ct.gov, or they can be mailed to us at
The Office of Health Strategy at
450 Capital Avenue, M, like "Micheala",

S like "strategy", number 510, H like "high", S like "school", P.O. Box 34038 in Hartford, Connecticut 06134.

So I'll leave the record open for that until August 19th at 4:30.

And then with regard to the late files, I actually have a request for both the Applicant and the Intervenor.

I'm going to start with the Applicant. With regard to the first late file, it kind of goes back to the questioning that was given by Attorney Monahan regarding the population demographics and the Applicant's offer to use only the publicly available data. So I'm going to ask that if you could recalculate that using publicly available data for the most recent period that you can access. I know that what you had was probably, you know, I guess, more recent than what you could get publicly available. But for the most recent period that you can access, I'm going to ask that you provide that, that you cite your data sources. And, you know, if there's any -- if you take that data and you manipulate it, just make sure

that you disclose what your methodology is to arrive at your demographic projections.

And then the second thing was the average commercial cost for similar procedures that are going to be -- that are proposed for this specific ASC. Establish commercial costs for surgical procedures that are similar to what you propose at the ASC in comparison to what they're going to be at Backus. So it was average cost for what that would cost if they were to go to Backus for those procedures.

MS. FUSCO: Okay.

HEARING OFFICER MITCHELL: So that's going to kind of help us with the cost. We won't need you to submit any additional articles related to cost and ASCs being less costly, because this is going to kind of help us with this specific application.

Those are the two things that we want from the Applicant.

And then from the Intervenor, what we'd like to see is a list of what your -- what towns are in your primary service area. And then we also want to see, for fiscal year

2019, a -- what your surgical capacity was by OR suite designation. So we want you to break it down by designation for fiscal year 2019.

MS. FUSCO: Micheala, can I ask a clarification point? Is that capacity and utilization?

HEARING OFFICER MITCHELL: Yes.

MS. FUSCO: How much they can accommodate and how much they have; correct?

HEARING OFFICER MITCHELL: Yes. Right.

I was going to ask, too, if we could get that same information from Backus. So that's kind of in the area.

All right. I just want to ask -- I'm going to go with Attorney Fusco first. How much time do you think you might need to provide this information.

If you want to confer with your clients.

MS. FUSCO: I was going to say at least a week. Give us a week. If we need more than that, I'll let you know. We can probably get it done in a week.

HEARING OFFICER MITCHELL: All right.

Also, Attorney Monahan, how much time do you think you might need?

MR. MONAHAN: One week is fine.

HEARING OFFICER MITCHELL: Okay. So we're going to leave the record open then.

Again, I'm going to confirm. It's going to be August 19th by 4:30.

I think that's all that we need.

I'm going to go ahead and turn it over to the Applicant and the Intervenor for closing statements.

I'm going to have the Intervenor go first and then the Applicant is going to give the final statement for the closing.

So, Attorney Monahan, do you have a closing statement or a remark?

MR. MONAHAN: I do. And I appreciate the opportunity to briefly give some remarks.

What I really think at issue here is a fundamental remembering that we are a CON state, and that we are a CON state with 12 statutory factors, the integrity of which should not be loosened or lessened by the fact that there are systems doing wonderful

things, but that systems have the ability to expand and grow into every corner of this state.

My belief is when we look through this system -- these statutory factors and then we look at the community hospital that has been here for numerous years serving this population -- and you are hearing firsthand about the cracks in the foundation -- that this can pose to it to serve the very population that does have a choice right now, whether it be 20 or 30 miles away or 20 or 30 minutes away for ASC services. But for all the comorbidities, for all the acute care needs, for all the Medicaid population, for all the vulnerable populations, this is one of our remaining community care hospitals that I believe a CON state, which we are, is designed to protect.

So when we look through these factors, I do not think they should be loosened up, for instance, on the clear public need. Public convenience is a wonderful thing. Patient convenience is a wonderful thing. But that alone does not establish public

need.

Improvement of a health care system is important, but improvement of a health care system across the state is critical.

And Day Kimball Hospital, while it's one dollar may be relatively nothing compared to dollars of other systems, is critical for this region. And this CON statute is designed, while this legislature has us in the CON world, to protect Day Kimball in this instance.

The second thing or additional thing is there really isn't an identified population here. There is a region that's been sort of loosely described. And there's also been a discussion of population of patients saying to, albeit, Hartford HealthCare related surgeons about a desire to go elsewhere. That does not drive a CON decision in our view.

And then the most important factors -- and I really -- are the 11 and 12 factors, that -- when we are talking about adversely -- does this adversely affect health care costs or accessibility to care.

What we are talking about is whatever the benefits may be of these wonderful ASCs. They should not overpower and diminish the responsibility, the duty, the long-standing loyalty that a full-blown acute care hospital, such as Day Kimball, has served for this region, not just this town, this region for all these years.

And while the evidence came in about quality of care in various respects and cost of care, there is no assurance and no one can give any guarantee that the commercial insurance costs are going to be guaranteed to be less than or better than any other commercial cost from the Plainfield -- the proposed Plainfield ASC than elsewhere.

And with that said, I would just simply close by saying we are here because of CON. And if there was ever a situation where CON should be held with integrity for the provisions as they were designed, this is it. We are being tested as a state. Things may change in the future. But in a state where systems are spreading but there are still community hospitals in specific

regions performing wonderful services across the board, this is what our state has designed to protect.

Thank you.

HEARING OFFICER MITCHELL: Thank you, Attorney Monahan.

Attorney Fusco.

MR. MONAHAN: Thank you.

HEARING OFFICER MITCHELL: Thank you both.

MS. FUSCO: Thank you.

I want to start out by thanking Attorney Mitchell and all of the OH staff, and actually everyone who has participated in this on our side, on the Day Kimball side, those who are participating in the meeting.

This has really been an unprecedented effort to get this first of its kind remote hearing up and running. I think it went really well. I feel like it gave everyone a fair chance, a chance to be heard who wanted to be heard.

I'm also very appreciative of the time it's taken for you guys to process this

application. We're now more than a year in. This process has just completely changed, both for you and for us, so we appreciate your patience and your diligence in doing all of this for us.

I'm going to speak briefly, as well.

While I appreciate everything that Attorney Monahan said, it won't come as a surprise that I take somewhat of an opposite view on this with respect to this proposal.

So if you look at the statutory decision criteria, I mean, the way that OHS looks at CON proposals has evolved considerably in the last several years. And from what I've seen, the agency's focus has moved away from kind of a formulated needs assessment and is focused more on whether a project is needed because it improves the quality of care, the safety of care, the affordability of care. It provides access to consumers in all different patient populations, including Medicaid and uninsureds.

So we're seeing an evolution in decisions where there's less of a focus on

need and more of a focus on these other decision criteria that are equally, if not more important in many cases.

As you'll remember, years ago there were discussions in the state about whether certificate of need statutes should even have need criteria at all.

So, you know, that being said, I think that OHS needs to take a careful look at how this proposal not just meets the need criteria, but meets all of the statutory decision criteria, including quality, affordability, and access.

Basically what this proposal represents -- and I'm repeating things that were said by witnesses -- is, you know, Hartford HealthCare, with the assistance of an experienced partner in Constitution, is basically proposing to disrupt its own services so they can make an investment in an ASC that's going to serve as a more affordable alternative for the system's patients. Okay?

There's been a lot of discussion today about Day Kimball, what they do, what we

propose to do, you know, whether there's a duplication, whether there's going to be an adverse impact.

If you look at the numbers on the chart that Barbara Durdy referenced before, you can see that there is enough HHC hospital surgical volume in the service area to more than cover the modest amount of cases that are projected for the ASC. And we do expect that many of our patients will choose to use the ASC and that we don't need to take volume from Day Kimball Hospital in order to make this project work, to meet our volume projections and make it financially feasible.

We're doing this because we want to provide that alternative care setting. We know that our patients are -- they only have the choice of hospitals. And whether you argue that River Valley is in a service area or not, it is not in our defined service area. They are not sitting at the table today opposing this. Within our service area, there is no ASC capacity, there is no ASC option, and we want to afford that to

locations.

I think that affordability of health care services is a goal that, you know, Hartford HealthCare and Constitution share with the State of Connecticut. And it's one that has become increasingly important now with the economic instability brought on by the COVID-19 Pandemic.

So if you think we were talking about patient out-of-pocket costs and expenses before and the affordability of care, I think that's only going to become more and more important as we move forward.

You know, getting back to the basics of access, this is --you know, having a health system partner ensures that this facility is going to be accessible for all patients, for Medicaid patients, for the uninsured. Just like with all of the other surgery centers, we're going to adopt HHC's financial assistance policy. So all of those protections are guaranteed.

You heard from Donna Sassi and Bill about sort of the quality and safety benefits of having HHC as a system partner

in this HHC, that, that quality -- again, these things are really important to patients right now. As we reopen the health care delivery system in a post-COVID world, you know, patients are scared. You know, many patients don't want to go into an acute care hospital for any reason, for any type of procedure. So having this alternate care application is going to be beneficial for those patients.

So, you know, I mean, looking more at the traditional need, you know, we have shown that the Plainfield area population is growing. And you're going to see that in the publicly available data we submit, because it was in the publicly available data that Day Kimball submitted. It's growing. It's aging. We know that more procedures are shifting to an ASC setting due to, you know, patient and physician preference and pressure from payers.

So the need for an ASC, the need for that setting is going to grow. It's going to be vital. So given that we -- you know, we feel strongly that we demonstrated that

this will have little to no impact on existing providers like Day Kimball because of the fact that we're doing this to address the needs of our own patients. And because we're going to see this growth, we think that you can say that there is a more traditional public need for the facility.

What it really comes down to at the end of the day is consumerism in health care. It's giving patients a choice of a more affordable and accessible care setting. And, you know, meaningful choice and affordability are key considerations, more now than ever, in health care delivery.

These are the reasons we want to do this. And, you know, we feel that we have met those decision criteria that we have discussed and that Attorney Monahan raised.

So for all of these reasons we would ask you to approve our CON.

Once again, we thank you so much for all the work today and throughout this process.

HEARING OFFICER MITCHELL: All right. So I just want to thank both the Applicant

and Intervenor, attorneys, and everybody that participated. You guys helped me and made this very easy for us. This is our first hearing, so I thank you all.

We're going to leave the record open until August 19th.

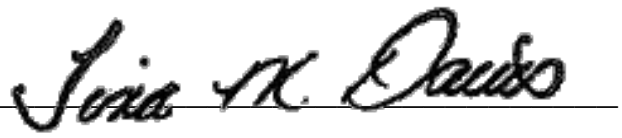
For now we're adjourned.

(The hearing concluded at approximately 1:14 p.m.)

C E R T I F I C A T E

I, Tina M. Davis, Registered Professional Reporter, do hereby certify that the foregoing testimony is a true and accurate transcription of my stenographic notes to the best of my knowledge and ability.

WITNESS MY HAND, this 27th day of August 2020.



Tina M. Davis, Court Reporter