

OFFICE OF THE ATTORNEY GENERAL  
OF THE STATE OF CONNECTICUT

OFFICE OF THE ATTORNEY GENERAL  
OF THE STATE OF NEW YORK

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In the Matter of the

**Investigation by William Tong,  
Attorney General of the State of Connecticut,  
and Letitia James,  
Attorney General of the State of New York of  
the Proposed Affiliation of Northwell Health,  
Inc. Northwell Healthcare, Inc., and Nuvance  
Health**

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**AGREEMENT OF ASSURANCES  
WITH NORTHWELL HEALTH, NORTHWELL HEALTHCARE, &  
NUVANCE HEALTH**

This Agreement of Assurances (“Agreement”) is made and entered into this 23rd day of August 2024 between the State of Connecticut, acting through the Office of the Connecticut Attorney General, (“CT OAG”); the State of New York, acting through the Office of the New York Attorney General, (“NY OAG”); Northwell Health, Inc. and Northwell Healthcare, Inc. (“Northwell”); and Nuvance Health (“Nuvance”) (collectively “the Hospital Systems”). The CT OAG, NY OAG, and the Hospital Systems are collectively referred to herein as “the Parties.” Northwell and Nuvance is “the Combined Entity.”

In May 2024, pursuant to Chapter 35 of the Connecticut General Statutes, the CT OAG commenced an investigation concerning the competitive implications of the proposed corporate

affiliation between the Hospital Systems. In May 2024, pursuant to Section 343 of the New York General Business Law, Section 63(12) of the New York Executive Law, and the Donnelly Act, the NY OAG commenced its own investigation of the corporate affiliation between the Hospital Systems. The CT OAG and NY OAG coordinated their independent investigations, examined data and documents submitted by the Hospital Systems; reviewed outcomes from Northwell's prior hospital acquisitions, and conducted interviews of various stakeholders potentially impacted by the proposed affiliation (collectively, the activities discussed in this paragraph constitute the "Investigation").

This Agreement contains the CT OAG's and NY OAG's findings and contentions as set forth in Section I below, and the relief agreed to by the CT OAG, the NY OAG, and the Hospital Systems as set forth in Section II below.

## **I. CT OAG's AND NY OAG's FINDINGS**

### **A. BACKGROUND ON THE PARTIES AND THEIR HOSPITALS**

1. Northwell and Nuvance are two health systems offering inpatient general acute care ("GAC") in the geographical areas covering western Connecticut, which is defined here as Litchfield and Fairfield counties in Connecticut, and the Hudson Valley of New York, which is defined here as Putnam and Dutchess counties in New York. These Connecticut and New York counties are in close geographical proximity.
2. Inpatient GAC services include a broad array of basic hospital services that require overnight stay. GAC services include inpatient primary care services and may include some services referred to as "secondary" care. In contrast, GAC services do not include more complex and/or specialty services often referred to as tertiary or quaternary services.
3. Access to local hospital based inpatient GAC services is critical for the maintenance of

quality healthcare for residents and communities in the western Connecticut and the Hudson Valley of New York. People generally seek local care for their essential healthcare needs (especially primary care services) and prefer to utilize their local community hospital for certain services.

4. Nuvance is comprised of six (6) hospitals on seven (7) campuses—three (3) hospitals on four (4) campuses in Connecticut<sup>1</sup> and three (3) hospitals in New York.<sup>2</sup>
5. Northwell is a comprehensive, integrated health care delivery system that is comprised of twenty-one (21) hospitals across New York including Long Island, New York City, and Westchester, as well as physician practices and providers of subacute care including home care, long term care, and hospice. Currently Northwell does not have any hospitals located in Connecticut.<sup>3, 4</sup>
6. The hospitals other than Nuvance offering inpatient GAC in the geographic area of western Connecticut include Bridgeport Hospital, Charlotte Hungerford Hospital, Greenwich Hospital, Stamford Hospital, and St. Vincent’s Medical Center.
7. The hospitals other than Nuvance offering inpatient GAC in the geographic area of the Hudson Valley of New York include Hudson Valley Hospital Center, MidHudson Regional Hospital of Westchester Medical Center, and Northern Westchester Hospital, which is owned by Northwell.
8. Both quantitative and qualitative evidence demonstrate that other more distant hospitals and

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<sup>1</sup> Nuvance’s Connecticut hospitals include Danbury Hospital, a 456-bed acute care general hospital in Danbury, Connecticut; New Milford Hospital, an 85-bed general hospital in New Milford, Connecticut that is licensed as a campus of Danbury Hospital; Norwalk Hospital, a 336-bed acute care general hospital in Norwalk, Connecticut; and Sharon Hospital, a 94-bed general hospital in Sharon, Connecticut.

<sup>2</sup> Nuvance’s New York hospitals include Northern Dutchess Hospital, an 84-bed care general hospital in Rhinebeck, New York; Putnam Hospital, a 164-bed acute care general hospital in Carmel, New York; and Vassar Brothers Medical Center, a 349-bed acute care general hospital in Poughkeepsie, New York.

<sup>3</sup> Northwell has small physician group practices located at: 32 Strawberry Hill Court, Stamford, CT 06902; 80 Mill River Street, Stamford, CT 06902; and 945 Summer Street, Stamford, CT 06905.

<sup>4</sup> Northwell and Nuvance, together with partner GoHealth, currently also operate two (2) urgent care centers in Connecticut at: 205 Main Street, Norwalk, CT 06851; 1011 High Ridge Road, Stamford, CT 06905.

healthcare systems offering inpatient GAC, particularly labor and delivery services, such as Charlotte Hungerford Hospital or Danbury Hospital, which are approximately 37 minutes to 60 minutes drive from Sharon Hospital, are not viewed as viable alternatives to Sharon Hospital by most Connecticut patients in western Connecticut.

## **B. NUVANCE'S FINANCIAL ISSUES LEADING TO THE PROPOSED AFFILIATION**

9. The CT OAG's and NY OAG's investigation has revealed that Nuvance's financial condition has been declining for several years. The cause of Nuvance's financial issues seems to be complex and multi-faceted, including the non-actualization of benefits of the 2019 merger between Health Quest and Western Connecticut Health Network that created Nuvance, the challenging healthcare and financial environment during and after the COVID-19 pandemic, inability to invest due to financial constraints which has led to infrastructure gaps, underutilization of services, limited ambulatory network, and staffing and recruitment challenges.
10. Nuvance's financial challenges will soon impact its ability to provide local healthcare at its Connecticut and New York hospitals due to large operating losses and liquidity constraints.
11. Nuvance has made serious and ongoing efforts to address its financial challenges including by attempting to implement a Performance Improvement Plan ("PIP"), preserve cash, defer capital maintenance, and reduce capital expenditure as a result of financial decline, limiting its ability to hire and retain physicians and other critical staff.
12. In March 2023, Nuvance determined that, after several years of losses, it needed to partner with another hospital system or network. Nuvance engaged consulting firm Kaufman Hall to help evaluate and select strategic partners. Nuvance, with assistance from Kaufman Hall, considered thirty-five (35) potential partners and selected five (5) for outreach after a thorough screening process. Northwell and Nuvance entered into an Affiliation Agreement

on February 28, 2024. The Affiliation Agreement is intended to provide Nuvance with the necessary capital to make critical growth investments to achieve long term stability.

**C. WITH THE RELIEF NEGOTIATED IN THIS AGREEMENT, THE HOSPITAL SYSTEMS' MERGER IS NOT LIKELY TO BE ANTICOMPETITIVE**

**i. Limited Competitive Overlap**

13. There is current limited geographic overlap between the Primary Service Areas (“PSAs”) of Northwell and Nuvance for GAC services. The overlap includes three ZIP codes in Putnam County.
14. The Proposed Affiliation will add Northwell as a competitor in the western Connecticut and Hudson Valley of New York. CT OAG's and NY OAG's Investigation concluded that any potential anticompetitive effect of the merger would be minimal and is likely to be outweighed by substantial procompetitive benefits (discussed below).

**ii. Potentially Significant Procompetitive Benefits**

15. The Proposed Acquisition has many potential procompetitive benefits. First, Nuvance is in a precarious financial situation. Closure or further reduction in care at Nuvance hospitals could substantially harm patient access to quality local healthcare in western Connecticut and the Hudson Valley of New York.
16. Second, during the Investigation, Northwell has made clear to the CT OAG and NY OAG its specific intention to first preserve and strengthen, and then expand and improve as feasible various clinical service lines in western Connecticut and the Hudson Valley of New York consistent with safe, evidence-based care models. More generally, Northwell has represented that it intends to bring Northwell’s best-in-class clinical, operating, and financial capabilities, infrastructure, and competencies to Nuvance and the communities it serves.
17. The CT OAG and NY OAG believe that these likely benefits are substantial and meaningful

and will outweigh any harm due to increased pricing resulting from the proposed affiliation.

#### **D. ASSURANCES**

The CT OAG and NY OAG have informed the representatives of the Hospital Systems of the aforementioned concerns. To resolve those concerns, the Hospital Systems have agreed to abide by the stipulations listed below with the expectation of making such reasonable investments as may be necessary and consistent with prudent fiscal stewardship. The CT OAG and NY OAG find the stipulated agreements contained herein appropriate and in the public interests of Connecticut and New York and are, therefore, willing to accept them in lieu of continuing their investigations into the matters detailed herein.

18. Preservation, strengthening and expansion of women's health services, including maternity and Labor & Delivery services, at Sharon Hospital consistent with clinical judgment and a safe, evidence-based care model for the Term of this agreement, a period of five (5) years after the closing of the Proposed Affiliation, to allow for the provisioning of prenatal and postpartum services locally in western Connecticut. In furtherance of this objective, the Combined Entity will take meaningful steps to recruit providers to Sharon Hospital.
19. Preservation of services and staffing levels at Putnam Hospital for a period of one (1) year after the closing of the Proposed Affiliation, consistent with clinical judgment and a safe, evidence-based care model and subject to any directives from the New York Department of Health. For the Term of this Agreement, a period of five (5) years after the closing of the Proposed Affiliation, the Combined Entity will provide simultaneous notice to the New York Office of the Attorney General when communicating with the New York Department of Health regarding any potential diminution of services at Putnam Hospital.
20. Within thirty-six (36) months of the consummation of the affiliation, Northwell will make financial and operational commitments towards the installation of a unified Electronic Medical Records system across the Combined Entity, including related IT and cybersecurity expertise required for improvements of Nuvance's IT infrastructure and enhancement of data security, which is anticipated to cost or be valued in excess of \$200 million.
21. The Combined Entity shall negotiate rates for reimbursement of services with payors and plan sponsors independently for both the Connecticut and New York facilities such that no payor or plan sponsor seeking to contract for hospital services in one state shall be required to include in its contract any of the Combined Entity's hospitals in the other state, and otherwise comply with the terms of Conn. Gen. Stat. § 38a-477i.

## **II. AGREEMENT**

WHEREAS, the Hospital Systems neither admit nor deny the CT OAG's and NY OAG's Findings (listed in paragraphs 1-17) above;

WHEREAS, the CT OAG and NY OAG are willing to accept the terms of this Agreement and to discontinue their respective investigations under the Connecticut Antitrust Act, Conn. Gen. Stat § 35-24, *et. seq.*; and under Section 63(12) of the New York Executive Law, and the Donnelly Act, General Business Law, § 340 *et. seq.*

WHEREAS, the Hospital Systems and the CT OAG and NY OAG each believe that the obligations imposed by this Agreement are prudent and appropriate.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Hospital Systems and the CT OAG and NY OAG, that:

22. This Agreement shall apply to Northwell and Nuvance and any of their successor entities doing business in Connecticut or New York, whether acting through their principals, directors, officers, shareholders, employees, representatives, agents, assigns, successors, parents, subsidiaries, affiliates, or other business entities, whose acts, practices, or policies are directed, in part or in whole, by either of the Hospital Systems or any successor combinations. This Agreement specifically governs the conduct of the Hospitals and their successors upon closing of the Proposed Affiliation (“Closing”) and for a period of five (5) years thereafter (the “Term”). By signing this Agreement, the Hospital Systems stipulate that they forego any legal defenses to, or assertions against, the enforceability of this Assurance.

### **A. CONFIRMATION OF ASSERTED PROCOMPETITIVE BENEFITS**

23. Northwell shall provide a certificate of compliance each year on the anniversary of the Closing to both the CT OAG's and NY OAG's Antitrust Sections regarding implementation of this Agreement of Assurances (the “Certification”). This Certification should describe the steps taken to

date and any anticipated delays in compliance.

**B. MISCELLANEOUS**

**i. Subsequent Proceedings:**

24. Hospital Systems agree that the Connecticut Superior Court or the New York Supreme Court have the authority to specifically enforce the provisions of this Agreement, including the authority to award equitable relief. The exclusive forums for resolving any disputes under this Agreement shall be the Connecticut Superior Court for the Judicial District of Hartford and the New York Supreme Court for New York County.
25. This Agreement shall be governed by the laws of the State of Connecticut, without regard to its choice of law rules.
26. Nothing in this Agreement shall be construed to create a waiver of the State of Connecticut's or the State of New York's sovereign immunity.
27. This Agreement constitutes the complete agreement between the CT OAG, the State of Connecticut, the NY OAG, the State of New York, and Hospital Systems and may not be amended except by a writing signed by the OAGs and Hospital Systems.
28. The undersigned individuals signing this Agreement on behalf of each Hospital System warrant that they are duly authorized by each Hospital Systems to execute this Agreement.
29. The undersigned individuals signing this Agreement on behalf of the CT OAG and the NY OAG represent that they are signing this Agreement in their official capacities and that they are duly authorized to execute this Agreement.
30. The Hospital Systems are entering into this Agreement without trial or adjudication of any issue of fact or law. No part of this Agreement shall constitute evidence against the Hospital Systems with respect to any issue of law or fact. No part of this Agreement shall be treated or construed as an admission of fact, liability or wrongdoing by the Hospital Systems.



31. This Agreement does not constitute approval by the CT OAG or NY OAG of any of the Hospital Systems' business practices and the Hospital Systems shall make no representation or claim to the contrary.

32. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

**ii. Effect of Assurances:**

33. The Hospital Systems shall include in any such successor, assignment, or transfer agreement, a provision that binds the successor, assignee, or transferee to the terms of this Agreement. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the CT OAG and NY OAG. However, nothing herein shall be construed to preclude the Combined Entity from, or require prior written consent of the CT OAG and NY OAG prior to, entering into any contract or agreement for purposes of providing services or conducting activities contemplated by the Assurances set forth above.

34. Nothing contained in this Agreement is intended to create any rights in any third party beneficiary.

35. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

36. Any failure by CT OAG or NY OAG to insist upon the strict performance by the Hospital Systems of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and CT OAG or NY OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all provisions of this Agreement to be

performed by the Hospital Systems.

**iii. Communications:**

37. All notices, reports, requests, and other communications pursuant to this Agreement shall reference: “The CT OAG and NY OAG Agreement of Assurances with Northwell and Nuvance effective August 23, 2024.”

**iv. Representations and Warranties:**

38. If any material representations by the Hospital Systems or their counsel during the investigation or as set forth in the Certification are later found to be materially inaccurate or misleading, this Agreement is voidable by the CT OAG or NY OAG in their sole discretion.

**v. General Principles:**

39. Unless a term limit for compliance is otherwise specified within this Agreement, the Hospital Systems’ obligations under this Agreement shall continue during the Term of this Agreement. Nothing in this Agreement shall relieve the Hospital Systems of other obligations imposed by any applicable Connecticut state law, New York state law, or federal law or regulation or other applicable law.
40. Nothing contained herein shall be construed to limit the remedies available to the CT OAG and NY OAG if the Hospital Systems violate the Agreement after its effective date.
41. This Agreement may not be amended except by an instrument in writing signed on behalf of the Parties to this Agreement.
42. The Agreement and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.
43. This Agreement may be executed in multiple counter parts by the Parties hereto. All counter parts so executed shall constitute one agreement binding upon all Parties, notwithstanding that all Parties are not signatories to the original or the same counterpart. Each counterpart shall be

deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the effective date of this Agreement. For purposes of this Agreement, copies of signatures shall be treated the same as originals. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

44. This Agreement is effective on the date of signature of the last signatory to the Agreement (“Effective Date of this Agreement”).

STATE OF CONNECTICUT:

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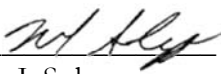
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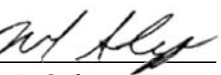
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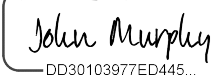
NORTHWELL HEALTH, INC.:

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President, Strategic Initiatives and Chief Operating  
Officer

NORTHWELL HEALTHCARE, INC.:

By:   
Mark J. Solazzo  
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NUVANCE HEALTH

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Dr. John M. Murphy  
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