

**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

July 30, 2014

**IN THE MATTER OF:**

An Application for a Certificate of Need filed  
Pursuant to Section 19a-638, C.G.S. by:

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 13-31879-CON

**The Danbury Hospital**

**Termination of Diagnostic Sleep  
Service in Southbury, CT**

To:

Sally F. Herlihy, FACHE  
VP, Planning  
The Danbury Hospital  
24 Hospital Avenue  
Danbury, CT 06810

Dear Ms. Herlihy:

This letter will serve as notice of the approved Certificate of Need Application in the above-referenced matter. On July 30, 2014, the Final Decision, attached hereto, was adopted and issued as an Order by the Department of Public Health, Office of Health Care Access.

A handwritten signature in blue ink, appearing to read "Kimberly R. Martone".

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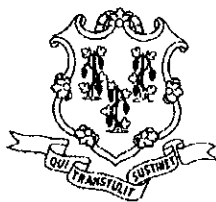
Kimberly R. Martone  
Director of Operations

Enclosure  
KRM:pf

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*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*

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**Department of Public Health  
Office of Health Care Access  
Certificate of Need Application**

**Final Decision**

**Applicant:** The Danbury Hospital  
24 Hospital Avenue, Danbury, CT 06810

**Docket Number:** 13-31879-CON

**Project Title:** Termination of Diagnostic Sleep Services in Southbury

**Project Description:** The Danbury Hospital (“Hospital” or “Applicant”) seeks authorization to terminate the Sleep Disorder Center at 522 Heritage Rd., Southbury, CT with no associated capital expenditure.

**Procedural History:** The Hospital published notice of its intent to file a Certificate of Need (“CON”) application in *The Republic American* (Waterbury) on September 18, 19 and 20, 2013. On December 23, 2013, the Office of Health Care Access (“OHCA”) received the initial CON application from the Hospital for the above-referenced project. The application was deemed complete on April 4, 2014. OHCA received no responses from the public concerning the Hospital’s proposal and no hearing requests were received from the public per Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e). Deputy Commissioner Davis considered the entire record in this matter.

To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

## Findings of Fact and Conclusions of Law

1. The Applicant is a 371-bed acute-care hospital located at 24 Hospital Avenue, Danbury, Connecticut and a health care facility or institution as defined by Conn. Gen. Stat. § 19a-630. Ex. A., p. 7
2. The Hospital offers outpatient diagnostic sleep services at two locations. The following table provides the locations and operating hours:

**Table 1: Locations of the Hospital's Diagnostic Sleep Services**

Location	Description	Hours of operation
Ethan Allen Hotel ("Danbury") 21 Lake Avenue Ext. Danbury, CT	4 beds, 7 days/week Home Studies, day studies and night studies	Day: 7 am-5 pm Evening: 7 pm-7 am
Heritage Hotel ("Southbury Center") 522 Heritage Rd. Southbury, CT	2 beds, 3 days/week Night studies	Evening: 7 pm-7 am

Ex. A, p. 7

3. The Hospital proposes to terminate the sleep disorder services at the Southbury Center. Ex. A, p. 10
4. There are three reasons for the termination of services at the Southbury Center:
  - a) Diminished in-lab sleep studies: Approximately 2 diagnostic sleep studies a week were performed at Southbury during FY 2013.
  - b) Changing delivery models for sleep studies: Increasing trend toward home studies will continue to negatively impact the number of in-lab sleep studies.
  - c) Inefficient use of resources: It is not fiscally responsible to maintain both the Southbury and Danbury program locations with the decreasing number of in-lab sleep studies.Ex. A, p. 9
5. The sleep services program in Danbury accounts for 92.9% of the Hospital's total number of sleep studies and the Southbury Center accounts for 7.1% of the total number. Ex. A, p. 7
6. Combining the last 3 years of sleep center activity, 95% of the number of patients seen at the Southbury Center were from 12 towns, including the town of Southbury (27.1%) and 11 adjacent towns (67.7%). Ex. A, p. 8

7. In FY 2013, there were 81 sleep studies performed at the Southbury Center. The following table provides the number of patients receiving sleep studies by the town of residence:

**Table 2: Number of Patients in FY 2013 by Town of Residence**

Town	Number of Patients
Southbury	28
Newtown	13
Woodbury	7
Brookfield	6
New Milford	4
Danbury	3
Waterbury	3
New Fairfield	3
Ridgefield	2
Watertown	2
Redding	2
All Other Towns	8
<b>Total</b>	<b>81</b>

Ex. A, p. 12

8. The number of sleep studies has been decreasing since FY 2010. The Hospital projects that the percentage of home studies will increase to 35% of the total number of sleep studies to be performed in FY 2014. The Hospital's historical and current sleep studies have been reported as follows:

**Table 3: Hospital's Sleep Studies by Location and by Fiscal Year**

Location	Fiscal Year				
	2010	2011	2012	2013	2014*
Danbury – Home Studies	0	0	81	244	112
Danbury – In Lab Studies	1,567	1,267	1,118	821	210
Southbury – In Lab Studies	229	187	218	81	0
<b>Total</b>	<b>1,796</b>	<b>1,454</b>	<b>1,417</b>	<b>1,146</b>	<b>322</b>
<b>Projected FY 2014 with CON</b>					<b>1,110</b>
% Change		-19%	-2.5%	-19.1%	-3.1%
% attributed to Home Studies	0%	0%	6%	21%	35%
% attributed to In Lab Studies	100%	100%	94%	79%	65%

\* October 1, 2013 to December 31, 2013. Scheduling patients in the Southbury Center location has not occurred due to staffing vacancies. Patient requests are being accommodated at alternate program sites in the short-term.

Ex. C, p. 35

9. There is an increasing trend toward home studies utilizing new technology for diagnosing sleep apnea and other sleep disorders. Ex. A, p. 7

10. Portable monitor equipment for home sleep studies to diagnose obstructive sleep apnea has been approved for use by many insurance providers and Medicare. Ex. A, p. 17
11. Patients seeking evaluation for obstructive sleep apnea can obtain a home sleep study with a cost of \$200 to \$300 as opposed to a sleep study done in a lab, such as the Southbury Center, at a cost of \$800 or more. Ex. A, p. 18
12. Home studies have increased from 0% of studies performed in FY 2011, to 6% of studies in FY 2012, to 21% of studies in FY 2013, causing a 40.7% cumulative decline in the use of outpatient diagnostic sleep services at the Hospital's sleep centers. Ex. A, p. 7
13. The shift from attended studies in a sleep lab to a patient's home has resulted in a decreased need for staffing and space at the sleep centers. Ex. C, p. 38
14. The proposed closure of the Southbury Center will eliminate the duplicative equipment and services without patient disruption and within the same hospital system and continuum of care. Ex. A, p. 8
15. Within the Hospital's healthcare system, Danbury Hospital and New Milford Hospital have the capacity to accommodate the sleep studies of patients who previously would have obtained their sleep services at the Southbury Center. Ex. A, p. 11

**Table 4: Capacity of Sleep Studies at Danbury Hospital and New Milford Hospital**

<b>Program Capacity</b>	<b>Danbury</b>	<b>New Milford</b>
Beds	4	4
Days per Week	7	2
Days of Operation	357	102
Current Capacity	1,428	408
FY 2013 Volume	821	204
FY 2013 Capacity (%Utilization )	57%	50%
FY 2014 Projected Volume	664	200
Studies Moved from Southbury	54	20
Net Volume	718	220
Projected Capacity	50%	54%

16. The following table shows the other existing sleep laboratory providers in the Hospital's service area:

**Table 5: Existing Sleep Disorder Centers in the Hospital's Service Area**

Provider Name	Provider Location
New Milford Hospital	21 Elm Street, New Milford
Waterbury Hospital	1625 Straits Turnpike, Middlebury

Ex. A, p. 10

17. No capital expenditures will be incurred as a result of the proposal. Ex. A, p. 1
18. The Hospital is reimbursed by various payers for its sleep services. Reimbursement levels have not impacted the request to consolidate sites of care. Ex. A, p. 15
19. The Hospital projects that the proposal will result in operating gains of \$70,000, \$72,000 and \$73,000 in FY 2014, 2015 and 2016, respectively, through the savings from salaries and lease payments.

**Table 6: Danbury Hospital's Financial Projections with the Proposal**

Description	FY 2014	FY 2015	FY 2016
Revenue from Operations	(\$67,000)	(\$ 69,000)	(\$ 72,000)
Operating Expenses	( 7,000)	( 141,000)	(145,000)
<b>Gain from Operations</b>	<b>\$70,000</b>	<b>\$72,000</b>	<b>\$73,000</b>

Ex. C, p. 39

20. The Hospital's historical and current patient population mix by payer at the Southbury Center is as follows:

**Table 7: Applicant's Patient Population Mix by Fiscal Year**

Description	FY 2012	FY 2013	FY 2014*
Medicare	31.2%	24.1%	-
Medicaid	3.2%	2.4%	-
CHAMPUS & TriCare	0.0%	0.0%	-
<b>Total Government</b>	<b>34.4%</b>	<b>26.5%</b>	<b>-</b>
Commercial Insurers*	65.6%	72.2%	-
Uninsured	0%	0%	-
Worker's Comp	0%	1.3%	-
<b>Total Non-Government</b>	<b>65.6%</b>	<b>73.5%</b>	<b>-</b>
<b>Total Payer Mix</b>	<b>100%</b>	<b>100%</b>	<b>-</b>

\* October 1, 2014 to December 31, 2014. Scheduling patients at the Southbury Center has not occurred due to staffing vacancies. Patient requests are being accommodated at alternate program sites.

Ex. A, p. 15.

21. The closure of the Southbury Center will not change access to sleep services for Medicaid recipients and indigent persons as these sleep services will continue to be available to this population in Danbury. Ex. C, p. 36

22. Diagnostic sleep services are currently offered by the Hospital in two locations regardless of payer. With the proposed closure, sleep services will continue to be available for the relevant patient populations. Ex. C, p. 37
23. As a result of the declining number of sleep studies, the costs associated with maintaining the Southbury Center seven nights per week while utilizing the space only three nights per week has become a costly operation. This proposal supports a reduction in operating expenses and an efficient use of resources. Ex. C, p. 38
24. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations not yet adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1))
25. This CON application is consistent with the overall goals of the Statewide Health Care Facilities and Service Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
26. The Hospital has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
27. The Hospital has demonstrated that its proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
28. The Hospital has satisfactorily demonstrated that its proposal would not negatively impact quality or access to services in the region and also that it may help reduce overall system cost with the elimination of a duplicative service and allowing for the greater use of a more cost-efficient diagnostic method with the potential to reach a broader population. (Conn. Gen. Stat. § 19a-639(a)(5))
29. The Hospital has shown that there would be no adverse change in the provision of health care services to the relevant populations and payer mix, including Medicaid recipients and indigent persons. (Conn. Gen. Stat. § 19a-639(a)(6))
30. The Hospital has satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))
31. The declining historical utilization of sleep medicine visits in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
32. The Hospital has satisfactorily demonstrated that this proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))
33. The Hospital has demonstrated that there will not be a reduction in access to services by Medicaid recipients or indigent persons. (Conn. Gen. Stat. § 19a-639(a)(10))

## Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in § 19a-639(a) of the Statutes. The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

The Applicant, a 371-bed acute-care hospital in Danbury, Connecticut, provides diagnostic sleep services at two locations: the Ethan Allen Hotel ("Danbury"), 21 Lake Avenue Ext., Danbury; and the Heritage Hotel ("Southbury Center"), 522 Heritage Rd., in Southbury. *FF1*, 2 The Hospital is proposing to terminate its diagnostic sleep services at Southbury. *FF3* The primary reason for terminating the services at Southbury is the decrease in the number of in-lab sleep studies, changing models of the delivery of diagnostic sleep studies and duplicative sleep services in the service area. *FF4*

The sleep services program at Danbury accounts for 92.9% of the Hospital's total number of sleep studies and the Southbury Center accounts for 7.1% of the total number. *FF5* Combining the last three years of activity, 95% of the patients at the Southbury Center were from 12 towns, including the town of Southbury (27.1%) and 11 adjacent towns (67.7%). *FF6* In FY 2013, there were 81 sleep studies performed at the Southbury Center, where sleep studies have been decreasing since FY 2010. *FF7*, 8 One reason for this trend is an increase in home studies utilizing new technology for diagnosing sleep apnea and other sleep disorders. *FF9* The new technology comes in the form of portable monitor equipment for home sleep studies to diagnose obstructive sleep apnea. As an added benefit, this technology has been approved for use by many insurance providers and Medicare. *FF10* The Hospital projects that the percentage of home studies will increase to 35% of the total number of sleep studies performed in FY 2014. *FF8* Southbury Center is not the only sleep center to see reductions in volume at the sleep lab. Similar decreases are occurring at Danbury, and with services being available at New Milford Hospital, a member of the Hospital's healthcare system, there is sufficient capacity to accommodate patients that would have utilized Southbury. *FF8*, 15, 16 Based upon the foregoing, the Applicant has sufficiently demonstrated that access to diagnostic sleep services will be maintained for the relevant patient population following the program's termination at the Southbury Center.

The decision to terminate services was not dependent on the payer mix, but on declining volume and program costs. *FF23* Sleep center services will continue to be available at Danbury regardless of the payer. *FF 21, 22* As a result of the termination, the Hospital will realize annual savings of approximately \$70,000 for FYs 2014 to 2016. *FF19* Given that there are no capital expenditures associated with the proposal, the Applicant has demonstrated that its proposal is financially feasible. *FF17*

One of the overarching goals of the Statewide Health Care Facilities and Services Plan is the use of health care facility resources in an efficient, cost-effective manner while maintaining or improving patients' access to quality health care services. This proposal will allow for sleep medicine services to be provided in a more cost-effective setting and eliminate the duplication of services in the Hospital's service area. It is also reflective of the changing model of sleep



medicine service delivery that has the potential to reach a larger number of patients by eliminating the need to travel to a sleep lab. Thus, the Hospital has sufficiently demonstrated a clear public need for this proposal.

## Order


Based upon the foregoing Findings and Discussion, the Certificate of Need application of The Danbury Hospital to terminate its diagnostic sleep services in Southbury, Connecticut, is hereby **APPROVED**.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the  
Department of Public Health  
Office of Health Care Access

Date

7/30/14

  
Lisa A. Davis, MBA, BS, RN  
Deputy Commissioner