STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

August 14, 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: 13-31828-CON
NR Connecticut, LLC, d/b/a/ Retreat at South Connecticut	**Establish a 105-bed Residential Substance Abuse Treatment Facility in New Haven, CT**

To: Peter Schorr
President / CEO
NR Connecticut, LLC
12 New City Street
Essex, CT 06426

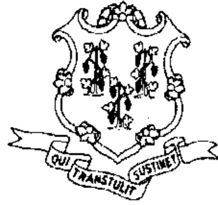
Dear Mr. Schorr:

On August 14, 2014, a decision was rendered as the finding and order of the Office of Health Care Access in the above-referenced matter. A copy of the decision is attached hereto for your information.

Kimberly R. Martone
Director of Operations

Enclosure
KRM:lkg

Copy: Joan W.Feldman, Shipman & Goodwin, LLP
Jennifer Groves Fusco, Updike, Kelly & Spellacy, P.C



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

Final Decision

Applicant: **NR Connecticut, LLC, d/b/a Retreat at South Connecticut**
915 Ella Grasso Boulevard, New Haven, CT

Docket Number: **13-31828-CON**

Project Title: **Establish a 105-Bed Residential Substance Abuse Treatment Facility**

Project Description: NR Connecticut, LLC, d/b/a Retreat at South Connecticut, ("Applicant" or "Retreat at South CT") seeks authorization to establish a 105 bed residential substance abuse treatment facility at 915 Ella Grasso Boulevard, New Haven, Connecticut.

Procedural History: The Applicant published notice of its intent to file the Certificate of Need ("CON") application in the *New Haven Register* on February 28, March 1 and 2, 2013. On March 25, 2013, the Office of Health Care Access ("OHCA") received the CON application from the Applicant for the above-referenced project. On July 8, 2013, OHCA deemed the CON application complete.

On July 17, 2013, OHCA notified the Applicant of the date, time and place of the public hearing. On July 19, 2013, a notice to the public announcing the hearing was published in the *New Haven Register.* Thereafter, pursuant to Connecticut General Statutes ("Conn. Gen. Stat.") § 19a-639a, a public hearing regarding the CON application was held on August 14, 2013.

Commissioner Jewel Mullen designated Attorney Marianne Horn as the hearing officer in this matter. The hearing was conducted in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Conn. Gen. Stat.) and Conn. Gen. Stat. § 19a-639a(f).

By petition dated August 9, 2013, APT Foundation, Inc. requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer designated APT Foundation, Inc. as an Intervenor with full rights of cross-examination.

By petition dated August 9, 2013, Cornell Scott-Hill Health Center requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer designated Cornell Scott-Hill Health Center as an Intervenor with full rights of cross-examination.

By petition dated August 9, 2013, Rushford Center, Inc. requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer designated Rushford Center, Inc. as an Intervenor with full rights of cross-examination.

By petition dated August 9, 2013, Stonington Behavioral Health, Inc., d/b/a Stonington Institute, requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer designated Stonington Institute as an Intervenor with full rights of cross-examination.

By petition dated August 9, 2013, Yale-New Haven Hospital requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer designated Yale New-Haven Hospital as an Intervenor with full rights of cross-examination.

On or about September 10, 2013, OHCA closed the record in this matter. On January 22, 2014, OHCA issued a Proposed Final Decision. On April 11, 2014, OHCA received Exceptions to its Proposed Final Decision dated January 22, 2014. Included in the Exceptions was a claim that the Applicant was not given advance notice of certain information as required by Connecticut General Statutes § 4-178 or the opportunity to respond to a late file submitted by the Intervenors. Specifically, the Applicant claimed that it was prejudiced by not having an opportunity to respond to the following:

1. OHCA's use of hospital discharges for drug abuse treatment to evaluate the need for a substance abuse program. (Proposed Final Decision, FF9);
2. OHCA's use of DMHAS bed census data submitted as a late file by the Intervenors. (Proposed Final Decision, FF14); and
3. OHCA's use of data from the Acute Care Hospital Inpatient Discharge Database. (Proposed Final Decision, FF20)

Thereafter, on May 9, 2014, the record in this matter was opened to take further evidence. Specifically, Retreat at South CT was asked to provide further evidence concerning Findings of Fact 9, 14 and 20 of the Proposed Final Decision. Retreat at South CT submitted its responses to OHCA on May 23, 2014. Thereafter, the record was closed as of June 1, 2014. In rendering this decision, Deputy Commissioner Davis considered all evidence in the record.

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. NR Connecticut, LLC ("Applicant") is a Connecticut limited liability company. Ex. A, p. 590

2. The Applicant proposes to establish the Retreat at South Connecticut ("Retreat at South CT"), a residential substance abuse treatment facility for adults aged 18 and older, at 915 Ella Grasso Boulevard, New Haven, Connecticut. Ex. A, pp.18, 27

3. The Applicant proposes to locate its residential substance abuse treatment facility in an existing 60,000 square foot two-story building in New Haven that will be renovated and upgraded to the same standards as its sister facility, Retreat at Lancaster County ("Lancaster facility"). Ex. A, p.18

4. The Lancaster facility is a 120-bed residential substance abuse treatment facility located on a 24 acre campus in Ephrata, Pennsylvania that has been operating since 2011. Ex. A, p. 44

5. The Applicant intends to provide the following levels of care[1,2] at the Retreat at South CT:
   a. Level 3.7[3] residential detoxification having continuous observation, monitoring and treatment under physician-approved procedures; and
   b. Residential rehabilitation, short-term (approximately 30 day stay).

   Ex. A, pp.18-19, 30

6. The Applicant proposes to have 26 Level 3.7 residential detoxification beds and 79 residential rehabilitation beds for a total number of 105 beds. Transcript of August 14, 2013, Public Hearing ("Tr.") Testimony of Mr. Peter Schorr, pp. 14-15

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[1] The American Society of Addiction Medicine defines the listed levels of care.

[2] Levels of care for substance abuse treatment licensed by the Connecticut Department of Public Health identify Level 3.7 residential detoxification as residential detoxification and evaluation and short-term residential rehabilitation as intensive treatment. Source: Statewide Health Care Facilities and Service Plan, October 2012, pp. 280-287

[3] The Substance Abuse and Mental Health Services Administration ("SAMHSA") characterizes short-term residential rehabilitation treatment as having a length of stay of 30 days or less.

7. As shown in Table 1 below, Connecticut has 8 private non-profit providers of Level 3.7 detox with a total of 156 licensed beds. There are 11 private non-profit providers of short-term residential rehabilitation with a total of 256 licensed beds.[4]

Table 1: Existing Providers of Level 3.7 Residential Detoxification and Evaluation and Residential Rehabilitation Treatment in Connecticut

Provider Name and Program Name	Town	Services*	Beds
Chemical Abuse Services Agency, Inc., Casa Eugenio Maria de Hostos	Bridgeport	IT	10
Recovery Network of Programs, Inc., First Step	Bridgeport	RDE	19
Recovery Network of Programs, Inc., Horizons	Bridgeport	IT	15
Recovery Network of Programs, Inc., New Prospects	Bridgeport	IT	23
Midwestern Connecticut Council on Alcoholism, Inc., McDonough House	Danbury	IT RDE	20 10
Alcohol and Drug Recovery Centers, Inc. – Detoxification Center	Hartford	IT RDE	28 35
Rushford Center	Middletown	RDE IT	16 42
Farrell Treatment Center	New Britain	IT	24
Cornell Scott-Hill Health Corporation, South Central Rehabilitation Center	New Haven	RDE	29
Southeastern Council on Alcoholism and Drug Dependence, Inc., Altruism Acute Care and Evaluation	New London	RDE	20
Stonington Behavioral Health Inc., Stonington Institute	North Stonington	RDE IT	18 45
Community Health Resources, Milestone/New Life Center/Pathways	Putnam	IT, RDE	9** 9**
McCall Foundation, Carnes Weeks Center	Torrington	IT	20
Connecticut Renaissance, Inc., Patrick F. McAuliffe Center	Waterbury	IT	20
		Total Number of Beds for RDE	**156**
		Total Number of Beds for IT	**256**

* Services Abbreviations: RDE – Level 3.7 Residential Detox and Evaluation; IT – Intensive Inpatient (Residential Rehabilitation Treatment up to 30 days)

** The 18 available beds are not specifically assigned to either level or care, therefore, an equal number were assigned to each.

Source: Statewide Health Care Facilities and Service Plan, October 2012, pp. 280-287

8. The State of Connecticut's Department of Mental Health and Addiction Services ("DMHAS") operates, funds and coordinates inpatient and community-based services for adults having substance use or psychiatric disorders, or co-occurring psychiatric and substance use disorders who are indigent or medically indigent. DMHAS' Addiction Services Division, located at Connecticut Valley Hospital in Middletown and Blue Hills Hospital in Hartford, has 152 beds for the provision of residential detoxification and evaluation and short-term residential treatment. The Greater Bridgeport Community Mental Health has 20

[4] The bed totals do not include those available at licensed general hospitals or licensed hospitals for the mentally ill.

beds for patients with co-occurring disorders. Statewide Health Care Facilities and Services Plan, October 2012, p. 96

9. APT Foundation, Inc. ("APT"), a non-profit, community-based agency, provides ambulatory detoxification and outpatient treatment in New Haven and North Haven. APT accepts self-pay, Medicaid and commercial insurance. APT's payer mix is 60% Medicaid and 40% commercial insurance or self-pay. APT also offers free care. Ex. O, pp. 4, 5, 12

10. Cornell Scott-Hill Health Center ("CS-HHC"), a federally-qualified health center, is a provider of behavioral health services in New Haven. CS-HHC operates the South Central Rehabilitation Center, a 29-bed Level 3.7 residential detoxification facility, and the Grant Street Partnership Program, an outpatient treatment program. CS-HHC accepts all patients regardless of the source of payment. Ex. L, p. 12

11. Rushford Center, Inc. ("Rushford") provides inpatient and outpatient care for substance abuse. In Middletown, Rushford operates a 16-bed Level 3.7 unit and a 42-bed residential rehabilitation unit for adults. Rushford accepts patients with commercial insurance, Medicare and Medicaid. Ex. P, Prefiled Testimony of Jeffrey Walter, pp. 3, 12.

12. Stonington Behavioral Health, Inc. d/b/a Stonington Institute, Inc. ("Stonington") in Stonington, CT, offers a full continuum of services to adults with substance abuse and co-occurring disorders. Stonington has a 16-bed Level 3.7 residential detoxification unit for adults and a 38-bed unit for residential rehabilitation services for military personnel and veterans. Stonington is Medicare certified and accepts clients from every major commercial health plan network in Connecticut. Stonington's overall payer mix is 73% governmental payers and charity care and 27% commercial insurance and self-pay. Ex. Z, pp. 5, 6

13. The "Addiction Residential Census Report" that is compiled Monday through Friday by DMHAS provides information on the number of available beds at facilities providing Level 3.7 detox and residential rehab that receive DMHAS grant funds, as well as other providers that choose to report through the DMHAS portal.

**Table 2: DMHAS Beds Availability Statistics
for Detoxification and Rehabilitation Level 3.7 Facilities**

Service	Available Beds*						
	8/13/2013	8/14/2013	8/15/2013	8/16/2013	8/19/2013	8/20/2013	8/21/2013
Detox	6	3	7	10	17	6	7
Rehab	24	23	26	35	31	14	24
Total	30	26	33	45	48	20	31

* Not all facilities report availability of beds each day.
Ex. FF

14. The DMHAS data provided by Rushford show that between 2009 and 2013 the number of admissions to Level 3.7 residential detoxification programs and number of beds increased 19.7% and 21.4% respectively, while the intensive residential rehabilitation programs' admissions and beds decreased by 11.5% and 4.4%, respectively.

**Table 3: DMHAS Admissions and Beds Statistics
for Detoxification and Rehabilitation Level 3.7 Facilities
by State Fiscal Year**

State Fiscal Year*	Detoxification Admissions	Beds	Residential Rehabilitation Admissions	Beds
2009	9,267	126	2,906	206
2010	8,709	131	2,907	206
2011	10,463	143	3,040	193
2012	11,035	153	2,877	193
2013	11,091	153	2,571	197

* July 1 to June 30.
Ex. GG, p. 1

15. The Applicant projects that it will provide the following volumes of services by persons and bed days for the first years of operation:

Table 4: Projected Volume by Fiscal Year*

Service type	FY 2014		FY 2015		FY 2016	
	Persons	Bed Days	Persons	Bed Days	Persons	Bed Days
Detoxification	1,320	7,260	1,440	7,920	1,440	7,920
Rehabilitation	1,320	21,780	1,440	23,760	1,440	23,760
Total Persons and Bed Days	**2,640**	**29,040**	**2,880**	**31,680**	**2,880**	**31,680**

*Assumes Applicant's fiscal year is Jan 1 – Dec 30
Ex. A, pp. 30; Ex. E, p. 682

16. In the most recent fiscal year, the Applicant provided services to 2,206 people at its Lancaster facility, where twelve (less than 1% of the admitted clients) were from Connecticut. Ex. A, p. 686

17. The proposed payer mix is based on self-pay and commercial insurance. Retreat at South CT projects the following patient population payer mix:

Table 5: Projected Payer Mix by Fiscal Year *

Payers	FY 2013	FY 2014	FY 2015	FY 2016
Commercial Insurers	85%	85%	85%	85%
Self-Pay/Uninsured	15%	15%	15%	15%
Total Payer Mix	**100%**	**100%**	**100%**	**100%**

*Assumes Applicant's fiscal year is Jan 1 – Dec 30
Ex. A, p.35

18. Given the high rate of individuals in New Haven who are governmentally-insured, the proposed facility would not benefit these individuals since it will not accept Medicaid patients. Tr. Testimony of Mr. Robert Freeman, pp. 63, 65

19. The existing providers of the service proposed by the Applicant have capacity to meet the needs of the commercially-insured and self-pay patients, who are the target of the Applicant's proposal. Tr. Testimony of Jeffrey Walter, President and Chief Executive Officer of Rushford Center, p. 37-38; Tr. Testimony of Georganna Koppermann, Director of Business Development and Military Affairs at Stonington Institute, pp.56-57

20. The current providers of the service proposed by the Applicant rely upon patients who are commercially-insured or self-pay to offset the lower reimbursement rate realized by serving the governmentally-insured charity care population. Tr. Testimony of Mr. Walter, p.40; Tr. Testimony of William Sledge, M.D., Medical Director of the Yale-New Haven Psychiatric Hospital, pp. 67-70; Tr. Testimony of Ms. Koppermann, pp.60-62; Tr. Testimony of Douglas Bruce, M.D., Medical Director of South Central Rehabilitation Center at the Cornell Scott-Hill Health Center , pp.74, 75

21. The total estimated cost of the proposal is $7,566,000, including capitalized financing costs. Ex. A, p. 34

22. The Applicant projects an incremental gain in revenue from operations before taxes of $2.0 million, $4.6 million and $6.3 million, respectively, in the first three full fiscal years of operations.

Table 7: Projected Incremental Revenues and Expenditures by Fiscal Year*

Account Description	FY 2013	FY 2014	FY 2015
Net Patient Revenue	$12,596,215	$17,700,710	$20,032,140
Salaries/Benefits	6,148,924	7,030,851	7,241,777
Professional Services	637,093	712,282	728,105
Bad Debts	629,811	885,036	1,001,607
Lease Expense	914,400	2,014,832	2,215,277
Other Operating Expense	2,263,785	2,458,628	2,559,238
Total Operating Expense	10,594,013	13,101,629	13,746,004
Income from Operations	**$ 2,002,202**	**$ 4,599,081**	**$ 6,286,136**

*Assumes Applicant's fiscal year is Jan 1 – Dec 30
Ex. A, p. 654

23. 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 adopted by OHCA. (Conn .Gen. Stat. § 19a-639(a)(1))

24. This CON application is consistent with the State Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2))

25. The Applicant has not established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))

26. The Applicant has not satisfactorily demonstrated that the proposal will financially strengthen the health care system in the state. (Conn. Gen. Stat. § 19a-639(a)(4))

27. The Applicant has not satisfactorily demonstrated that its proposal would improve the accessibility of health care delivery in the region, and therefore, no determination can be made as to the potential improvement in quality and cost effectiveness. (Conn. Gen. Stat. § 19a-639(a)(5))

28. The Applicant has shown that there will be an increase in access to the provision of health care services to the relevant populations and payer mix. (Conn. Gen. Stat. § 19a-639(a)(6))

29. The Applicant has not satisfactorily identified the population to be served by its proposal and has not satisfactorily demonstrated that this population has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7))

30. The Applicant has not provided any historical utilization of behavioral health treatment services in the service area that would support this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))

31. The utilization of existing health care facilities and services in the service area does not support this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))

32. The Applicant has failed to satisfactorily demonstrate that the proposal will not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))

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 General Statutes § 19a-639(a). The Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board, 309 Conn. 727 (2013).*

NR Connecticut, LLC ("Applicant") is a Connecticut limited liability company. *FF 1* The Applicant proposes to establish a residential substance abuse treatment facility, The Retreat at South Connecticut in New Haven, Connecticut. *FF 2* The proposed facility will be established and operated similar to its sister facility, Retreat at Lancaster County, Pennsylvania. *FF 4* The proposed facility will offer Level 3.7 residential detoxification ("Level 3.7 detox") and rehabilitation and recovery ("residential rehab") services, as well as partial hospitalization, intensive outpatient treatment, continuing recovery-oriented care and community education services (collectively identified as "outpatient services"). *FF 5*

The Applicant proposes to have 26 Level 3.7 detox beds and 79 residential rehab beds for a total of 105 beds. *FF 6* The Applicant claims that based on the experience gained from operating the Lancaster facility, the optimum number of beds for the proposed facility is between 100 and 120 beds. *Ex. A, p. 667* Peter Schorr, President and CEO of the proposed facility, stated that the projected number of beds for the proposed facility and the split of beds by service is based on the fact that "it was a nursing home…140-something beds, and we can put more beds in there, but we decided that… our infrastructure would be comfortable if we had 105 beds. We chose to have 26 detox beds and 79 rehab beds." Mr. Schorr stated that "the rule of thumb is usually three rehab beds to one detox, and having that ratio will allow his clients to have a rehab bed available after graduating from detox." *Tr. Testimony of Mr. Peter Schorr, pp.14-15* The Applicant, however, provided no evidence that the bed ratio is appropriate for this type of facility. In addition, the Applicant provided no information concerning the percentage of clients that would be projected to enter a residential rehab program after completing inpatient detoxification.

The Applicant claims that Connecticut has a limited number of Level 3.7 detox and residential rehab beds that cannot keep pace with increasing demand. *Ex. A, p. 21* The Applicant also claims, through proprietary research and publicly available documentation, that it has identified the need in Connecticut for additional beds to provide these levels of service. *Ex. E, p. 667* Based on phone surveys conducted by the Applicant, the Applicant claims that the Level 3.7 facilities are operating at, or close to, 100% capacity and many of them have a long waiting list for a bed. *Ex. A. p. 22; Exhibit VV, pp. 3&4*

Additionally, the Applicant asserts that there are waiting lists at Connecticut's facilities and that many residents leave the state to obtain treatment. *Ex. A, pp. 20-22* Mr. Schorr stated that one of the reasons for opening the proposed facility in Connecticut is that there are people from Connecticut coming to Retreat at Lancaster. *Tr. Testimony of Mr. Peter Schorr, p.7* The Applicant expects that 75% of its patients will come from Connecticut and the remaining 25% from surrounding states. *Ex. E, p. 669* The Applicant claims that the proposed facility will help to fulfill the unmet needs not just of New Haven County but the entire state. *Ex. A, p. 27* In the most recent

fiscal year, however, the Applicant provided services to 2,206 people at its Lancaster facility, where twelve (less than 1%) of the admitted clients were from Connecticut. *FF 16* The reported number of Connecticut clients served in Pennsylvania does not support the Applicant's statements or the need for the proposal.

Based on SAMHSA's 2012 National Survey on Drug Use and Health, the Applicant claims that 269,645 Connecticut residents aged 18 and older need, but have not received, treatment for some form of substance use disorder.

Table 8: Estimated Number of Persons that May Benefit from the Proposal

Description	18 to 25 yrs. of age	26 and Older	Total
Population, based on Census 2010 estimates	350,601	2,277,969	2,268,570
Needing Treatment for Alcohol Abuse, % *	18.46%	6.32%	
Number	64,721	143,968	208,689
Needing Treatment for Illicit Drug Use, %*	8.16%	1.42%	
Number	28,609	32,347	60,956
		Total	**269,645**

* Rates used by Applicant based on SAMHSA's National Survey on Drug Use and Health, 2009 and 2010
Ex. A, pp. 25, 37, 352

However, Douglas Bruce, M.D., Medical Director of South Central Rehabilitation Center at the Cornell Scott Hill Health Center, New Haven, stated that there are many people that need addiction treatment, but do not necessarily want it. Dr. Bruce further stated that the issue is not a lack of access to beds. The issue is that a large number of people with substance use disorders are not seeking treatment and more beds will not address that problem. *Tr. Testimony of Dr. Douglas Bruce, pp. 74, 77*

Based upon Dr. Bruce's testimony, the estimated number of persons that the Applicant claims need treatment is not necessarily an indication of the number that will seek treatment. Other than the Applicant's statements proclaiming need, there is insufficient documentation to support the clear public need for the proposed facility. Furthermore, there is no evidence supporting the number of beds proposed for the facility. None of the existing facilities offering the residential rehab level of care have more than 45 beds, as compared to the Applicant's proposed 79 beds. *FF 6*

Mr. Schorr stated that "there are not enough beds in this state. There are not enough beds anywhere, let alone in just Connecticut." *Tr. Testimony of Mr. Schorr, pp. 13-14* However, Connecticut has 8 private non-profit providers of Level 3.7 detox with a total of 156 licensed beds. *FF 7* This bed total does not include those available at DMHAS operated facilities or licensed hospitals for the mentally ill. *FF 8,* There are 11 private providers of residential rehab with a licensed total of 274 beds. *FF 7* The Intervenors provided DMHAS reports that illustrated the availability of Level 3.7 detox and residential rehab beds at grant-funded facilities and other providers that choose to report their bed availability to DMHAS. From August 13 to 21, 2013, there were beds available at the two levels of care on each day reported. *FF 13* Not all facilities in Connecticut with these

levels of care report their bed availability, therefore, there may have been additional beds available on the reported days.

The Applicant argues that it is inappropriate to utilize the DMHAS data because it is inadequate and unreliable when trying to determine need in this situation. *Exhibit VV, pp. 5&6* The DMHAS data, including that supplied by the Applicant, indicates fluctuating levels of capacity at any given time. *FF 14; Exhibit VV, p. 8.* Setting aside the DMHAS data, two facilities, Rushford and Stonington Institute, provided testimony that there are normally beds available at their facilities. Jeffrey Walter, President and Chief Executive Officer of Rushford Center, stated that, based on the responses received from the Level 3.7 residential detoxification and intensive residential rehabilitation providers to a survey conducted by Rushford, "there was at least a 21% excess of capacity in the nine [survey] respondents and that most days in the year, there are beds available in each of these [nine] facilities." Mr. Walter also stated that in the most recent 12 months there were only 30 days out of 365 days where Rushford had no beds. *Tr. Testimony of Mr. Walter, pp. 37-38* Georganna Koppermann, Director of Business Development and Military Affairs at Stonington Institute, stated that Stonington Institute has ample capacity to meet the needs of the commercially-insured and self-pay patients who are the target of the Applicant's proposal. While Stonington's detox service operates close to capacity, due to the short length of stay, three to five days on average, several patients are discharged each day. The rehabilitation service, which caters to active duty military service members and veterans, consists of a 38-bed unit that operates at 60% capacity with approximately 22 beds filled at any given time. *Tr. Testimony of Ms. Koppermann, pp. 56-57* Based upon the evidence presented, there appears to be sufficient capacity for substance abuse treatment even though there may be temporary lags in bed availability.

The Applicant also argued that the proposed facility would ease the burden of patients presenting at Connecticut emergency departments for substance abuse treatment. However, the Applicant only presented anecdotal evidence to support its claim. *Exhibit VV, pp. 1-6* It cannot be assumed that an individual experiencing a substance abuse crisis would choose to present at the proposed facility rather than an emergency department, especially when that individual is in an incapacitated state. The Applicant also made several references to the Statewide Health Care Facilities and Services Plan in support of its position regarding overcrowded emergency departments. *Exhibit VV, pp. 5&6* While the Statewide Health Care Facilities and Services Plan does include discussions regarding patients presenting at emergency departments for substance abuse treatment, it does not specify the payer source for these individuals, as acknowledged by the Applicant. *Tr. Testimony of Mr. Schorr, p. 84* The Applicant will not accept Medicaid patients. . *Tr. Testimony of Mr. Schorr, p. 92* Although the Applicant submitted evidence that the percentage of persons commercially insured in the City of New Haven, County of New Haven, and State of Connecticut was 54.9%, 72.2%, and 74.9%, respectively, that still leaves a significant portion of the population without a means to pay for the Applicant's proposed service. *Exhibit VV, p.12* Therefore, it cannot be definitively stated that the Applicant's proposal would address the need identified by the Statewide Health Care Facilities and Services Plan.

In order to determine the need for the Applicant's services, the number of persons that may utilize the services must be determined. The Applicant utilized the rates of illicit drug and alcohol use reported from SAMHSA's National Survey on Drug Use and Health. *Ex. A, p. 25* These rates are for persons who need treatment, but did not receive treatment. The Applicant did

not demonstrate that there are persons that have sought treatment but were unable to find it in Connecticut. Based on the availability of beds as evidenced by the DMHAS report and that the number of persons that are seeking treatment has not been determined, the Applicant has failed to demonstrate that there is a clear public need for the proposal.

The Applicant proposes to provide its services to persons who have commercial insurance or who are able to pay for their treatment out-of-pocket. *FF 17* Several private non-profit providers offered testimony that their agencies have the capacity to provide Level 3.7 detox and residential rehab for those who seek it. These agencies provide services to all persons regardless of their ability to pay. *FF 19, 10, 11, 12* Having clients with commercial insurance enables these agencies to continue providing services to all who need them. *FF 20*

The Applicant claims that the proposed facility should have little or no impact on existing providers because the existing providers are unable to meet the demand for projected services. *Ex. A, p. 29* The Applicant did not provide any evidence that its proposal would not have an economic impact on the behavioral health care system in Connecticut. With many of the existing providers of the proposed services relying on reimbursement from government payers, the potential loss of clients with commercial insurance to the proposed facility may decrease their ability to provide services to all of their clients regardless of payer. *FF 20*The Applicant's proposal with its potential impact on the reimbursement from commercial payers to the existing providers will have a negative impact on the financial strength of the behavioral health system in the state.

Mr. Walter stated that the proposal will "impact …not only the providers, but the clients that we serve. The existing providers, including Rushford, depend on a payer mix that is a struggle to attain and to maintain, and …the entry of Retreat with 105 beds that are exclusively for people who have private insurance, is going to have a destabilizing effect on all of the providers …even a five percent swing in payer mix is going to have a devastating effect on our ability to continue to provide the quality of care that we really have to provide and that the community is expecting us to provide." *Tr. Testimony of Mr. Walter, p.40* Ms. Koppermann stated that "given the heavily-weighted governmentally-insured charity care population, 73%, we require 95% capacity to break even. In a business with a small operating margin, the loss of commercial and self-pay revenue will have a significant adverse impact on our bottom line…The proposal will serve to weaken the health care system by adversely affecting existing providers … who care for all patients, regardless of payer source and the impact on our bottom lines." *Tr. Testimony of Ms. Koppermann, pp.60-62* Dr. Bruce stated that "we operate on a very, very small margin. The commercial insurance does pay at a higher rate than Medicaid. We're providing free care to individuals. If we are to lose that commercial margin, it will put us into the red, and that will compromise our ability to continue to provide services to the largely Medicaid population in our community, as well as to people who are undocumented or do not have an ability to have insurance or afford care." *Tr. Testimony of Dr. Bruce, pp.74, 75*

Since the Applicant was unable to establish the clear public need for the proposal and that this proposal would avoid a duplication of services in the area, the Applicant has failed to establish that its proposal would improve the accessibility, quality or cost effectiveness of health care delivery in the region.

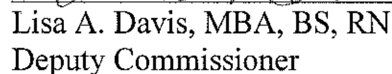
Order

Based upon the foregoing Findings of Fact and Discussion, the Certificate of Need application of NR Connecticut, LLC d/b/a Retreat at South Connecticut to establish a behavioral health treatment facility in New Haven, Connecticut, is hereby **DENIED**.

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

8/14/14
Date



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