



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

July 11, 2014

IN THE MATTER OF:

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

Notice of Agreed Settlement
Office of Health Care Access
Docket Number: 14-31902-CON

Gaylord Hospital

**Termination of Gaylord Sleep Medicine
Services in Guilford**

To:

Art Tedesco
Interim Chief Executive Officer
Gaylord Hospital
P.O. Box 400
Gaylord Farms Rd.
Wallingford, CT 06492

RE: Certificate of Need Application, Docket Number 14-31902-CON
Gaylord Hospital
Termination of Gaylord Sleep Medicine Services in Guilford

Dear Mr. Tedesco:

This letter will serve as notice of the approved Certificate of Need Application in the above-referenced matter. On July 11, 2014, the Agreed Settlement, attached hereto, was adopted and issued as an Order by the Department of Public Health, Office of Health Care Access.

Kimberly R. Martone
Director of Operations

Enclosure
KRM:lkg



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

Agreed Settlement

Applicant: Gaylord Hospital
Gaylord Farms Road, Wallingford, CT 06492

Docket Number: 14-31902-CON

Project Title: Termination of Gaylord Sleep Medicine Services
in Guilford, Connecticut

Project Description: Gaylord Hospital ("Hospital" or "Applicant") seeks authorization to terminate Gaylord Sleep Medicine Services in Guilford, Connecticut, with no associated capital expenditures.

Procedural History: The Applicant published notice of its intent to file the Certificate of Need ("CON") application in *The New Haven Register* on January 11, 12 and 13, 2014. On February 19, 2014, the Office of Health Care Access ("OHCA") received the CON application from the Applicant for the above-referenced project and deemed the application complete on March 21, 2014. OHCA received no responses from the public concerning the Applicant's proposal and no hearing requests were received from the public pursuant to Connecticut General Statutes § 19a-639a. 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 long-term acute-care hospital located at Gaylord Farms Road, Wallingford, Connecticut. Ex. A, p. 5
2. The Hospital provides health care services for patients requiring care for spinal cord injury, traumatic brain injury, stroke, pulmonary disease and other medically complex illnesses and sleep medicine. It includes both inpatient and outpatient care. Ex. A, p. 5
3. Gaylord Sleep Medicine Services (“Sleep Center”) is located at Soundview Professional Center, 37 Soundview Road, Guilford, Connecticut. Ex. A, p. 5
4. The Sleep Center opened on February 1, 2004. Ex. A, p. 5
5. The Hospital is proposing to terminate all sleep medicine services at the Sleep Center. Ex. A, p. 5
6. The Hospital reports the following number of sleep medicine visits at the Sleep Center for FY 2013:

TABLE 1
GAYLORD SLEEP MEDICINE GUILFORD
PATIENT VISITS (FY 2013*)

Town	Visits	%	Town	Visits	%
Guilford	68	10%	New Haven	6	1%
Madison	58	8%	Deep River	5	1%
Clinton	55	8%	East Lyme	5	1%
Branford	35	5%	Haddam	5	1%
Old Lyme	26	4%	Ledyard	4	1%
Westbrook	25	4%	Milford	4	1%
Old Saybrook	21	3%	New London	4	1%
Killingworth	14	2%	Montville	3	<1%
East Haven	13	2%	Wallingford	3	<1%
North Branford	12	2%	Other CT Towns	18	3%
Essex	7	1%	Out of State	4	1%
Chester	6	1%	Unknown	301	43%
East Haddam	6	1%	Total	708	100%

*Gaylord Hospital fiscal year (October 1-September 30)

** There are 301 visits where the patient's town of residence was not identified. These visits were excluded from the denominator to determine percentages.

Ex. A, pp. 7-10.

7. The following table shows the existing providers of sleep medicine services in the Applicant's service area:

TABLE 2
EXISTING SLEEP LAB FACILITIES IN THE APPLICANT'S SERVICE AREA

Service	Provider Name and Location
Sleep Laboratory	Yale New Haven Hospital Guilford, CT
Sleep Laboratory	Middlesex Hospital Middletown, CT
Sleep Laboratory	Lawrence & Memorial Hospital Groton, CT

Ex. A, p. 6

8. The primary reasons for the Applicant's request to terminate sleep medicine services in Guilford are diminished in-lab patient volume, changing models of the delivery of sleep medicine services and unnecessary duplication of services in the service area. Ex. A, p. 6
9. The number of sleep medicine visits from FY 2011 to FY 2014 decreased by 42% at the Sleep Center. The Applicant's historical and current total visits have been reported as follows:

TABLE 3
SLEEP CENTER HISTORICAL AND CURRENT VISITS

	Fiscal Year			
	2011	2012	2013	2014 (annualized)
Sleep Medicine (full service study with physician interpretation)	72	5	-	-
Initial Evaluation with Medical Staff	187	228	247	267
Follow-up visit to review study results and plan of care	316	344	155	127
PAP Nap**	-	-	-	-
Clinic***	122	153	128	69
Other****	122	92	178	10
Total	819	822	708	473

*(October 1, 2013 – April 30, 2014)

** Day time visit of 3-4 hours to help patients learn to use masks and improve patient compliance.

*** CPAP set up; working with patients on compliance or mask issues.

**** Includes in-home sleep studies and psychology visits for insomnia management.

CPAP – Continuous Positive Airway Pressure

http://my.clevelandclinic.org/neurological_institute/sleep-disorders-center/disorders-conditions/hic-sleep-apnea.aspx

PAP Nap – Positive Airway Pressure Nap

<http://my.clevelandclinic.org/Documents/Neurological-Institute/sleep-disorders-center/sleep-disord-pap-flyer.pdf>

Ex. F, p. 83

10. The decision to terminate the Sleep Center was based on an evaluation of how the Hospital could best serve the needs of its patients within its core business: comprehensive health services for individuals with brain or spinal cord injuries, complex pulmonary conditions or complex medical illnesses. Ex. A, p. 6
11. There is an increasing trend of delivering sleep medicine away from lab testing to home-based sleep testing (“HST”), thus reducing the need for freestanding sleep labs. Ex. A, p. 6
12. According to the Journal of Clinical Sleep Medicine, HST is likely to play an increasingly larger role in the practice of sleep medicine in the next several years, in large part due to changes in insurance practices around HST devices used in the diagnosis of obstructive sleep apnea. As prior authorization programs run by utilization management companies have begun to proliferate, many patients have been shunted from sleep laboratories into home testing. Portable, home-based testing appears to be a cost-efficient diagnostic measure at a time when medical costs are being closely scrutinized. Additionally, HST may reach a larger number of patients when not limited to a physical location of a sleep laboratory. Ex. C, pp. 73-75.
13. The Applicant will implement external communications and outreach activities to help transition patients to alternative clinical services following the termination of the Sleep Center. Ex. C, pp. 71, 72
14. The Applicant will notify patients seen within the last two years, in writing, about the availability of sleep medicine services at Yale-New Haven Hospital (adult and pediatric patients) and Connecticut Children’s Medical Center (pediatric patients). The Applicant will also provide copies of medical records upon request and help patients transition to alternative providers of their choice. Ex. C, pp. 71, 72
15. The proposal has no associated capital expenditures. Ex. A, p. 10
16. The Applicant's decision to terminate services was not dependent on reimbursement levels but on declining volume and operating costs. Ex. A, p. 12

17. The Sleep Center recorded an operational loss in FY 2013 and projects continued losses in FY 2014-FY 2016 due to operating expenses in excess of revenues.

TABLE 4
APPLICANT'S LOSSES FROM OPERATIONS WITHOUT THE PROPOSAL

	FY 2013* (Actual)	FY 2014	FY 2015	FY 2016
Revenue from Operations	\$60,414	\$60,414	\$60,414	\$60,414
Total Operating Expenses	102,560	104,563	106,614	108,715
Loss from Operations	(\$42,146)	(\$44,149)	(\$46,200)	(\$48,301)

*Applicant's fiscal year (October 1-September 30).

Assumptions: If the proposal is approved, the number of FTEs will be reduced by 0.2. Other significant reductions will come from salaries, professional/contracted services depreciation/amortization, lease expenses and other operating expenses.

Ex. A, pp. 11, 21.

18. The Applicant's historical and current payer mix is as follows:

TABLE 5
APPLICANT'S HISTORICAL AND CURRENT PAYER MIX

Description	FY 2011		FY 2012		FY 2013		FY 2014*	
	Volume	%	Volume	%	Volume	%	Volume	%
Medicare	260	32%	254	31%	231	33%	98	36%
Medicaid	44	5%	76	9%	45	6%	28	10%
TriCare	1	<1%	2	<1%	2	<1%	0	0%
Total Government	305	37%	332	40%	278	39%	126	46%
Commercial Insurers*	510	62%	486	59%	430	61%	149	54%
Other	4	<1%	4	<1%	0	0%	1	<1%
Total Non-Government	514	63%	490	60%	430	61%	150	54%
Total Payer Mix	819	100%	822	100%	708	100%	276	100%

*October 1, 2013 – April 30, 2014

Ex. F, p. 83

19. 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))

20. 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))

21. The Applicant has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))

22. The Applicant has demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))

23. The Applicant has satisfactorily demonstrated that quality and access to services in the region will be maintained for all relevant patient populations and that the proposal will reduce overall system costs by eliminating duplicative services 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))
24. The Applicant has shown that there would be no adverse change to the provision of health care services to the relevant populations and payer mix, including Medicaid patients and indigent persons. (Conn. Gen. Stat. § 19a-639(a)(6))
25. The Applicant has satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))
26. The declining historical utilization of sleep medicine visits in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
27. The Applicant 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))
28. The Applicant has demonstrated good cause for the 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).

Gaylord Hospital is a long-term acute-care hospital located at Gaylord Farms Road, Wallingford, Connecticut. *FF1*. The Applicant proposes to terminate all services at its Gaylord Sleep Medicine Services located at Soundview Professional Center, 37 Soundview Road, Guilford, Connecticut. *FF3, 5*

The primary reasons for the Applicant's request to terminate services at the Sleep Center are diminished in-lab patient volume, changing models of sleep medicine service delivery and duplicative sleep services in the service area. *FF8* Additionally, the Applicant is focusing its resources on its core services for complex rehabilitation and medically complex patients. *FF10* The number of sleep medicine visits from FY 2011 to FY 2014 has decreased by 42%. *FF9* The decline in volume is the result of the recent trend toward delivering sleep medicine testing in the home as opposed to lab-based testing. *FF11* According to the Journal of Clinical Sleep Medicine, HST is likely to play an increasingly larger role in the practice of sleep medicine in the next several years, in large part due to changes in insurance practices around HST devices use in the diagnosis of obstructive sleep apnea. As prior authorization programs run by utilization management companies have begun to proliferate, many patients have been shunted from sleep laboratories into home testing. Portable, home-based testing appears to be a cost-efficient diagnostic measure at a time when medical costs are being closely scrutinized. Additionally, HST may reach a larger number of patients when not limited to a physical location of a sleep laboratory. *FF12* The trend toward moving sleep medicine testing to the home evidences forward thinking in an effort to reduce the cost of providing this service, thereby strengthening the financial stability of Connecticut's health care system while maintaining access to this service for the patient population. In fact, this trend makes it easier for the patient to receive sleep medicine services by eliminating the need to travel to, and stay overnight at, the hospital.

In order to help patients transition following the closure of its program, the Hospital will implement external communications and outreach activities to ensure that patients have continued access to sleep medicine services. *FF13* All patients seen within the past two years will be notified in writing about the availability of alternative sleep medicine services including those at Yale-New Haven Hospital (adult and pediatric patients) and Connecticut Children's Medical Center (pediatric patients). The Applicant will provide copies of medical records and help patients transition to alternative providers of their choice. *FF14* Most importantly, there are three other sleep medicine service providers available to patients within the Applicant's service area. *FF7* Based upon the foregoing, the Applicant has satisfactorily demonstrated that access to sleep medicine services will be maintained and there will be no adverse impact on the quality of sleep medicine services for the relevant patient populations, including Medicaid patients.

The proposal to terminate the Sleep Center was based on an evaluation of how the Hospital could best serve the needs of its patients within its core business: comprehensive health services for individuals with brain or spinal cord injuries, complex pulmonary conditions or complex medical illnesses. *FF10* The decision to terminate services was not dependent on reimbursement levels, but rather was predicated on declining volume and program costs. *FF16* The Applicant experienced an operational loss in FY 2013 and projects that the continued operation of the Sleep Center would result in ongoing and increasing losses over the next three fiscal years. *FF17* No capital expenditures/costs will be incurred from the Sleep Center's termination of services. *FF15* The decision to focus on its core services and avoid future losses from the Sleep Center will ultimately benefit the population served by the Hospital. Therefore, the Applicant has demonstrated that its proposal is financially feasible by ultimately resulting in cost avoidance for the Hospital while providing a more focused health care delivery model for the patient.

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 sleep medicine services to be provided in a more cost-effective setting and will eliminate the duplication of services in the Applicant'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. Thus, the Applicant has sufficiently demonstrated a clear public need for this proposal.

Order

NOW, THEREFORE, the Department of Public Health, Office of Health Care Access ("OHCA") and Gaylord Hospital hereby stipulate and agree to the terms of settlement with respect to the termination of services of Gaylord Sleep Medicine Services at 37 Soundview Road, Guilford, Connecticut, as follows:

1. Gaylord Hospital's request to termination of service at Gaylord Sleep Medicine Services, 37 Soundview Road, Guilford, Connecticut, is **approved**.
2. Gaylord Hospital shall release a one-time notification to all current patients, and those seen within the last two years, of the Gaylord Sleep Medicine Services that clearly identifies all existing providers of sleep medicine services in the service area where patients can receive the same services. A copy of such notification shall be filed with OHCA within (10) days of the signing of this Agreed Settlement.
3. Gaylord Hospital shall assist former Gaylord Sleep Medicine Services patients in transitioning to alternative providers of their choice and provide copies of medical records upon request.
4. This Agreed Settlement is an order of OHCA with all rights and obligations attendant thereto, and OHCA may enforce this Agreed Settlement under the provisions of Conn. Gen. Stat. §§ 19a-642 and 19a-653 with all fees and costs of such enforcement being the responsibility of Gaylord Hospital.
5. OHCA and Gaylord Hospital agree that this Agreed Settlement represents a final agreement between OHCA and all parties with respect to this Application. The signing of this Agreed Settlement resolves all objections, claims and disputes that may have been raised by Gaylord Hospital with regard to Docket Number: 14-31902-CON.
6. This Agreed Settlement shall be binding upon Gaylord Hospital and its successors and assigns.


Signed by George M. Kynacou, CEO
(Print name) (Title)

7/8/14
Date


Duly Authorized Agent for
Gaylord Hospital

The above Agreed Settlement is hereby accepted and so ordered by the Department of Public Health Office of Health Care Access on July 11, 2014.

7/11/14
Date:


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