



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

**Final Decision**

**Applicant:** Milford Hospital  
300 Seaside Avenue, Milford, CT 06460

**Docket Number:** 15-31998-CON

**Project Title:** Termination of Milford Hospital's Inpatient Obstetrical Labor and Delivery Services

**Project Description:** Milford Hospital ("Applicant" or "Hospital") seeks authorization to terminate its obstetrical labor and delivery inpatient program, the Family Childbirth Center ("OB program").

**Procedural History:** The Applicant published notice of its intent to file a Certificate of Need ("CON") application in *the New Haven Register* (New Haven) on March 3, 4 and 5, 2015. On May 21, 2015, the Office of Health Care Access ("OHCA") received the initial CON application from the Hospital for the above-referenced project. OHCA deemed the application complete on June 19, 2015.

On July 13, 2015, the Applicant was notified of the date, time, and place of the public hearing. On July 14, 2015, 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(e), a public hearing regarding the CON application was held on July 29, 2015.

Commissioner Jewel Mullen designated Attorney Kevin T. Hansted 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(e). The public hearing record was closed on August 6, 2015. Deputy Commissioner Brancifort considered the entire record in this matter.

## Findings of Fact and Conclusions of Law

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)*.

1. The Hospital is a non-profit 118-bed acute care hospital located at 300 Seaside Avenue in Milford, Connecticut. The Hospital's Family Childbirth Center ("OB program") is comprised of 12 beds and 12 bassinets. Ex. A, pp. 24, 76
2. The Hospital has nursery service for healthy newborns, but does not have a neonatal intensive care unit. Babies that require newborn intensive care are transferred to Yale-New Haven Hospital ("YNHH"). Ex. A, p. 24
3. The Hospital's OB program has experienced a utilization decline, shifts in referral patterns to other hospitals, an inability to recruit new OB physicians and financial challenges. Ex. A, pp. 8-9
4. The Hospital ceased operation of its OB program as of May 1, 2015, as there was no longer any physician support for the program. Ex. A, p. 8
5. Due to the historical decline in utilization for the Hospital's OB services, the Applicant proposes to terminate its obstetrical labor and delivery program. Ex. A, p. 5
6. The service area for the Hospital includes the following towns: Milford, Orange, West Haven, Stratford and Woodbridge. Ex. A, p. 11
7. Patients in the Hospital's service area will continue to have access to obstetrical care at YNHH, Bridgeport Hospital ("BH") and St. Vincent's Medical Center ("SVMC"). Each of these hospitals has confirmed that they have the capacity to accommodate the Hospital's patients. All of these hospitals are within close proximity to the five service area towns that comprise the Hospital's primary service area. Ex. A, pp. 15-16
8. In order to facilitate continuity of care and timely transfer of patients, the Hospital has entered into a Transfer Agreement with YNHH. Patients that don't wish to be transferred to YNHH would be transferred to their provider of choice. Ex. A, pp. 28, 81-85
9. The Hospital has informed local ambulance providers to refer patients to YNHH and BH hospitals due to the closure of its OB program. For women in active labor or in need of emergency obstetric services at Milford Hospital's emergency department, the Hospital will follow its transfer agreement and the newly developed Emergency Department protocols to provide any care necessary to stabilize the patient and transfer them to YNHH. Ex. A, p.7, Tr., Testimony of Dr. Lloyd Friedman, Vice President of Medical Affairs and Chief Operating Officer, p. 13 and Ex. L, pp. 1-3
10. The following table illustrates that between FY2011 and FY2014, the OB program experienced a 73% drop in utilization. Furthermore, between October 1, 2014 and May 1,

2015, the hospital reported an average of 1.8 births per week. In order for the OB program to remain financially viable, 14 deliveries per week are necessary.

**TABLE 1**  
**HISTORICAL UTILIZATION OF MILFORD HOSPITAL'S OB PROGRAM**

Service	Actual Volume				
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015*
Deliveries	468	201	92	127	53

Source for FYs 2011-2014: OHCA's Acute Care Hospital Inpatient Discharge Database

\*Actual volume for the period beginning 10/1/14 and ending 5/1/15.

Ex. D, p. 35 and Tr., Testimony of Mr. Joseph Pelaccia, President and Chief Executive Officer, p. 7

11. In 2014, 96% or 1,700 out of 1,779 births emanating from the Hospital's five service area towns occurred at other hospitals. Only 10% off all babies born to Milford residents were born at the Hospital in 2014. Ex. A, pp. 15, 27 and Tr., Testimony of Mr. Joseph Pelaccia, p. 8
12. The OB program's utilization decline is primarily due to a significant loss of physicians affiliated with the program. Prior to 2012, six OB providers were affiliated with the Hospital. However, in February 2012, five of these physicians shifted their practice to YNHH exclusively. Around the same time, a sixth physician stopped providing obstetrical services, restricting his services to gynecology only. Ex. A, p. 9 and Tr., Testimony of Mr. Joseph Pelaccia, p. 8-9
13. In response to physician departures, the Hospital recruited four new obstetricians, however these providers were not able to generate a patient following large enough to reverse the decline in volume resulting from the 2012 departure of physicians. Several months ago, one of the four recruited physicians left the service area. Subsequently, the Hospital's OB Nurse Manager took another position and a second OB physician also departed. The remaining two obstetricians terminated their employment at the Hospital as of May 1, 2015. Ex. A, p. 9 and Tr., Testimony of Mr. Joseph Pelaccia, p. 8
14. The Hospital has made outreach efforts in the community to bolster its OB program (e.g., print and digital advertisements in various publications, billboards, direct mail, special community health and educational events and social media postings). Ex. A, pp. 87-135

15. The Hospital reported the following payer mix:

**TABLE 2  
HOSPITAL'S CURRENT & PROJECTED PAYER MIX**

Payer	FY 2014		FY 2015	
	Discharges	%	Discharges	%
Medicare	1,866	59.8%	2,079	62.0%
Medicaid	335	10.7%	270	8.1%
CHAMPUS & TriCare	3	0.1%	-	0%
<b>Total Government</b>	<b>2,204</b>	<b>70.6%</b>	<b>2,349</b>	<b>70.1%</b>
Commercial Insurers	752	24.1%	836	24.9%
Uninsured	54	1.7%	63	1.9%
Workers Compensation	11	0.4%	9	0.3%
Other Insurance	98	3.2%	94	2.8%
<b>Total Non-Government</b>	<b>915</b>	<b>29.4%</b>	<b>1,002</b>	<b>29.9%</b>
<b>Total Payer Mix</b>	<b>3,119</b>	<b>100%</b>	<b>3,351</b>	<b>100%</b>

\*Projected based on FY15, excluding OB  
Ex. A, p. 36 & Ex. D, p. 36

16. YNHH, BH and SVMC currently serve Medicaid and indigent persons and will be able to absorb any increase in referrals of these patients resulting from the termination of the Hospital's OB program. Ex. A, p. 17
17. There is no cost associated with termination of OB services at the Hospital. Ex. A, p. 18
18. There are no projected utilization or incremental revenues and expenses related to OB program for FY2016-2018. Ex. D, pp. 34-35
19. Last year the Hospital had a \$7.2 million operating loss with \$2.1 million of that total attributable to the OB program. Between October 2014 and May 2015, the OB program lost \$1.2 million. The program was projected to lose a \$2.8 million in FY2015 if it did not cease operation as of May 1, 2015.

**TABLE 3  
OB PROGRAM'S FY2015 REVENUE AND EXPENSES**

Description	FY 2015*
Revenue from Operations	\$393,533
Operating Expenses	\$1,650,351
Gain/Loss from Operations	(\$1,258,818)

\*October 1, 2014-May 1, 2015  
Tr., Testimony of Mr. Joseph Pelaccia, pp.9-10, Ex. J, p. 1

20. 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))
21. The CON application is consistent with the overall goals of the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
22. The Applicant has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
23. The Applicant has satisfactorily demonstrated that its proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
24. The Applicant has satisfactorily demonstrated that access to services, cost effectiveness and the quality of health care delivery will be maintained. (Conn. Gen. Stat. § 19a-639(a)(5))
25. The Applicant has shown that there will be no change in access 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))
26. The Applicant has identified the population to be served and has satisfactorily demonstrated that this population has a need. (Conn. Gen. Stat. § 19a-639(a)(7))
27. The Applicant's historical utilization in the area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
28. The Applicant has satisfactorily demonstrated that the proposal will not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))
29. The Applicant has satisfactorily demonstrated that the proposal will not result in a reduction or change in access to services for Medicaid recipients or indigent persons. (Conn. Gen. Stat. § 19a-639(a)(10))
30. The Applicant has satisfactorily demonstrated that the proposal will not result in a negative impact on the diversity of health care providers in the area. (Conn. Gen. Stat. § 19a-639(a)(11))
31. The Applicant has satisfactorily demonstrated that its proposal will not result in any consolidation that would affect health care costs or accessibility to care. (Conn. Gen. Stat. § 19a-639(a)(12))

## 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 Conn. Gen. Stat. § 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).

Milford Hospital (“Hospital” or “Applicant”) is a non-profit, 118-bed acute care hospital. The Hospital’s inpatient Obstetrical Labor and Delivery Services (“OB”) program includes 12 acute care beds and 12 bassinets. *FF1* Although the Hospital has a nursery service for newborns, it does not have a neonatal intensive care unit (“NICU”). Newborns that require intensive care must be transferred to Yale-New Haven Hospital (“YNHH”). *FF2*

The Hospital proposes to terminate its OB program, which ceased operations as of May 1, 2015. *FF4-5* The Hospital has experienced an overall historical decline in OB utilization due to shifts in referral patterns to other hospitals and its inability to recruit new OB physicians. *FF3* Consequently, the Hospital is unable to sustain a clinically and financially viable OB program. The OB program has experienced an overall decline of 73% between FYs 2011 and 2014. Between October 1, 2014 and May 1, 2015, the Hospital’s OB program delivered only 53 babies, an average of 1.8 births per week. The Hospital requires an average of 14 deliveries per week to remain financially viable. *FF10*

The low utilization is directly attributable to the loss of physicians affiliated with the OB program. Prior to 2012, six OB physicians were affiliated with the Hospital. However, in February 2012, five of these physicians shifted their practice to YNHH exclusively. At the same time, a sixth physician began limiting his services to gynecology only. *FF12* Although the Hospital was able to recruit four new obstetricians, these physicians were unable to generate a patient following large enough to reverse the decline in volume. In the past several months, two of the four recruited physicians departed, along with the Hospital’s OB Nurse Manager. The remaining two obstetricians terminated their employment at the Hospital as of May 1, 2015. *FF13*

All Hospital service area patients, including Medicaid and indigent persons, will continue to have access to OB services at YNHH, BH and SVMC. *FF16* Each of these three hospitals has the capacity to accommodate the Hospital’s OB patients and all are within close proximity to the Hospital’s service area towns. *FF7*

The Hospital has entered into a Transfer Agreement with YNHH. *FF8* For women in active labor or in need of emergency obstetric services at Milford Hospital’s emergency department, the Hospital will follow its Transfer Agreement and the newly developed Emergency Department protocols to provide any care necessary to stabilize the patient and transfer them to YNHH. *FF9* Patients that choose not to be transferred to YNHH would be transferred to their provider of choice. *FF8*

Based on the aforementioned, the Applicant has satisfactorily demonstrated that quality of care and access to OB services will be maintained. Patients seeking OB services at YNHH will have access to a NICU, a service that was not available in Milford. *FF2*

Between October 2014 and May 2015, the OB program lost \$1.2 million. The Hospital projected the program would continue experiencing losses totaling \$2.8 million in FY2015 if operations did not cease as of May 1, 2015. *FF19* There is no cost associated with termination of OB services at the Hospital. *FF17* Thus, the Applicant has demonstrated that its proposal is financially feasible.

The Applicant has demonstrated that there is clear public need for the proposal. Moreover, the Applicant has demonstrated that its proposal is consistent with the goals of the Statewide Health Care Facilities and Services Plan, given the collaboration between hospitals resulting in a regional approach to OB services.

## Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Milford Hospital for the termination of Milford Hospital's Inpatient obstetrical Labor and Delivery Services 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

September 23, 2015  
Date

Janet M. Brancifort  
Janet M. Brancifort, MPH, RRT  
Deputy Commissioner