



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

Final Decision

Applicant: Sharon Hospital
50 Hospital Hill Road, Sharon, CT 06069

Docket Number: 15-32014-CON

Project Title: Termination of Sharon Hospital Sleep Center Services at its Main Campus

Project Description: Sharon Hospital (“Applicant” or “Hospital”) seeks authorization to terminate its sleep center services at its main campus.

Procedural History: The Applicant published notice of its intent to file a Certificate of Need (“CON”) application in *The Republican American* (Waterbury) on June 4, 5 and 6, 2015. On July 14, 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 August 13, 2015.

On September 16, 2015, the Applicant was notified of the date, time, and place of the public hearing. On September 15, 2015, a notice to the public announcing the hearing was published in *The Republican American*. Thereafter, pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e), a public hearing regarding the CON application was held on October 1, 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 October 15, 2015. Deputy Commissioner Brancifort considered the entire record in this matter.

Findings of Fact and Conclusions of Law

1. Sharon Hospital is a 94-bed acute-care hospital located at 50 Hospital Hill Road, Sharon, Connecticut. Ex. A, p. 13.
2. The Sleep Center (“Center”) is located on the second floor of the main Hospital building. The Center contains two beds for overnight studies and clinic space. Ex. A, pp. 12-13
3. The Sleep Center services include consultations, sleep studies, follow-up services, CPAP¹/BiPAP² titrations, polysomnograms, split-night studies, maintenance of wakefulness testing, and multiple sleep latency tests. Ex. A, p. 13
4. The Hospital proposes to terminate its Sleep Center services. Ex. A, pp. 12-13
5. The Center was established in October 2010 to accommodate Dr. Irving Smith, who was recruited as an internal medicine and primary care physician and wanted to provide sleep services as part of his practice. Ex. A, pp. 12-13, Tr., Testimony of Ms. Kimberly Lumia, President and CEO of Sharon Hospital, p. 6
6. The Sleep Center clinic was initially open three days per week, but was subsequently reduced to one full day per week (split over two days – one morning and one afternoon) due to lack of patient volume. Ex. A, p. 12
7. On April 6, 2015, Dr. Smith notified the Hospital that he would be resigning effective July 5, 2015. Ex. A, p. 15
8. The Hospital tried to find a replacement Medical Director so the Sleep Center could continue to operate. Despite the Applicant’s efforts to recruit two different physicians (one from New Milford, CT and one from Pittsfield, MA), neither was interested in relocating to Sharon to service a part-time Center. Ex. A, p. 20
9. Because the Sleep Center cannot operate without the oversight of a Medical Director, the Hospital ceased its sleep services effective July 5, 2015. Ex. A, p. 14, Tr., Testimony of Ms. Lumia, p. 6
10. There are 5 sleep programs, located in Connecticut, all within a 44 mile radius of the Sleep Center. Several of these providers’ sites are located nearby, in terms of geographic proximity, to the Hospital’s patients. These programs have more flexibility in hours, offering services on weekends.

¹ Continuous Positive Airway Pressure is a type of ventilation (breathing) therapy, *Farlex Partner Medical Dictionary* © Farlex 2012

² Bi-level positive airway pressure is a form of non-invasive mechanical pressure support ventilation that uses a time-cycled or flow-cycled change between two different applied levels of applied levels of positive airway pressure, <https://en.wikipedia.org>

**TABLE 1
SLEEP SERVICE PROVIDERS**

State	Provider / Program Name	Provider's Address	Hours/Days of Operation
Connecticut	Charlotte Hungerford Hospital Sleep Center	Winsted, CT	6 nights per week
	New Milford Hospital Sleep Disorders Center	New Milford, CT	7 nights per week
	Danbury Hospital Sleep Disorder Center	Danbury, CT	7 nights per week
	Waterbury Hospital Regional Sleep Center	Middlebury, CT	M-F, 9am-4pm, 6 nights per week
	Saint Mary's Hospital Sleep Center*	Waterbury, CT	

*Number of nights per week is unknown

Ex. A, pp.12, 18-19, 21, 33-34

11. All of the existing sleep centers in the Hospital's service area are certified by the American Academy of Sleep Medicine ("AASM") and are subject to performance standards that allow for added scrutiny, better controls on quality and a broader base of reimbursement. Ex. A, pp. 18-19, 34
12. The Hospital's Sleep Center could not be certified by the AASM because Dr. Smith was unable to pass his internal medicine boards. Without certification, the Center was not able to provide and bill for a broader range of sleep services and was required to send studies out to be interpreted. Ex. A, pp. 14-15, 19-20
13. The other area providers have board-certified programs and offer a much wider range of sleep services. Also, the certified programs are able to obtain reimbursement for a broader range of sleep services and avoid out-of-pockets costs for their patients. Ex. A, pp.19, 21
14. Patients of the Sharon Sleep Center are between ages 13 and 93 and have or are suspected to have sleep disorders that require study, treatment and monitoring. Approximately 75% of the patients who received services at the Sharon Sleep Center in 2014 came from the following towns:

**TABLE 2
SERVICE AREA TOWNS**

Town	Utilization	Percentage by town
Dover Plains, NY	25	14%
Canaan, CT	25	14%
Sharon, CT	16	9%
Millerton, NY	16	9%
Amenia, NY	14	8%
Salisbury, CT	12	7%
Wassaic, NY	8	5%
Millbrook, NY	5	3%
Cornwall, CT	5	3%

Norfolk, CT	4	2%
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Ex. A, p. 32

15. The Hospital's patients will continue to have access to sleep services at Charlotte-Hungerford Hospital, Waterbury Hospital, New Milford Hospital and Danbury Hospital. Each of these hospitals has confirmed that they have capacity to accommodate Sharon patients. Ex. A, p. 12
16. There is minimal demand for sleep services in the Sharon area and the Hospital is unable to provide adequate professional staffing to support the program. Tr., Testimony of Ms. Lumia, p. 8
17. Sleep studies are on the decline due to the prevalence of home study services, which offer a greater level of comfort and convenience to patients. Because Sharon's Sleep Center was not certified, payers could not authorize the Center to order home studies. Ex. A, p. 14
18. Sleep Center volume has been declining steadily since 2011. The Center operated limited hours, with sleep studies occurring on average one to two nights per week. In order for the Sleep Center to remain financially viable, eight studies per week were necessary.

**TABLE 3
HISTORICAL UTILIZATION BY SERVICE**

Service	Actual Volume				
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015*
Sleep Studies	299	248	214	177	66
Total	299	248	214	177	66

*Activity for 10/1/14-5/31/15
Ex. A, p. 15, Tr., Testimony of Ms. Lumia, p. 5

19. Discontinuance of the Sleep Center will result in an increase of operational income for the Hospital because the program was operating at a loss, historically.

**TABLE 4
HOSPITAL'S HISTORICAL INCREMENTAL REVENUES AND EXPENSES**

	FY 2012	FY 2013	FY 2014	FY 2015*
Revenue from Operations	\$234,725	\$219,052	\$216,135	\$115,827
Total Operating Expenses*	\$258,298	\$229,821	\$219,920	\$123,977
Gain/(Loss) from Operations	(\$23,573)	(\$10,769)	(\$3,785)	(\$8,150)

* Hospital ceased its sleep services effective July 5, 2015
Ex. A, p. 23

20. The Hospital projects gains from operations in each of the first three years following the proposed termination (FY 2016-2018).

**TABLE 5
HOSPITAL'S PROJECTED REVENUES AND EXPENSES**

Description	FY 2016	FY 2017	FY 2018
Revenue from Operations	\$53,408	\$53,942	\$54,481
Total Operating Expenses	\$49,266	\$49,726	\$50,195
Gain/(Loss) from Operations	\$4,141	\$4,215	\$4,285

Ex. A, p. 74, Ex. C, pg. 75

21. No costs will be incurred as a result of the termination of sleep medicine services at the Sleep Center. Ex. A, p. 29
22. The Sleep Center's payer mix is provided below:

**TABLE 6
HOSPITAL'S SLEEP CENTER PAYER MIX**

	FY 2014		FY 2015	
	Discharges	%	Discharges	%
Medicare	86	49%	33	50%
Medicaid	23	13%	8	12%
CHAMPUS & TriCare	0	0%	0	0%
Total Government	109	62%	41	62%
Commercial Insurers	67	38%	25	38%
Uninsured	1	0%	0	0%
Workers Compensation	0	0%	0	0%
Total Non-Government	68	38%	25	38%
Total Payer Mix	177	100%	66	100%

Ex. B, p. 75

23. This proposal will limit the unnecessary duplication of sleep service providers in the Hospital's service area. Ex. A, p. 27
24. The majority of sleep programs in the area are hospital-based and will accommodate Medicaid and uninsured patients. Ex. A, p. 19
25. All patients of Dr. Smith were notified about the closure of the Sleep Center and provided contact information for the existing sleep centers in the area. Tr., Testimony of Mr. Cordeau, p. 9

26. 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))
27. The CON application is consistent with the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
28. The Applicant has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
29. The Applicant has satisfactorily demonstrated that its proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
30. The Applicant has satisfactorily demonstrated that access to services will be maintained and the quality of health care delivery will be improved. (Conn. Gen. Stat. § 19a-639(a)(5))
31. 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))
32. 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))
33. The Applicant's historical utilization in the area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
34. 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))
35. 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))
36. 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))
37. 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).

Sharon Hospital (“Hospital” or “Applicant”) is a 94-bed acute care hospital. *FF1* The Hospital’s Sleep Center was established in October 2010 to accommodate Dr. Irving Smith, who was recruited as an internal medicine and primary care physician and wanted to provide sleep services as part of his practice. The Hospital is proposing to terminate its Sleep Center, which ceased operations as of July 5, 2015. *FF4-5*

The Hospital has experienced an overall historical decline in Sleep Center utilization and has been unable to recruit a new Medical Director to replace Dr. Smith. *FF8,18* Consequently, the Hospital is unable to sustain a clinically and financially viable Sleep Center. Between 2011 and 2014, visit volume declined by 41%. Between October 1, 2014 and May 31, 2015, the Center performed 66 studies, on average 2.2 per week. The Sleep Center requires an average of eight studies per week to remain financially viable. *FF18*

The low utilization is directly attributable to the minimal demand for sleep services in the Sharon area and the fact that the Sleep Center is not certified by the American Academy of Sleep Medicine (“AASM”). Dr. Smith, was not able to pass his internal medicine boards and without a board certified Medical Director the Hospital’s Sleep Center could not be certified, which limited its ability to provide and bill for a broader range of sleep services. *FF12* Hospital efforts to recruit another Medical Director following Dr. Smith’s departure in July 2015 were not successful. *FF8*

There are 5 sleep centers within a 44 mile radius of the Sleep Center that are available to the Hospital’s patients. *FF10* Medicaid recipients and indigent persons will continue to have access to sleep services at Charlotte-Hungerford Hospital, Waterbury Hospital, New Milford Hospital and Danbury Hospital. Each of these hospitals has confirmed that they have capacity to accommodate Sharon patients. *FF15* Moreover, all of the existing sleep centers are certified by the AASM and are subject to its performance standards that allow for added scrutiny, better controls on quality and a broader base of reimbursement. *FF11* Based upon the foregoing, the Applicant has satisfactorily demonstrated that access to sleep medicine services will be maintained and the quality of sleep medicine services for the relevant patient populations, including Medicaid patients, will be improved.

There is no capital expenditure associated with terminating the Sleep Center and Sharon Hospital projects gains from operations in each of the first three years following the proposed termination. *FF21* Therefore, the Applicant has shown that the proposal is financially feasible.

The AASM certified programs are able to obtain reimbursement for a broader range of sleep services and avoid out-of-pockets cost for patients. *FF13* Hence, this proposal will allow for sleep medicine services to be provided in a more cost-effective setting. 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 providing home studies that offer more comfort and convenience for patients. *FF17* Thus, the Applicant has sufficiently demonstrated a clear public need for this proposal.

Moreover, the Applicant has demonstrated that its proposal is consistent with the Statewide Health Care Facilities and Services Plan by limiting the unnecessary duplication of services in the Applicant's service area. *FF23*

Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Sharon Hospital for the termination of Sharon Hospital's Sleep Center 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

11/25/15
Date

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

Olejarz, Barbara

From: Jennifer Groves Fusco <jfusco@uks.com>
Sent: Wednesday, November 25, 2015 2:39 PM
To: Olejarz, Barbara
Cc: Veyberman, Alla
Subject: RE: Sharon Hospital

Thank you. Happy Thanksgiving!

Sent with Good (www.good.com)

-----Original Message-----

From: Olejarz, Barbara [Barbara.Olejarz@ct.gov]
Sent: Wednesday, November 25, 2015 01:58 PM Eastern Standard Time
To: Jennifer Groves Fusco
Cc: Veyberman, Alla
Subject: Sharon Hospital

11/25/15

Attached is the Final Decision for the termination of Sharon Hospital Sleep Center Services at its Main Campus, docket number: 15-32014.

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