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STATE OF CONNECTICUT

OFFICE OF HEALTH STRATEGY

DOCKET NO. 22-32511-CON

A HEARING REGARDING THE APPROVAL TO TERMINATE INPATIENT LABOR AND DELIVERY SERVICES AT SHARON HOSPITAL

VIA ZOOM AND TELECONFERENCE

Public Hearing held on Tuesday, December 6th, 2022, beginning at 9:30 a.m., via remote access.

H e l d   B e f o r e:

DANIEL CSUKA, ESQ., Hearing Officer

Administrative Staff:

STEVEN W. LAZARUS, CON Program Supervisor

ANNALIESE FAIELLA, Planning Analyst

MAYDA CAPOZZI, Administrator

Reporter: Melissa M. Zamfir, CSR #455

1 A P P E A R A N C E S

2

3 For Applicant, SHARON HOSPITAL:

4

5 ROBINSON & COLE

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7 Hartford, ct 06103

8 Phone: 860.275.8200

9 BY: THEODORE TUCCI, ESQ.

10

11 For Intervenor, SAVE SHARON HOSPITAL and DR. HOWARD

12 MORTMAN:

13

14 MURTHA CULLINA, LLP

15 107 Elm Street

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17 Stamford, CT 06902

18 Phone: 203.653.5407

19 BY: PAUL KNAG, ESQ.

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22

23

24

25 (All participants were present via remote access.)

1 (Whereupon, the hearing commenced at 9:30 a.m.)
2
3 HEARING OFFICER CSUKA: Good morning,
4 everyone, and thank you again for joining us.
5 Vassar Health Connecticut, Inc. d/b/a Sharon
6 Hospital, the Applicant in this matter, seeks a
7 certificate of need for the termination of
8 inpatient or outpatient services offered by a
9 hospital pursuant to Connecticut General Statutes
10 19a-638a(5). Specifically, Sharon Hospital seeks
11 CON approval to terminate inpatient labor and
12 delivery services.
13 Today is December 6th 2022. This hearing
14 was continued from October 18, 2022. My name is
15 Daniel Csuka, Kimberly Martone. The executive
16 director of OHS designated me to serve as the
17 hearing officer for this matter, to rule on all
18 motions, and to recommend findings of fact and
19 conclusions of law upon completion of the
20 hearing.
21 Section 149 of Public Act No. 21-2, as
22 amended by Public Act No. 22-3, authorizes an
23 agency to hold a public hearing by means of
24 electronic equipment. In accordance with this
25 legislature, any person who participates orally

1 in an electronic meeting shall make a good faith
2 effort to state his or her name and title at the
3 outset of each occasion that the person
4 participates orally, during an uninterrupted
5 dialogue, or series of questions and answers.
6 That'll be tremendously helpful for the Court
7 Reporter, who is also with us today.
8 We ask that all members of the public mute
9 the device that they are using to access the
10 hearing and silence any additional devices that
11 are around them.
12 And before we get too far into things, I did
13 want to mention a few things about the public
14 comment portion of today's hearing.
15 Sign-up for public comment is between 2:00
16 and 3:00 this afternoon. You can just add your
17 names to the comment section in Zoom and we will
18 take you as close to the order in which you sign
19 up as possible.
20 If it looks like the technical component of
21 the hearing will conclude by 3:00 p.m. Our --
22 excuse me, will not concluded by 3:00 p.m., I
23 will ask that we all try to work towards finding
24 a logical stopping point so that we can begin
25 with the public comment promptly at 3:00 p.m. We

1 can always come back to the technical portion, if
2 necessary.
3 Consistent with past practice, the order
4 for the public comment will likely be as follows:
5 Elected and appointed officials and
6 representatives followed by the Applicant's
7 clinical professionals and executives, any other
8 clinical professionals and executives who might
9 be in attendance who wish to speak, the other
10 individuals that the Applicant signed up in
11 advance of the hearing and any other members of
12 public who wish to participate.
13 With that said, this public hearing is held
14 pursuant to Connecticut General Statute Section
15 19a-639a(e), and as such, this matter constitutes
16 a contested case under the UAPA and will be
17 conducted in accordance therewith. The UAPA
18 meaning the Uniformed Administrative Procedure
19 Act.
20 Office of Health Strategy is here to assist
21 me in gathering facts related to this application
22 and will be asking applicants and the intervenors
23 questions later on.
24 I'm going to ask that each staff person
25 assisting with questions today identify

1 themselves with their name, spelling of their
2 last name, and the OHS title, and we will start
3 with Steven Lazarus.
4 MR. LAZARUS: Good morning, Steven Lazarus,
5 L-a-z-a-r-u-s, and I am the Certificate of Need
6 Program Supervisor.
7 HEARING OFFICER CSUKA: Thank you.
8 Yadira McLaughlin?
9 MS. MCLAUGHLIN: Good morning. Yadira
10 McLaughlin, M-c, capital L-a-u-g-h-l-i-n, and I'm
11 planning analyst.
12 HEARING OFFICER CSUKA: And then Annaliese
13 Faiella.
14 MS. FAIELLA: Good morning. Annaliese
15 Faiella, F as in Frank, a-i-e-l-l-a, and I am
16 also a planning analyst.
17 HEARING OFFICER CSUKA: Thank you.
18 Also, present on behalf of OHS are Mayda
19 Capozzi, spelled M-a-y-d-a, C-a-p-o-z-z-i; and
20 Leslie Greer, as well. That's L-e-s-l-i-e, G-e
21 -- excuse me -- G-r-e-e-r, and they are assisting
22 with the hearing logistics and will also assist
23 with gathering the names for the public comment.
24 The Certificate of Need process is a
25 regulatory process, and as such, the highest

1 level of respect will be accorded to the
2 Applicant, members of public, our staff, and the
3 interveners. Our priority is the integrity and
4 transparency of this process. Accordingly,
5 decorum must be maintained by all present during
6 these proceedings.
7 This hearing is being transcribed and
8 recorded and the video will also be made
9 available on the OHS Website and its YouTube
10 account. All documents related to this hearing
11 that have been or will be submitted to OHS are
12 available for review through the Certificate of
13 Need, that's the CON portal which is accessible
14 on the CON web page.
15 Next, as Zoom notified you, I wish to point
16 out that by appearing on camera in this virtual
17 hearing, you're consenting to being filmed, and
18 if you wish to revoke your consent, please, do so
19 at this time by exiting the hearing.
20 In making my decision, I will consider and
21 make written findings in accordance with Section
22 19a-639 of the Connecticut General Statutes.
23 There are 12 separate factors in that statute;
24 but in very short, I will be looking at need,
25 cost-effectiveness, quality, and access.

1 I recently made certain findings on
2 applicability of some of these criteria in an
3 unrelated application for termination of labor
4 and delivery services. I am not -- excuse me --
5 but I am not required adhere to those findings
6 here. I am approaching this application on its
7 own merits openly and objectively.
8 I also want to point out that there are
9 certain topics that are not the focal points for
10 today's hearing and both the intervenors and the
11 public should make every effort to avoid those.
12 These topics include, No. 1, whether Nuvance
13 Health or Sharon Hospital have violated the terms
14 of the agreed settlement issued in CON Docket No.
15 18-32238-CON;.
16 And No. 2 is the substance and the Merits of
17 Docket No. 22-32504, that's the pending
18 application by Nuvance Health to convert Sharon
19 Hospital's ICU into a PCU.
20 Now, I know that is part of the Sharon
21 Hospital overall strategic plan and I'm sure that
22 will come up to some extent, but I do want to try
23 to avoid the specifics of that application.
24 The CON portal contains the prehearing table
25 record in this case at the time of its filing

1 last week; exhibits were identified in the table
2 from A to PP. I jumped on the portal this
3 morning and I saw that there were a couple more
4 files that were uploaded from the Applicant over
5 the past 24 hours.
6 Before we get to those, though, I did want
7 to start with OHS first.
8 Ms. McLaughlin and Ms. Faiella, does OHS
9 have any additional documents to be added to the
10 record at this time?
11 MS. FAIELLA: Yes, OHS does plan to upload
12 some APCB data related to this application,
13 hopefully by the end of this week.
14 HEARING OFFICER CSUKA: Okay.
15 MS. MCLAUGHLIN: And between last night and
16 this morning, we received additional public
17 comments which will be uploaded also, hopefully,
18 tomorrow. I will be adding them to the exhibit
19 already on file.
20 HEARING OFFICER CSUKA: Okay, the Affiant
21 and the Intervenors are hereby advised that I am
22 also taking administrative notice of the
23 following documents: The Statewide Health Care
24 Facilities & Services Plan, a Facilities &
25 Services Inventory, the OHS Acute Care Hospital

1 Discharge database, the Au-Pair Claims database
2 and Hospital Reporting System, that's HRS
3 Financial and Utilization Data.
4 I may also take administrative notice of
5 prior OHS decisions, agreed settlements, and
6 determinations that may be relevant.
7 Counsel for the Applicant, Attorney Tucci,
8 can you, please, identify yourself for the
9 record?
10 ATTORNEY TUCCI: Yes. Good morning, Hearing
11 Officer Csuka and members of the OHS staff. My
12 name is Theodore Tucci and along with Lisa Boyle
13 and Connor Duffy, we represent the Applicant,
14 Vassar Health Connecticut, doing business as
15 Sharon Hospital.
16 HEARING OFFICER CSUKA: Thank you, Attorney
17 Tucci. And are they present in the room with
18 you?
19 ATTORNEY TUCCI: Yes.
20 HEARING OFFICER CSUKA: Okay, thank you.
21 And Counsel for the Intervenors, that is
22 Sharon -- excuse me -- Save Sharon Hospital and
23 Dr. Howard Mortman, can you, please, identify
24 yourself for the record?
25 ATTORNEY KNAG: Yes. My name is Paul Knag,

1 K-n-a-g, of the firm of Murtha Cullina. I'm the
2 attorney for the Save Sharon Hospital and Howard
3 Mortman and with me is my colleague is Julia
4 Boisvert, B-o-i-s-v-e-r-t.
5 DR. MORTMAN: Yes, I'm here. This is
6 Dr. Howard Mortman.
7 HEARING OFFICER CSUKA: Thank you,
8 Dr. Mortman. Well, we'll get to the witnesses
9 shortly.
10 Is -- is Attorney -- is it Boisvert, was
11 that the pronunciation? Is she present in the
12 room with you? Do you appear --
13 ATTORNEY KNAG: The correct way to pronounce
14 it is Boisvert.
15 HEARING OFFICER CSUKA: Boisvert. Thank
16 you.
17 And she is present?
18 ATTORNEY KNAG: She's sitting next to me
19 here, yes.
20 HEARING OFFICER CSUKA: Okay. Thanks.
21 So, Attorney Tucci, I know that I said quite
22 a bit to start the hearing. Are there any
23 objections to the exhibits in the Table of Record
24 or the notice documents that I brought up?
25 ATTORNEY TUCCI: Good morning, Hearing

1 Officer Csuka. On behalf of Sharon Hospital, we
2 have no objection to the Table of Record as it
3 currently exists, and no conditions at this time.
4 HEARING OFFICER CSUKA: Okay, I did notice
5 that you or your client uploaded some letters of
6 support over the past 24 hours?
7 ATTORNEY TUCCI: Yes.
8 HEARING OFFICER CSUKA: So I am planning to
9 mark those as QQ and RR, and I'm going to enter
10 those -- add those as separate exhibits to the
11 hearing record. Do you have any objection to
12 that?
13
14 (Whereupon, Late-File Exhibit QQ was marked as an exhibit,
15 as described in the index.)
16
17 (Whereupon, Late-File Exhibit RR was marked as an exhibit,
18 as described in the index.)
19
20 ATTORNEY TUCCI: No, thank you. We
21 appreciate that very much.
22 And just for the sake of clarity, with
23 respect to public comment witnesses who wish to
24 speak on behalf of the Applicant who have already
25 signed up, am I correct in assuming that they are

1 in the queue and that we need to take no further
2 action in order for them to be heard later in the
3 day?
4 HEARING OFFICER CSUKA: I believe that's
5 correct. I forwarded their names to both Mayda
6 and Leslie and they have already started a list,
7 as well.
8 ATTORNEY TUCCI: Thank you very much.
9 HEARING OFFICER CSUKA: And with respect to
10 the upload of the APCB excerpts that OHS
11 indicated they will be filing later this week, do
12 you have any concerns or objections to that?
13 ATTORNEY TUCCI: No objections or concerns
14 on behalf of Sharon Hospital.
15 HEARING OFFICER CSUKA: Okay, thank you.
16 So I'm going to identify and mark all
17 exhibits as full exhibits at this time. That's A
18 through RR with the APCB to be provided at some
19 point later this week.
20 And Attorney Tucci, do you have any other
21 exhibits that you wish to enter at this time?
22 ATTORNEY TUCCI: Not at this time, thank
23 you.
24 HEARING OFFICER CSUKA: Attorney Knag, how
25 about you? Do you have any additional exhibits

1 that you wish the enter at this time?
2 ATTORNEY KNAG: No, I believe that the --
3 audited financial statements that were filed with
4 OHS were part of what you're taking
5 administrative notice of, so I have no exhibits
6 to mark at this time.
7 HEARING OFFICER CSUKA: When you say
8 "audited financial statements," can you just
9 provide me --
10 ATTORNEY KNAG: Well, in particular, there's
11 been a reference to the ENY audited financial
12 statement dated for the year ending 2021 and
13 the -- it's referred to in various testimony, and
14 I believe it's part of the financial statement
15 reporting that you said you would be taking
16 administrative notice of here.
17 HEARING OFFICER CSUKA: Okay, yeah, that's
18 correct.
19 So we are going to proceed in the order for
20 this time -- at this time, we're going to proceed
21 in the order established in the agenda for
22 today's hearing. We may have to go out of order
23 a little bit as we approach the public hearing or
24 the public comment portion, but we'll get to
25 that.

1 So I would like to advise the Applicant that
2 we may ask questions related to the application
3 that you feel you have already addressed, the
4 same goes to the Intervenors and their
5 submissions. We'll do -- excuse me. We will
6 deal with this for the purpose of ensuring that
7 the public has knowledge about your proposal and
8 for the purpose of clarification.
9 I want to reassure you that we have reviewed
10 the entire record up to this point and we will do
11 so again before issuing a final decision.
12 As this hearing is being held virtually, we
13 ask that all participants, to the extent possible
14 and able to use the video cameras when testifying
15 or making comments during the proceedings.
16 As I mentioned earlier, all participants
17 should mute their devices and should disable
18 their cameras when we go off the record or take a
19 break.
20 Please, be advised that although we will try
21 to shut off the hearing recording during the
22 breaks, the audio and visual, itself, may
23 continue. If that's the case, any audio or
24 visual that are not disabled will be accessible
25 to all participants in the hearing.

1 And as I said earlier, public comment will
2 likely go in the order established by OHS during
3 the registration process, but there will be some
4 exceptions to allow for appointed and elected
5 officials to speak first followed by clinical
6 professionals and some other exceptions to the
7 usual order.
8 Are there any other housekeeping matters,
9 Attorney Tucci, or procedural issues that you
10 want to address before we get started?
11 ATTORNEY TUCCI: No, thank you. I think
12 you've covered everything.
13 HEARING OFFICER CSUKA: Thank you.
14 And Attorney Knag, do you have any other
15 housekeeping matters or procedural issues?
16 ATTORNEY KNAG: None.
17 HEARING OFFICER CSUKA: Thank you.
18 So, with that, we're going to turn ourselves
19 over to the technical portion of the hearing.
20 Is there an opening statement from the
21 Applicant?
22 ATTORNEY TUCCI: Thank you, Hearing Officer
23 Csuka and members of OHS staff. This is Ted
24 Tucci on behalf of Applicant, Sharon Hospital.
25 We appreciate very much the opportunity to appear

1 here before you this morning in this public
2 hearing to discuss the application that's
3 pending.
4 We'll reserve our comments more extensively
5 for closing argument, but at this time, I'll just
6 make the following brief opening remarks in
7 support of Sharon Hospital's application.
8 First, as the Hearing Officer and OHS staff
9 is well aware, we have submitted voluminous
10 materials, facts, and data relating to this
11 application and the operation of the labor and
12 delivery services unit at Sharon Hospital over
13 the course of the last several years and the
14 current state of that service.
15 Our purpose in appearing here this morning
16 and the testimony that we intend to present is
17 not to repeat what is already in those voluminous
18 materials, but rather to add color, additional
19 information, facts, and to bring additional
20 perspective to bear on this application that will
21 assist OHS in making a fair, reasoned, and
22 appropriate determination of this application.
23 To do that, we are presenting the comments
24 of three witnesses this morning.
25 The first witness that you will hear from is

1 Dr. John Murphy, President of Nuvance Health
2 System, and Dr. Murphy will be speaking about
3 aspects of our application from a system-wide
4 perspective and how the application that's in
5 front of OHS fits into an appropriate delivery
6 system for health care for the citizens of
7 Litchfield County and the appropriate operation
8 of the health system here at Nuvance.
9 Dr. Murphy's testimony will be followed by
10 testimony from Christina McCulloch, who is the
11 president of Sharon Hospital, and Ms. McCulloch
12 will present a boots-on-the-ground perspective of
13 the operation of labor and delivery services at
14 Sharon Hospital, the efforts that the hospital
15 has made over the course of many years to -- to
16 have that service be a viable service, a service
17 that is one that is not only provides quality
18 care, but is also economically viable.
19 And finally, our testimony will conclude
20 with remarks by our last witness, who is
21 Dr. Elizabeth Lucal, a board-certified OBGYN
22 physician, who is going to present OHS with her
23 knowledge and experience from a clinical
24 perspective about the delivery of labor and
25 delivery services.

1 And all of our testimony will be focused on,
2 really, the three pillars that Hearing Officer
3 Csuka identified as being the central core of
4 what the CON process is all about.
5 So, in particular, you will hear commentary
6 from our witnesses that relate to the cost, both
7 past and future, of providing these services in
8 the community, the need, utilization, and demand
9 for those services.
10 And finally, in the event that OHS
11 determines that the application should be
12 granted, the consideration of what the access to
13 quality care will look like in the service area
14 if those services are no longer offered at Sharon
15 Hospital.
16 And we respectfully submit that at the
17 conclusion of this hearing, the facts, the data,
18 the information that we present, will support the
19 application for the termination of this service.
20 So I've told you what you will hear from our
21 witnesses. Hearing Officer Csuka, I will also
22 tell you that what you will not hear from the
23 Sharon Hospital witnesses is testimony that
24 consists of rumor, speculation, hopes, wishes, or
25 anything that isn't backed up by facts or data.

1 We understand full well -- the Applicant,
2 Sharon Hospital, understands full well that there
3 are concerns and apprehension and that there's
4 always issues when change is proposed in the
5 health care delivery system in Connecticut, but
6 respectfully, CONs are not decided based on fear
7 or controversy or evidence of backlash or
8 concern. They should be based on, as you -- as
9 we all know, the criteria, that statutory
10 criteria, that applied to CONS and whether or not
11 they are appropriate findings of fact and
12 conclusions that back up those criteria.
13 So, with that, thank you very much and I now
14 introduce to you Dr. John Murphy.
15 HEARING OFFICER CSUKA: I will -- I guess
16 I'll swear each of your witnesses in as they come
17 up to the screen.
18 Does that work for you, Attorney Tucci?
19 ATTORNEY TUCCI: Yes, I think that's
20 appropriate. Thank you.
21 HEARING OFFICER CSUKA: Dr. Murphy, please,
22 raise your right hand.
23 Do you solemnly swear or solemnly and
24 sincerely affirm, as the case may be, that the
25 evidence you provided in your pre-filed testimony

1 **and the evidence you shall give today or have**
2 **already given in this case shall be the truth,**
3 **the whole truth, and nothing but the truth so**
4 **help you God or upon penalty of perjury?**
5 **DR. MURPHY: I do.**
6 **HEARING OFFICER CSUKA: Do you adopt your**
7 **testimony today?**
8 **DR. MURPHY: Yes, I adopt my pre-filed**
9 **testimony.**
10 **HEARING OFFICER CSUKA: Thank you.**
11 **You can proceed whenever you're ready.**
12
13 **J O H N M U R P H Y, MD,**
14
15 **called as a witness, being first duly sworn (remotely) by**
16 **Hearing Officer Csuka, testified on his oath as follows:**
17
18 **DIRECT EXAMINATION OF JOHN MURPHY, MD**
19
20 **DR. MURPHY: All right. Good morning, and**
21 **good morning to you, Officer Csuka, and the**
22 **Office of Healthcare Strategy. Thank you for**
23 **giving me this opportunity to testify today.**
24 **My name is John Murphy, J-o-h-n,**
25 **M-u-r-p-h-y. As Attorney Tucci said, I'm the**

1 president and chief executive officer of Nuvance
2 Health, the parent of the Applicant in this
3 matter, Sharon Hospital. As I mentioned, I do
4 adopt my prefile testimony.
5 I just would like to begin, really, with
6 the -- reminding everyone that we believe, firmly
7 believe, that Sharon Hospital is a vital
8 community asset. It's an important resource. It
9 has a long and proud history of providing medical
10 care to its community and it continues to do so.
11 It provides high-quality care. It's one of the
12 few 5-star hospitals in the State of Connecticut.
13 We're proud of it and we are determined to save
14 it and to preserve it and transform it so that it
15 will be a here 50 years from now and we will be
16 equally proud of its performance.
17 I do think it's important to acknowledge and
18 recognize the serious financial distress that
19 Sharon Hospital faces. Over the past two years,
20 for instance, in '20 and '21, its financial
21 losses exceeded $20 million. In the month of
22 October of this year, a single month, it lost
23 $1.9 million. So, if you look back since --
24 really, since '19, the losses have been more than
25 $50 million. It's about $450,000 a week.

1 I think the bottom line there is that the
2 current model of providing care and the services
3 that we provide and the manner in which they are
4 provided is simply not sustainable. We recognize
5 that. We have not been complacent. We saw this
6 a couple of years ago, this trend. By the way,
7 this trend is facing hospitals across the United
8 States, but particularly rural hospitals.
9 So we have been proactive. We recognize
10 that we absolutely need to retool, to reconfigure
11 the services that we provide so that we can meet
12 the needs of community, but at the very same
13 time, create and provide a model of care that is
14 financially sustainable.
15 I think it's worthy of remembering that
16 rural hospitals in the United States are
17 confronting this very same crisis. Since 2010,
18 136 rural hospitals in the United States have
19 closed. We very much want to avoid that fate.
20 As a matter of fact, in 2020 alone, 19 hospitals,
21 rural hospitals, in the United States have closed
22 because of these same macro economic forces.
23 So we recognize we need to plan. We've
24 worked hard on that plan. We've met with
25 numerous stakeholders over the past two years to

1 create that plan. We've met with board members,
2 not only of the Sharon Hospital, but also the
3 Foundation for Community Health. We've met with
4 community leaders, elected officials, employees,
5 staff members, physicians, and we've brought in
6 outside experts, people who really are among the
7 country's best experts in rural medicine and
8 rural health care.
9 And what we have come up with is a plan that
10 we believe provides Sharon Hospital with a future
11 that is sustainable and will meet the needs of
12 its community, and it will require some
13 investments. We need to expand primary care. We
14 to find primary care physicians. As I'm sure you
15 know, there is a shortage and there will continue
16 to be a shortage in the the United States of
17 primary care docs and we need to promote and
18 provide specialty services through telehealth and
19 we've already begun to make these investments.
20 We need to expand behavioral health
21 services. The need for them continues to grow
22 and is great. We need to provide critical
23 emergency care services to the community as we
24 have and very much want to continue to do, and in
25 fact, continue to provide women's health services

1 with the exception of labor and delivery to the
2 people who live in the Sharon community.
3 This plan requires some difficult decisions.
4 In order to make the investments that I've just
5 enumerated, we have to eliminate services that
6 are underutilized and are inefficient. I wish
7 that weren't the case, but it is, and labor and
8 delivery is one of those services.
9 And I'd also like to remind you that since
10 2015, 89 hospitals, rural hospitals, in the
11 United States have closed their OB services,
12 their labor and delivery services, for these very
13 same reasons.
14 And lastly, I want to reassure you that we
15 know how to do this. We came before the Office
16 of Health Care Access, it must've been eight or
17 ten years ago with a very similar application for
18 New Milford Hospital, where we wanted to close
19 labor and delivery, and in fact, that was part of
20 a similar transformation plan.
21 As you look back now, across those eight to
22 ten years, New Milford Hospital is a vital
23 community resource meeting the health care needs
24 of its community with a reconfigured range of
25 services. I think the community is delighted

1 with the care that we are providing; and with
2 respect to labor and delivery, thank God, there
3 has not been single unfortunate or adverse event.
4 We have done the right thing by that
5 community. You have permitted us to do that. We
6 have figured out how to let a small hospital play
7 an important and vital and appropriate role in a
8 larger regional health care system such as
9 Nuvance Health.
10 So we respectfully request your permission
11 to proceed with this plan and to close labor and
12 delivery services at Sharon Hospital.
13 Thank you very much.
14 HEARING OFFICER CSUKA: Thank you,
15 Dr. Murphy.
16 I'm going the go through each of your
17 witnesses, their direct testimony and then we can
18 take maybe a five-minute break and then we can
19 start with cross-examination.
20 So, Attorney Tucci, I believe you said
21 Ms. McCulloch would be the next one?
22 ATTORNEY TUCCI: Yes, Hearing Officer. This
23 is Ted Tucci.
24 And now, I'll introduce to you the president
25 of Sharon Hospital, Christina McCulloch.

1 HEARING OFFICER CSUKA: Good morning, Ms.
2 McCulloch. Thank you for coming. Can you,
3 please, raise your right hand?
4 Do you solemnly swear or solemnly and
5 sincerely affirm, as the case may be, that the
6 evidence you provided in your prefile and the
7 evidence that you shall give or have already
8 given in this case shall be the truth, the whole
9 truth, and nothing but the truth, so help you God
10 or upon penalty of perjury?
11 MS. MCCULLOCH: I do.
12 HEARING OFFICER CSUKA: Thank you. You can
13 proceed whenever you're ready.
14
15 C H R I S T I N A M C C U L L O C H,
16
17 called as a witness, being first duly sworn (remotely) by
18 Hearing Officer Csuka, testified on his oath as follows:
19
20 DIRECT EXAMINATION OF CHRISTINA MCCULLOCH
21
22 MS. MCCULLOCH: Good morning, Hearing
23 Officer Csuka and the staff of the Office of
24 Health Strategy. I thank you for opportunity to
25 testify today.

1 My name is Christina McCulloch,
2 C-h-r-i-s-t-i-n-a, M-c-C-u-l-l-o-c-h. Excuse me.
3 I'm the president of Sharon Hospital, the
4 Applicant in this matter. I have been with
5 Sharon Hospital since 2014 in a variety of roles,
6 including chief nursing officer and chief quality
7 officer before assuming my current role as
8 president in July of 2022.
9 The purpose of my testimony today is to
10 provide OHS with information surrounding why our
11 labor and delivery unit is not sustainable, the
12 low utilization of the labor and delivery, and
13 how our plan to transform the hospital is in the
14 best interest of our hospital and community.
15 Before I begin, I want to acknowledge that
16 this decision was and is not taken lightly. All
17 that have been honored to experience our labor
18 and delivery unit note how truly special it is.
19 We, as a leadership team, share in the emotion
20 surrounding this decision. We do, however, have
21 a responsibility and an obligation to pave the
22 path for the future of Sharon Hospital.
23 And throughout my time at Sharon Hospital, I
24 have seen extensive efforts to maintain the
25 labor and delivery service. Our providers and

1 staff have come and gone, our volume remains low,
2 and our demographics continue to age.
3 Over the years, the number of deliveries
4 have fluctuated between the high 100s and the
5 high 200s, all the while remains a low-utilized
6 unit.
7 Our most recent fiscal year, 2022, had about
8 173 deliveries, with just over 100 of those
9 deliveries being from our Connecticut residents.
10 That is, on average, less than two deliveries per
11 week from Connecticut residents on a
12 fully-staffed unit.
13 Patients also continue to bypass Sharon
14 Hospital for other hospitals. We see about 50
15 percent of our Connecticut residents and our
16 Connecticut service area choosing other hospitals
17 to deliver, and that's for a very good reason;
18 some is patient preference, but many are because
19 patients are choosing to deliver at tertiary care
20 centers that have NICUs and neonatologists and
21 speciality services that we can't provide in a
22 community hospital.
23 We see women are delivering babies at more
24 advanced maternal age than they were
25 historically, and patients, with their

1 obstetricians and their families, are developing
2 birth plans that include delivering at facilities
3 that have services that aren't provided at Sharon
4 Hospital.
5 There is access to labor and delivery
6 services outside of Sharon Hospital in the
7 service area, and these facilities will be
8 maintained post-termination of the labor and
9 delivery unit at Sharon, the closest facility
10 being 24 miles away, that's Charlotte Hungerford
11 Hospital. There's also Danbury Hospital in
12 Danbury, Connecticut; Fairview Hospital in Great
13 Barrington, Mass., approximately 25 miles away,
14 and on our New York side, we have Northern
15 Dutchess and Vassar Hospitals. Those hospitals
16 are all utilized today by patients in our service
17 area.
18 Of the patients that do deliver at Sharon
19 Hospital, when we look at our most recent data,
20 our Connecticut patients, in our most recent
21 year, approximately 75 percent of the patients
22 that have chosen to deliver at Sharon Hospital
23 live closer to other facilities.
24 And when we look at our Medicaid population,
25 the majority of our Medicaid population come from

1 the towns of Torrington, New Milford, and
2 Winsted, all three of those towns being closer to
3 other hospitals.
4 So what we see is patients are actually
5 traveling further to deliver at our hospital.
6 Termination of labor and delivery services
7 at Sharon Hospital does not create an access
8 issue. It eliminates a choice.
9 Despite the continued low number of births
10 and the reality that there is a percentage of our
11 population that will never deliver at Sharon
12 Hospital, we have maintained a fully-operational
13 unit. This comes at a high cost and it is not
14 easy to maintain.
15 Sharon Hospital can't afford to do the array
16 of services that tertiary care centers offer, but
17 we can thrive as a rural hospital by allocating
18 our resources responsibly.
19 We have remained transparent with all
20 stakeholders since our decision to apply to
21 terminate labor and delivery services. We are
22 prioritizing planning and communications to
23 provide a smooth transition for patients to
24 relieve labor -- to receive labor and delivery
25 services in other regions.

1 Population data, demographic trends, and
2 community health needs assessment all support
3 that our greatest opportunity is to provide
4 needed services for our community as in primary
5 care, behavorial health and wellness. It also
6 includes expanding our women's health program.
7 We are committed to expanding primary care
8 access and wellness. We are committed to
9 maintaining women's health services, including
10 OB/GYN outside of delivering babies. We're also
11 looking to expand those services, and the few
12 examples that we're currently working on are
13 maternal mental health support, and we're
14 bringing on a women's health coordinator to our
15 team to assist the women in our community with
16 coordinating and finding where those services are
17 and also helping to develop our women's health
18 program.
19 Outside of women's health, our plan to
20 transform our hospital also includes a
21 recruitment of primary care, on-site and virtual
22 access of specialists, delivery of behavioral
23 health, and the repurposing of space on our
24 hospital campus to become a one-stop ambulatory
25 health care destination.

1 I conclude by asking OHS to recognize that
2 Sharon Hospital is undertaking its transformation
3 plan to maintain access and high-quality care.
4 The application to close labor and delivery
5 services is a necessary component of this plan.
6 I respectfully request that OHS approve this
7 application to terminate labor and delivery
8 service.
9 Thank you for the opportunity to speak today
10 and I'm available for any questions.
11 HEARING OFFICER CSUKA: Thank you,
12 Ms. McCulloch. One quick thing. I don't believe
13 you adopted your pre-filed testimony. Do adopt
14 your pre-filed testimony?
15 MS. MCCULLOCH: I do. I adopt my prefile
16 testimony.
17 HEARING OFFICER CSUKA: Okay, thank you.
18 ATTORNEY TUCCI: Hearing Officer Csuka, this
19 is Ted Tucci. We're now prepared to proceed with
20 our final witness and I introduce to you
21 Dr. Elizabeth Lucal.
22 HEARING OFFICER CSUKA: Thank you.
23 DR. LUCAL: Good morning, Hearing Officer
24 Csuka and staff of the Office of Health Strategy.
25 HEARING OFFICER CSUKA: I need to swear you

1 in first. I'm sorry to interrupt.
2 DR. LUCAL: Good morning anyway.
3 HEARING OFFICER CSUKA: I want to make sure
4 we're able to consider whatever you say on the
5 record today.
6 Please, raise your right hand. Do you
7 solemnly swear or solemnly and sincerely affirm,
8 as the case may be, that the evidence you
9 provided in your prefile and the evidence that
10 you shall give today shall be the truth, the
11 whole truth, and nothing but the truth, so help
12 you God or upon penalty of perjury?
13 DR. LUCAL: I do.
14 HEARING OFFICER CSUKA: Do you adopt your
15 prefile testimony?
16 DR. LUCAL: I do.
17 HEARING OFFICER CSUKA: Thank you.
18 Okay, now, you can proceed. I apologize for
19 that again.
20
21
22
23
24 E L I Z A B E T H L U C A L, MD,
25

1 called as a witness, being first duly sworn (remotely) by
2 HEARING OFFICER CSUKA, testified on his oath as follows:
3
4 DIRECT EXAMINATION OF ELIZABETH LUCAL, MD
5
6 DR. LUCAL: Good morning. Good morning
7 Hearing Officer Csuka and staff of the Office of
8 Health Strategy. Thank you for allowing me to
9 testify today.
10 My name is Elizabeth Lucal,
11 E-l-i-z-a-b-e-t-h, L-u-c-a-l, and for the record,
12 I adopt my pre-filed testimony.
13 I am a board-certified practicing
14 obstetrician and gynecologist working for
15 Nuvance -- Nuvance Health at Vassar Brothers
16 Medical Center. In addition to being
17 board-certified, I am a fellow of the American
18 College of Obstetrics & Gynecology and I work
19 also as the system vice chair for women's health
20 at Nuvance Health.
21 I have over 20 years of experience providing
22 OB/GYN care, including many years providing
23 OB/GYN care in rural areas.
24 Prior to entering private practice, I did my
25 residency and early career in the Armed Forces,

1 including a deployment to Iraq in 2009, and then
2 10-plus years in upstate rural New York working
3 as an OB/GYN.
4 I am testifying today to offer OHS a
5 clinical perspective on patient care, access, and
6 quality considerations associated with Sharon
7 Hospital's application to phase out inpatient
8 labor and delivery services. Based on my
9 education, training, and experience field -- in
10 the field of women's health services, including
11 working in the Sharon community and other rural
12 health care settings, I have agreed with the idea
13 that Sharon Hospital's transformation plan, with
14 a critical piece being the termination of labor
15 and delivery services, is the best path forward
16 for Sharon Hospital to maintain viability as a
17 high-quality clinical facility focused on the
18 services most needed in this community, including
19 services affecting maternal health care.
20 My testimony is also intended to clear up
21 common misconceptions concerning the delivery of
22 prenatal care and labor and delivery services
23 concerning patients' safety, access, and
24 emergency services. I welcome your questions.
25 Like many facilities, Sharon Hospital faces

1 difficult challenges and choices if it is to
2 continue to serve as a vital health care delivery
3 platform as previously discussed by Dr. Murphy.
4 Sharon Hospital has been a high-performing,
5 high-quality hospital despite its size and rural
6 location for many years. It is essential to
7 communities in northwest Connecticut, but the
8 recent health care trends, including
9 consolidation of providers, increased costs of
10 specialized equipment, specialized -- specialist
11 providers, staffing shortages, and of course, the
12 COVID pandemic has severely impacted the hospital
13 and made it untenable for the hospital to
14 continue trying to maintain all of its services,
15 especially a 24/7 labor and delivery unit, we're
16 also prioritizing the services most-needed in the
17 community.
18 Sharon Hospital has worked diligently to
19 maintain its labor and delivery service for a
20 long period of time. This plan to close is not
21 due to any lack of effort on the part of the
22 hospital, the employees or the community. The
23 reality is that it is very difficult to attract
24 physicians seeking to build a practice that is
25 tied to a low-volume hospital in a rural area.

1 There is limited protected growth in the
2 service and the current volume hovers at a
3 threshold that many Clinicians and experts deem
4 the minimum required by a labor and delivery
5 service needing to maintain safety and financial
6 viability.
7 In recent years, the volume of mothers
8 delivering at Sharon has steadily fallen. The
9 volume trends and aging demographics also in the
10 Sharon area paired with current clinical practice
11 patterns where patients bypass Sharon Hospital to
12 alternate facilities are reasons why few
13 obstetricians relocate to and remain in the
14 Sharon area.
15 Physicians starting their career seeking to
16 become board-certified are discouraged from
17 relocating to a low-volume hospital. Many will
18 not take the risk that they may be unable to get
19 experience with complicated cases in advance of
20 their board certification due to complicated
21 cases being directed to another facility.
22 Experienced physicians, even after board
23 certification, do not want to relocate to a
24 low-volume hospital mid-career because low volume
25 yields lower productivity, and thus, lower

1 compensation.
2 I, therefore, believe Sharon Hospital's
3 transformation plan with the closure of labor and
4 delivery unit is a key component. It is the
5 right path for Sharon Hospital and the community.
6 As part of that plan, Sharon has committed to
7 expanding services designed to maintain and
8 promote not just women's health, but maternal
9 health.
10 Sharon Hospital can play an even more vital
11 role in keeping community members healthy. It's
12 the burden of maintaining and underutilized labor
13 and delivery service is listed(sic).
14 From a clinical's perspective, this
15 reorientation for a facility like Sharon is
16 consistent with trends in OB/GYN as more families
17 choose birthing centers at larger facilities with
18 more on-site capabilities. Inpatient labor and
19 delivery is an extremely resource-intensive
20 service requiring a fully-staffed birthing unit,
21 24/7 surgical and anesthesia support, as well as
22 24/7 OB/GYN on-call coverage. Running a labor
23 and delivery unit that sits idle for significant
24 periods of time using costly staff is not a -- is
25 not a clinically-optimal situation.

1 In my experience in other rural markets has
2 shown, it is not necessary for every facility to
3 offer birthing services in order for families to
4 maintain safe access to labor and delivery.
5 I previously worked in upstate New York near
6 the Canadian border and treated many families who
7 relied on local providers and facilities for
8 antenatal and postnatal care while traveling in
9 excess of an hour to regional tertiary centers
10 for the delivery portion of their care.
11 Sharon Hospital has a viable path forward to
12 sustainability by expanding its most
13 highly-needed and cost effective services.
14 Sharon Hospital can and should promote well-being
15 in its community but also serve as a entry point
16 to larger facilities with access to extensive
17 specialists and facilities across the Nuvance
18 Health network.
19 I understand that this proposal may be
20 disappointing to some and that some have raised
21 safety concerns with phasing out labor and
22 delivery at Sharon Hospital; however, these
23 concerns seem to be based on misconceptions
24 regarding prenatal and birthing care experiences
25 that do need to be corrected.

1 First, patients in the service area will
2 continue to seek pregnancy care from their
3 community-based OB/GYNs which include appropriate
4 lab work, testing, and support services at Sharon
5 Hospital.
6 As OB/GYN clinicians, we appreciate the
7 importance of the entire spectrum of maternal
8 care, from the first antenatal visit through the
9 postnatal process, with the delivery being one
10 aspect of that process. Under this application,
11 that process will not change other than the
12 delivery location. In fact, with the upcoming
13 changes proposed by Nuvance Health, women's
14 health services, the antenatal and postnatal
15 services will be enhanced for Sharon Hospital
16 patients.
17 Pelvic floor physical therapy, once thought
18 to be the domain of menopausal women, is expanded
19 to include antenatal and especially postnatal
20 women. The Nuvance Health Health breastfeeding
21 working group, which has key members from the
22 Sharon community, is also promoting an expansion
23 of classes, access to NICUs using human breast
24 milk to support preterm/at-risk infants and
25 newborn nurseries, also promoting the use of

1 human breast milk for term infants.
2 Behavorial health is expanding a telehealth
3 platform directed specifically at the needs of
4 antenatal and postnatal.
5 There will be a continuity of care for
6 patients and providers will work with patients in
7 advance to identify and appropriate birthing
8 facility. In consultation with their patients,
9 OB/GYNs will develop care plans for pregnant
10 women months in advance of the expected delivery
11 date.
12 Furthermore, it is without question that
13 birthing services can be safely provided for area
14 patients at Danbury Hospital, Charlotte
15 Hungerford, Vassar Brothers Medical Center, and
16 other facilities near this service area. The
17 data show that Sharon Hospital's current volume
18 includes a number of patients who already cross
19 state lines to deliver in New York, and other
20 facilities in the area are more than capable of
21 taking care of those patients and delivering
22 their babies.
23 What is left after eliminating out-of-state
24 patients is approximately two Connecticut
25 residents delivering per week at Sharon Hospital,

1 which is well below any reasonable threshold for
2 maintaining the unit 24/7, and any threshold at
3 which the unit could be attractive in the
4 long-term for employment by providers and other
5 clinical personnel.
6 We must face the reality that patients
7 choose to deliver at larger facilities with more
8 on-site capabilities such as a NICU. It is not
9 uncommon for the NICU to be needed in less than
10 emergent situations and this cannot be provided
11 at Sharon Hospital.
12 There are also misconceptions relating to
13 potential need for emergency birthing services
14 and Sharon Hospital's capacity to meet that
15 anticipated need.
16 The first misconception is that its labor
17 and delivery -- that the labor and delivery unit
18 is no longer operational, Sharon Hospital will be
19 flooded with patients who need to deliver babies
20 on an emergency basis. In my experience, such
21 instances are not common given the way that
22 pregnancies are managed as explained before.
23 Nuvance Health's successful winding down of
24 the birthing services at New Milford Hospital
25 provides a model that Sharon Hospital is

1 following here. Due to effective planning in
2 communication with providers and its community
3 regarding the cessation of birthing services, New
4 Milford Hospital did not have a single emergency
5 delivery following the closure of its labor and
6 delivery services.
7 Sharon Hospital is similarly emphasizing
8 advanced planning and communication with patients
9 and providers to enable patients to identify
10 alternate options so that they have the same
11 successful outcome.
12 However, on the rare occasion when a woman
13 is in need of child birth services and she
14 presents to Sharon Hospital's emergency
15 department, there are two paths to safely manage
16 that patient.
17 First, the patient will be assessed to see
18 if a safe transfer to another hospital is an
19 option. As a rural hospital, Sharon Hospital's
20 emergency department is well-versed in the
21 stabilization and transfer process and
22 successfully transfers more than 300 patients a
23 year already. In that 300, there are multiple OB
24 patients who are regularly transferred to other
25 facilities. This is not a new process.

1 Second, in the event that the appropriate
2 clinical courses for the patient to give birth at
3 Sharon Hospital, that can be safely accomplished
4 with the appropriately-trained emergency
5 personnel. Emergency room physicians are trained
6 in their residency to deliver babies and it is
7 not uncommon for rural hospitals to serve this
8 function when necessary.
9 All emergency department providers and staff
10 at Sharon Hospital have already undergone and
11 continue emergency births and complications and
12 training through drills, module education, and
13 are neonatal resuscitative certified. These
14 trainings and certifications are vital to safely
15 managing emergency deliveries, including
16 identification of signs of unexpected
17 complications and outcomes.
18 In conclusion, as a practicing
19 board-certified OB/GYN, I have delivered many
20 babies and dedicated my professional life to
21 providing essential care to women and their
22 families in rural and urban settings.
23 Closure, if it must happen, is not something
24 that we relish. I understand the personal
25 choices that families make about which provider

1 and facility to trust for safe care in this
2 important life event. This decision has not been
3 reached lightly and we do not seek to minimize
4 the concerns of families in your community.
5 Ultimately, however, Sharon Hospital does
6 need to continue to operate -- does not need to
7 continue to operate an underutilized labor and
8 delivery unit in order for patients in this
9 service area to have access to birthing services.
10 There multiple safe and accessible options
11 available which area residents already utilize.
12 I firmly believe that the transformation
13 plan provides the best road map for Sharon
14 Hospital to provide the care most needed for the
15 Sharon community and to remain an essential
16 resource for the future. I, therefore, urge you
17 to approve the application and I thank you for
18 your time. I'm available for your questions.
19 HEARING OFFICER CSUKA: Thank you Dr. Lucal.
20 Attorney Tucci, do you have any other
21 representatives from either the hospital or
22 Nuvance that you wish to present today?
23 ATTORNEY TUCCI: No, Hearing Officer Csuka.
24 That concludes our direct presentation.
25 HEARING OFFICER CSUKA: Okay, just so that

1 I'm clear, do you have any other representatives
2 from either Nuvance or the hospital in the event
3 the three witnesses you've brought with you are
4 unable to answer certain questions or --
5 ATTORNEY TUCCI: We have -- we have multiple
6 resources available for you, Attorney Csuka, and
7 OHS staff. Many people are in our -- are in the
8 hearing room today, and hopefully, will be
9 available to answer any specific and/or technical
10 questions that may arise during the course of the
11 day.
12 HEARING OFFICER CSUKA: Okay. Thank you.
13 Before we get into cross-examination, as I
14 did mention earlier, I just wanted to take a
15 five-minute break. We can come back at 10:30 and
16 then we'll proceed at that time.
17 Just a reminder to everyone, you may want to
18 turn the video and the audio off. You don't need
19 to exit the hearing, but just be careful what is
20 said and done on camera.
21
22 (Off the record at 10:25 a.m.)
23 (Back on the record at 10:31 a.m.)
24
25 HEARING OFFICER CSUKA: So let's go back on

1 the record, if everyone is ready to proceed.
2 So we're going to pick up where we left off
3 with cross-examination by the Intervenors,
4 limited again to the 19a-639 criteria beginning
5 first with Dr. Murphy.
6 Attorney Knag, do you have any
7 cross-examination for Dr. Murphy?
8 ATTORNEY KNAG: May I proceed?
9 HEARING OFFICER CSUKA: Certainly.
10 CROSS EXAMINATION OF JOHN MURPHY, MD
11 BY ATTORNEY KNAG:
12 Q Dr. Murphy, good morning.
13 A Morning.
14 Q You mentioned that Sharon Hospital is a 5-star
15 hospital as rated by Medicare. What is Danbury's rating?
16 A I believe the most recent rating was a three.
17 Q And is it also true that Vassar and Charlotte
18 Hungerford are rated two?
19 A I would -- I would have to double-check. I'm not
20 certain, as I sit here.
21 Q So it's -- but they're not -- they're definitely
22 not rated as high as Sharon; is that right?
23 A No, we only had -- I know we only had two 5-star
24 hospitals in the system; one was one in Dutchess and one
25 was in Sharon Hospital.

1 Q And you agree that the quality of care at the
2 Sharon Hospital maternity is outstanding?
3 A I believe that it's very good, yes.
4 Q And that -- and did ACOG, American College of
5 Obstetricians & Gynecologists, did they make
6 recommendations for how to build on that quality?
7 A They did an evaluation and made a series of
8 observations and recommendations about the program.
9 Q Did you implement any of the recommendations they
10 made to build on that quality?
11 A If -- if you'd like to know the specifics,
12 Attorney Knag, I'd be happy to bring in someone who's more
13 familiar with the specifics of the question.
14 Q Okay.
15 HEARING OFFICER CSUKA: Who would that
16 person -- who would that person be, Dr. Murphy?
17 DR. MURPHY: Christina McColloch.
18 Q Let me wait, then. I'll -- let's proceed with
19 you, Doctor --
20 A Okay.
21 Q -- and I'll ask her when I get to her.
22 A Very good.
23 Q All right, do you agree that a substantial
24 profitable business such as labs, tests, and procedures,
25 has been transferred from Sharon Hospital to other Nuvance

1 facilities?
2 ATTORNEY TUCCI: Objection as to relevance.
3 This goes outside the scope of what the Hearing
4 Officer has already indicated this hearing is
5 about.
6 ATTORNEY KNAG: May I comment on that,
7 Hearing Officer?
8 HEARING OFFICER CSUKA: Sure.
9 ATTORNEY KNAG: They -- they're claiming
10 that they have a large loss of $20 million and
11 the consultant's report, the Stroudwater report,
12 said that should have been giving them, Sharon,
13 credit for these procedures and tests that have
14 been -- that were done at Sharon and now are done
15 elsewhere, and that, actually, a lot of the
16 losses are related to the fact that they pushed
17 profitable services to over hospitals.
18 So they're claiming a loss of $20 million.
19 I'm cross-examining to show that that's unfair to
20 the -- to you without clarification.
21 ATTORNEY TUCCI: But the question before OHS
22 is -- relates to cost and financial viability of
23 the service that is at issue in this hearing, not
24 the general financial viability of Nuvance and/or
25 Sharon Hospital as an entity.

1 **ATTORNEY KNAG: But the -- but Dr. Murphy**
2 **has commented on both those issues and I'm just**
3 **cross-examining him based on what he's testified**
4 **to.**
5 **ATTORNEY TUCCI: Well, again, Hearing**
6 **Officer Csuka, I believe this violates not only**
7 **the letter but the spirit of the extensive ruling**
8 **that you issued, and the purpose of this**
9 **testimony is clearly offered to support some type**
10 **of conspiracy theory that money has been moved**
11 **around in a way to -- to suggest that there are**
12 **losses that are artificially higher than what**
13 **they really are, and if we go down this path,**
14 **we're going to turn this hearing into something**
15 **that really gets away from what the issues are**
16 **that need to be decided.**
17 **On that basis --**
18 **ATTORNEY KNAG: I'm not --**
19 **ATTORNEY TUCCI: -- I ask you to sustain the**
20 **objection.**
21 **ATTORNEY KNAG: -- I'm not going to ask a**
22 **long series of questions, just -- I just want to**
23 **establish that there was profitable services**
24 **diverted.**
25 **HEARING OFFICER CSUKA: All right, I think**

1 this may go to cost-effectiveness, so I'm going
2 to allow it, but let's not go too far down this
3 path.
4 DR. MURPHY: I would answer your question,
5 Attorney Knag, by saying that we have been very
6 careful, very thoughtful, for crediting Sharon
7 Hospital for its contribution for services that
8 have appeared elsewhere in the system, and we
9 have reviewed those credits with the author of --
10 the Stroudwater report shared our calculations
11 with him.
12 So we feel very confident that we have
13 addressed the substance of your question and
14 essentially held harmless Sharon Hospital's
15 financial accounting for services that have been
16 obtained elsewhere in the system.
17 Q And did you -- did you charge the hospital for --
18 Sharon Hospital for losses from previous periods and
19 overhead fees for previous periods?
20 A We did not charge for services from previous
21 periods in current periods. You know, we -- we -- our
22 financial statements are audited, as you know, shared with
23 the State, as you know, and we followed standard accounting
24 policies.
25 Q Now, there were five primary care providers who

1 were hired by Nuvance in the Sharon area who left in the
2 last several years since you took over Sharon Hospital; is
3 that right?
4 ATTORNEY TUCCI: Same objection as to
5 relevance. This goes beyond the scope of the
6 direct testimony and primary care providers are
7 not at issue in this hearing.
8 ATTORNEY KNAG: They -- they relate -- they
9 relate to the question of whether the -- they say
10 that part of their program is to increase primary
11 care and they say that the volume is down, but
12 the lack of primary care providers has
13 contributed with -- would contribute to a loss of
14 volume, and also, the fact that they're saying
15 that they're going to recruit primary care
16 providers in the future as part of their plan
17 should be tested against the fact that all that's
18 happened in recent years is they've lost primary
19 care providers
20 HEARING OFFICER CSUKA: Attorney Knag, can
21 you tie this in to any of the statutory criteria
22 that OHS is tasked with looking at?
23 ATTORNEY KNAG: Yes, it has to do with
24 access. It has to do with cost-effectiveness.
25 It has to do with quality in terms of providing

1 of these services.

2 ATTORNEY TUCCI: Again, I renew my objection

3 based on relevance. The -- the ability to

4 attract or retain primary care physicians or not

5 or the potential ability to do that in the future

6 is irrelevant to the decision that OHS must make

7 as to whether or not it makes sense to continue

8 an investment of billions of dollars a year --

9 millions of dollars a year to maintain inpatient

10 labor and delivery services.

11 ATTORNEY KNAG: They have stated that in

12 order to -- that by eliminating maternity,

13 they're going to be able to have a renewed focus

14 on primary care, and my contention is that

15 they -- that that's not the case and that their

16 track record is poor and that there's no reason

17 to believe that it won't continue to be poor in

18 terms of providing primary care services in this

19 area.

20 ATTORNEY TUCCI: This goes -- this goes back

21 to the conspiracy theory issues that were raised

22 in the voluminous intervenor materials that were

23 submitted, and I respectfully submit that the

24 question of whether or not Sharon Hospital may or

25 may not be successful in the future in enhancing

1 primary care services has nothing whatever to do
2 with whether or not it makes sense to continue
3 the low-volume labor and delivery service that
4 loses millions of dollars a year.
5 HEARING OFFICER CSUKA: I'm going to sustain
6 the objection. I'm inclined to agree with
7 Attorney Tucci, that we're not able to look into
8 the future and sort of define what the
9 possibilities are or will not be.
10 So, Attorney Knag, you can --
11 ATTORNEY KNAG: I'll proceed.
12 Q Now, now, when you filed this -- this certificate
13 of need, Doctor, you said that you were projecting 2023
14 gains for Sharon Hospital of $164 million; is that -- is
15 that correct?
16 A What? I'm sorry, I need a clarification of the
17 question. What certificate of need is Attorney Knag
18 talking about?
19 Q When you filed -- when you filed the certificate
20 of need in the matter in Exhibit G, and then again in the
21 completeness questions on Exhibit I, you stated that there
22 were $164 million of -- of gains projected for Sharon
23 Hospital for 2023; is that correct?
24 A I do not believe it is, but I'm happy to bring
25 forward our chief financial officer who's here who would be

1 delighted to answer the question.

2 Q So the questions concerning the finances, I

3 should ask the chief financial officer; is that right?

4 A I think you would be better served if you did.

5 Q All right, I'll -- I'll take that opportunity at

6 the end of this process.

7 You say you've consulted with stakeholders, but

8 the fact is that the medical staff voted 25 to 1 against

9 this plan; is that correct?

10 A I do not believe that it is correct, but I did --

11 I can assure you that we have consulted with medical staff

12 extensively, including myself. I've had many conversations

13 with members of the medical staff.

14 Q And there's a strong opposition to this plan

15 among the medical staff; isn't that correct?

16 A I would not characterize it as strong opposition,

17 no.

18 Q And there's strong opposition among the community

19 and its leaders; is that correct?

20 A I've talked to many community members, most of

21 whom, but not everyone, believes that to preserve, to save

22 Sharon Hospital, this plan is the most sensible path

23 forward.

24 I'm sure that there are individuals who see it

25 differently and they're welcome to those different

1 opinions, but I've certainly had many conversations,
2 including board members, who, in many respects, I think are
3 closest to the role of advocating on behalf of the
4 community and promoting the interests of the community and
5 they unanimously endorsed this plan.
6 Q Do you believe that -- you mentioned the
7 diverted -- that certain patients have not come to the
8 hospital. You believe that that could be in part because
9 of the announcements which started in 2018 that the
10 maternity would close?
11 ATTORNEY TUCCI: Objection; calls for
12 speculation, also goes directly outside of the
13 Hearing Officer's ruling on what's germane to
14 this hearing.
15 ATTORNEY KNAG: The volume of --
16 HEARING OFFICER CSUKA: Yes, sir.
17 ATTORNEY KNAG: -- the volume of -- the
18 effects of -- they claim that the people go to
19 other hospitals because of quality issues, and we
20 claim that they go to other hospitals because
21 they've been told that the place is going to
22 close and I think we're entitled to prove that.
23 ATTORNEY TUCCI: I renew my objection.
24 Again, this is part of the conspiracy theory
25 that, somehow, this has all been orchestrated by

1 Sharon Hospital and that there was an intent, as
2 counterintuitive as it may be, to drive volume
3 away from the hospital.
4 HEARING OFFICER CSUKA: Attorney Knag, can
5 you say that the question again? I'm sorry, I
6 didn't follow it completely.
7 ATTORNEY KNAG: I'm asking him whether the
8 announcements in 2018 and 2020 and 2021 that they
9 were intending to close the hospital resulted in
10 reductions in patient count as opposed to the
11 possibility that they -- the patients went to
12 other hospitals because of the quality issues.
13 ATTORNEY TUCCI: And again, I renew my
14 objection based on the Hearing Officer's clear
15 decision about the proper scope of this hearing,
16 but even beyond that, the question calls for not
17 only Dr. Murphy but any witness to speculate
18 about what's in the minds of dozens of -- of
19 people who live in the Sharon Hospital service
20 area and why they might have done what they did
21 ATTORNEY KNAG: Well, he has speculated. He
22 said that they went because of -- they want to
23 tertiary care services and I contest that as the
24 reason that -- I believe they're also other
25 reasons, which I'm just asking him about.

1 HEARING OFFICER CSUKA: Dr. Murphy, have you
2 done anything as a system to assess what the
3 potential patients, what their reasoning would be
4 in choosing a different hospital?
5 DR. MURPHY: Yeah, I would answer the
6 question this way: First of all, I was not here
7 in 2018 running -- Nuvance Health didn't exist in
8 2018, so I'm the wrong person to answer that
9 question, nor did my testimony include facts that
10 Attorney Knag has attributed to me. Christina
11 McCulloch made reference that patients chose to
12 go to other facilities largely because of the
13 facilities that were available at tertiary
14 facilities, but I don't know the specifics of the
15 investigation that led to those conclusions
16 HEARING OFFICER CSUKA: Okay, thank you.
17 Attorney Knag, I'm going to ask that you
18 move on to your next question and I'm going to
19 sustain the objection.
20 Q If your request for permission to close the
21 maternity unit is denied, would you be willing to work with
22 Sharon's representative, Maria Horn, who is the incoming
23 co-chairman of the finance community, and the governor and
24 other leaders in an effort to find ways to improve
25 reimbursement for Sharon's maternity unit?

1 A I would answer the question that I am always
2 happy to speak with elected officials and authorities.
3 I've met regularly with Governor Lamont and I have spoken
4 about this issue with Elected Representative Horn. I would
5 be happy to continue to do so regardless of how this
6 decision plays out. I think it's our responsibility to
7 maintain open communications with government officials.
8 ATTORNEY KNAG: That's all I have for
9 Dr. Murphy.
10 HEARING OFFICER CSUKA: Okay, thank you.
11 Well, Dr. Murphy -- Attorney Tucci, do you
12 have any redirect for Dr. Murphy?
13 ATTORNEY TUCCI: No, I don't. Thank you.
14 HEARING OFFICER CSUKA: Okay, Attorney Knag,
15 do you want Ms. McCulloch next?
16 ATTORNEY KNAG: Yes.
17 HEARING OFFICER CSUKA: Okay, and Ms.
18 McCulloch, just a reminder that you're still
19 under oath.
20 And Attorney Knag, whenever you're ready,
21 you can proceed with cross.
22 ATTORNEY KNAG: Thank you.
23
24 CROSS EXAMINATION OF CHRISTINA MCCOLLOCH:
25 BY ATTORNEY KNAG:

1 **Q Ms. McCulloch, would you agree that serving the**
2 **New York State patients is an important part of Sharon**
3 **Hospital's mission?**
4 **A Yes.**
5 **Q So the fact that certain patients are from New**
6 **York doesn't mean that that should be discounted?**
7 **A That is correct.**
8 **Q Where -- where is the nearest hospitals that have**
9 **NIC- -- NICU availability?**
10 **A The nearest hospital in Connecticut, I believe,**
11 **is Danbury Hospital, or some hospitals that are located in**
12 **the Waterbury area, all on the New York side, the most**
13 **local is Vassar Brothers Hospital.**
14 **Q So the other hospitals like Charlotte Hungerford**
15 **don't have NICUs; is that right?**
16 **A That is correct.**
17 **Q And have you done any evaluation as to why**
18 **patients that choose to not use Sharon but live in the**
19 **Sharon area have chosen to go outside of Sharon, the Sharon**
20 **Hospital, to deliver?**
21 **A When patients make the decision to deliver at**
22 **other facilities, that's done before they associate with a**
23 **hospital. So that birth-planning process occurs with the**
24 **obstetrician and other support partners. The hospital is**
25 **not involved in that birth --**

1 Q So you don't know why they -- why they chose
2 another hospital over -- over Sharon; is that your
3 testimony?
4 A We know that patients are referred outside of
5 Sharon Hospital, and one of those examples of why is
6 because Sharon Hospital does not deliver high-risk
7 pregnancies, and so patients are referred to other
8 hospitals that have NICUs and neonatologists to support
9 those high-risk deliveries. We know that --
10 Q Do you know whether certain patients don't go to
11 Sharon because they've been told that the hospital may
12 close the maternity unit?
13 ATTORNEY TUCCI: Same objection, which --
14 which Hearing Officer previously sustained.
15 HEARING OFFICER CSUKA: Sustained again. I
16 think she testified that they -- they believe
17 it's due to the other concerns.
18 Q Did you offer the top nurse at the Danbury
19 Hospital -- at Sharon Hospital a job at Danbury Hospital?
20 HEARING OFFICER CSUKA: Ms. McCulloch, your
21 audio cut out.
22 MS. MCCOLLOCH: Oh, that is -- that is not
23 an accurate statement.
24 Q What was done with reference to that nurse in
25 Danbury Hospital?

1 A So we support professional development for all of
2 our staff at the hospital, and as we look at each
3 individual staff member and their professional goals,
4 they're always looking for opportunities for growth that
5 may be specific to those individuals. As opportunities
6 come up, we have conversations with staff as we attempt to
7 retain staff within our hospital system.
8 Q So you did talk to that nurse about going to
9 Danbury?
10 A I have had conversations with our charge nurse
11 that you're referencing about opportunities for her
12 professional growth.
13 Q As Danbury?
14 A There was a position open at Danbury at one point
15 in time that we had discussed, yes, but for -- to clarify,
16 there was a position offered to her there, discussions
17 about professional growth.
18 Q Do you know if the -- if there was -- if there
19 were conversations by your team with doctors and
20 professional staff about the possibility that you would
21 look for jobs or staff privileges elsewhere?
22 ATTORNEY TUCCI: Yeah, I do think I did
23 object earlier and probably should have. This
24 goes down, and you can see that we're already
25 going down the path that really doesn't have any

1 relationship to the issue of whether or not these
2 services are sustainable at a rural hospital such
3 as Sharon, but rather are directed to the
4 argument that the Intervenor wants to make that
5 in some -- in some form or fashion, Sharon
6 Hospital intentionally drove professionals and
7 providers out of the labor and delivery unit. I
8 object. It's -- it violates the Hearing
9 Officer's ruling directly.
10 ATTORNEY KNAG: Whether it was intended or
11 not intended, the point here is that -- that
12 because -- that they claim are being -- have gone
13 up because the staff left, the nurses left, and
14 they had to hire traveling nurses, and that's
15 directly relevant to the question of the -- the
16 potential savings because if the place is not
17 about to close or if it was established that the
18 maternity unit would not close, the staff could
19 be rerecruited and they wouldn't need to use
20 traveling staff.
21 So my -- my question is just to show that
22 the loss of the staff was something that resulted
23 from actions by the hospital resulted not
24 resolved and that increased the cost, which are
25 now saying can be saved by closing the unit.

1 ATTORNEY TUCCI: Well, that explanation
2 helps, Hearing Officer Csuka, because now, what
3 Mr. Knag has said is that he wants to prove
4 precisely what you ordered should not be the
5 subject of this hearing, which is that there was
6 a -- an alleged violation of the 2018 --
7 ATTORNEY KNAG: No.
8 ATTORNEY TUCCI: -- agreed settlement.
9 That's outside the boundaries --
10 ATTORNEY KNAG: No, it's just to assess the
11 potential savings or lack thereof, but of closing
12 this unit.
13 HEARING OFFICER CSUKA: I'll -- I'm going to
14 allow the question.
15 MS. MCCULLOCH: May I ask you to repeat the
16 question, please?
17 Q Did you and your team urge doctors and staff to
18 look for jobs or affiliations, medical staff affiliations
19 elsewhere?
20 A When we made the decision to apply to terminate
21 labor and delivery services, we were transparent from the
22 beginning with all of our stakeholders, including our
23 medical staff. We did have conversations with our medical
24 staff related to planning should our application get
25 approved, and that planning does have to include where will

1 our providers deliver and at what hospitals, and so we did
2 have conversations inquiring if our labor and delivery unit
3 closed, where would our providers be delivering, or I -- I
4 shouldn't say our providers because community providers are
5 independent, but we did have conversations related to that
6 as an attempt to plan should our application be approved.
7 Q Did ACOG, in its study, make recommendations as
8 to what you might be with reference to the labor and
9 delivery unit?
10 A Can you, please, clarify? ACOG -- ACOG did a
11 quality review and they've made recommendations related to
12 quality. Is that what you are referencing or are you
13 referencing did they made recommendations based on
14 something else?
15 Q I'm asking whether there were recommendations in
16 the ACOG study? You said they were related to quality.
17 A There were recommendations from ACOG, yes.
18 Q And what were they?
19 A I cannot recall the recommendations specifically.
20 Q Did you implement any of those recommendations?
21 A My recollection is that those recommendations
22 from the ACOG review were reviewed with all of our OB/GYNs,
23 our quality team, and critical members of our obstetrics
24 unit. They were brought to the OB committee for review and
25 for recommendations for implementation, but I don't recall

1 what has or has not been implemented at this point.
2 Q Did you do anything to recruit OB/GYNs?
3 A May I ask what time period you are --
4 Q From the time --
5 A -- referencing?
6 Q -- from the time that Nuvance took ownership
7 until the present.
8 A Yes.
9 Q What did you do?
10 A So there had been recruitment efforts over the
11 years around the time. These are approximates, just based
12 upon my recollection. Around the time that we did become
13 Nuvance Health, there have been conversations with BWH
14 related to recruitment and discussions related to how that
15 recruitment would work as a partnership.
16 Q But you didn't successfully recruit any OB/GYNs?
17 A Not since the time we have been Nuvance Health.
18 Q And --
19 HEARING OFFICER CSUKA: I'm sorry, Ms.
20 McCulloch, what -- you sort of trailed off. What
21 was the end of your response there?
22 MS. MCCULLOCH: No, as Nuvance Health, we
23 did not recruit any additional OB/GYNs.
24 HEARING OFFICER CSUKA: All right. Thank
25 you.

1 **Q And then -- then did -- did the -- did the OB/GYN**
2 **group succeed in recruiting a new OB/GYN?**
3 **ATTORNEY TUCCI: Objection as to relevance.**
4 **OB/GYN Group is not Sharon Hospital. Not**
5 **relevant to this application.**
6 **ATTORNEY KNAG: They're claiming that**
7 **they're having dif- -- part of the problem is**
8 **they're having difficulty recruiting and we're**
9 **showing that it's possible to recruit**
10 **successfully.**
11 **ATTORNEY TUCCI: The "they" -- the "they"**
12 **that Mr. Knag is referring to is Sharon Hospital,**
13 **but the question before OHS is what is Sharon**
14 **Hospital's experience with regard to efforts to**
15 **maintain the labor and delivery, not what some**
16 **private practice's experience may or may not have**
17 **been.**
18 **ATTORNEY KNAG: But the -- but the ability**
19 **of the private practice to recruit successfully**
20 **bears on their ability to recruit and which they**
21 **claim is -- is a reason for terminating the**
22 **service.**
23 **HEARING OFFICER CSUKA: Is -- just for my**
24 **own education, is the -- the practice you're**
25 **talking about, is that in any way affiliated with**

1 Sharon Hospital --
2 ATTORNEY KNAG: Yes.
3 HEARING OFFICER CSUKA: -- or Nuvance?
4 ATTORNEY KNAG: Yes, it's Dr. Mortman's
5 practice, that in the -- this one group in Sharon
6 that delivers babies and that's Dr. Mortman's
7 group associated with women's health and they --
8 they success -- they recently successfully
9 recruited a new highly-qualified new OB/GYN for
10 this area and the -- and Sharon refused its
11 previous offer to support that with an income
12 guarantee, and I'm just trying to bring that out
13 in this cross-examination.
14 ATTORNEY TUCCI: Well, again, so Mr. Knag's
15 explanation is, I hope, illuminating to OHS and
16 the Hearing Officer because what he's talking
17 about is a practice that exists in the service
18 area, that is a private professional corporation,
19 that is not owned by, managed, affiliated or in
20 any way under the control of Sharon Hospital.
21 ATTORNEY KNAG: But those are --
22 ATTORNEY TUCCI: The doctors in that
23 practice -- excuse me.
24 ATTORNEY KNAG: Sorry.
25 ATTORNEY TUCCI: The doctors in that

1 practice may have privileges at this hospital and
2 lots of other hospitals, but that has nothing
3 whatever to do with what Sharon Hospital did,
4 what its efforts were to maintain the L&D unit as
5 a viable service here, and the question of
6 whether or not individual doctors choose to join
7 private practices somewhere in Litchfield County
8 has no bearing on -- on the application presently
9 pending.
10 ATTORNEY KNAG: It has everything is do with
11 it because it shows that it's possible to recruit
12 doctors, and that, in fact, that this group has
13 recruited doctors for the Sharon Hospital medical
14 staff. It's not unrelated to Sharon. These are
15 the doctors that are delivering babies.
16 HEARING OFFICER CSUKA: Attorney Knag, I
17 mean, wouldn't you be able to get this in through
18 Dr. Mortman, himself?
19 ATTORNEY KNAG: We can do -- we can do that,
20 yes. Okay, I'll move on.
21 HEARING OFFICER CSUKA: I mean, I -- I feel
22 like you're just asking her to speculate here.
23 ATTORNEY KNAG: All right, we'll move on.
24 Dr. Mortman will discuss it.
25 I have no further questions for this

1 witness.

2 HEARING OFFICER CSUKA: Okay, thank you.

3 All right, Attorney Tucci, did you have any

4 redirect for Ms. McCulloch?

5 ATTORNEY TUCCI: Thank you, Mr. Csuka.

6 REDIRECT EXAMINATION OF CHRISTINA MCCULLOCH:

7 BY ATTORNEY TUCCI:

8 Q Just a -- Ms. McCulloch, just a few questions for

9 you.

10 You talked about the availability of NICU

11 services in the service area here in Litchfield County, and

12 I believe you referred to Danbury Hospital as being the

13 closest Connecticut hospital that has NICU services

14 available, correct?

15 A That's correct.

16 Q For my benefit, can you just talk a little bit

17 about what -- what the NICU services are all about and what

18 level of care that is considered to be in terms of hospital

19 level services as compared with what's available at Sharon?

20 A Sure.

21 So NICU -- NICUs change in levels from well-baby

22 NICU up to Level 4 in NICU. And as you increase in the

23 levels of NICUs, you increase in the capability of those

24 NICUs in the totality of the patients that those NICUs can

25 take care of.

1 When you look at the hospitals across the state,
2 hospitals have different levels of NICU. Sharon Hospital
3 has a well-baby nursery. So we care for well-babies. We
4 do not deliver patients that have risk associated with
5 their deliveries, and what we do maintain is the ability
6 to, in the event that there is an unexpected outcome with
7 an infant, we can resuscitate and appropriately coordinate
8 a transfer to an accepting facility at the appropriate
9 hospital that has that level of NICU that we need
10 Q All right, and in -- in your comments to Mr.
11 Knag, you talked about the fact that Sharon Hospital, the
12 labor and delivery services unit, as it currently operates
13 in your environment, does not accept or deliver patients
14 who are at-risk for high-risk pregnancies; is that correct?
15 A Right. That is correct.
16 Q All right, and can you -- again, for my benefit,
17 can you give me a little bit of an education about what
18 types of patients fall within this category of high-risk --
19 ATTORNEY KNAG: I object. this question
20 goes beyond the scope of -- of cross.
21 ATTORNEY TUCCI: It's directly related to
22 cross. I'm -- I'm following up on -- directly on
23 the questions that Mr. Knag asked with respect to
24 the availability of services at Sharon and where
25 the nearest NICU was and all the questions he

1 asked related to that.

2 HEARING OFFICER CSUKA: I'll allow it.

3 MS. MCCULLOCH: Can you repeat the initial

4 question?

5 Q Yeah, sorry.

6 So my -- my question was: If you could, just

7 elaborate on when you talk about Sharon Hospital's lack of

8 current capacity to provide care for patients who are faced

9 with high-risk pregnancy, can you -- can you give me some

10 education on what -- what types of risks and patients fall

11 into that category?

12 A Sure.

13 So patients that are considered higher risk are,

14 to start, patients that are earlier on in the pregnancy, so

15 before 36 weeks are considered a higher-risk pregnancy and

16 there's a chance that that delivery may require NICU

17 services.

18 Also, when we look at the health of the mother

19 and the health of the pregnancy in general, if there are

20 any co-morbidities or other factors that occurred during

21 that pregnancy that may indicate that they may need other

22 services following that birth that would consider them to

23 be a higher risk.

24 Q All right, and so do I understand you correctly

25 that with respect to that category of patient who is a

1 potential consumer of labor and delivery services, if
2 Sharon Hospital's labor and delivery service unit continues
3 on into the future, those patients will never come to
4 Sharon Hospital, correct? That volume does not come here?
5 A That is correct.
6 Q It goes somewhere else?
7 A Mm-hm.
8 Q And -- and do you have knowledge of -- for those
9 particular kind of patients, what -- what the options or
10 choices are in this service area?
11 A Yes.
12 Q Where do they go?
13 A Well, we know that some go to Danbury Hospital,
14 Connecticut. We also have patients that go to UConn.
15 There's also another common facility that receives some of
16 the patients in our service area. On the New York side,
17 Vassar Brothers is one of the main --
18 Q And with respect to the category of high-risk --
19 high-risk patients that we've been talking about, high-risk
20 labor and delivery patients, do you know whether or not
21 that -- that category or subset of patients from the
22 universe of volume that might be available for inpatient
23 delivery, is that -- what -- what did the trends indicate
24 with respect to that category of patient?
25 A Well, we know that women are delivering babies

1 at more advanced maternal age and that, in and of itself,
2 is a risk factor.
3 Q All right, Ms. McCulloch, you were asked a bunch
4 of questions by Mr. Knag about staffing and I think part of
5 what where you indicated is that when the decision was made
6 to make an application to end labor and delivery services
7 at Sharon Hospital, you had open and transparent
8 discussions with the staff that was in the labor and
9 delivery services unit, correct?
10 A That is correct.
11 Q Did you do everything you could do encourage
12 those folks to continue to stay at Sharon Hospital?
13 A We did.
14 Q Did you ever tell any professional staff member
15 that they should leave the hospital because if OHS
16 eventually approved the application, the services would be
17 terminated?
18 A No, we did not.
19 ATTORNEY TUCCI: Thank you very much.
20 That's all I have.
21 HEARING OFFICER CSUKA: Okay. Thank you,
22 Ms. McCulloch.
23 ATTORNEY KNAG: I have one question for
24 recross.
25 HEARING OFFICER CSUKA: Just one. I

1 typically don't allow recross, but --
2 ATTORNEY KNAG: I'll desist.
3 HEARING OFFICER CSUKA: Okay. Thank you. I
4 mean, it might be something you can ask one of
5 the other witnesses, too.
6 So do you have any cross-exam for Dr. Lucal?
7 ATTORNEY KNAG: Yes.
8 HEARING OFFICER CSUKA: One moment. All
9 right, there she is.
10 Dr. Lucal, just a reminder, again, that you
11 are still under oath.
12 CROSS EXAMINATION OF ELIZABETH LUCAL, MD
13 BY ATTORNEY KNAG:
14 Q Doctor, were you in charge of the Vassar Brothers
15 OB/GYN residency program?
16 A Yes.
17 Q And what happened with that?
18 A The program was closed in January of this year.
19 Q Why was that?
20 ATTORNEY TUCCI: Objection as to relevance,
21 pardon me.
22 ATTORNEY KNAG: I claim it's relevant
23 because of the fact that Dr. Lucal -- let me
24 withdraw that question. I'll withdraw that
25 question.

1 **Q Doctor, what is your role in going forward with**
2 **reference to Sharon Hospital's women's health?**
3 **A As vice-chair of the system, I help**
4 **Dr. Schwann(ph), who is the chair, coordinate services that**
5 **work throughout the system, including Sharon Hospital. So**
6 **things that are collaborated between the hospitals as well**
7 **as outpatient offices.**
8 **Q Will you be involved in creating new women's**
9 **programs as outlined in the CON?**
10 **A As it relates to women's health in the system, I**
11 **am involved.**
12 **Q Have you done anything to-date with reference to**
13 **new women's programs that may be established as described**
14 **in the CON?**
15 **A Yes, I have.**
16 **Q What have you done?**
17 **A To-date, we have initiated the system-wide**
18 **breast-feeding working task force, which the immediate goal**
19 **is to increase the exclusive breastfeeding rates at all of**
20 **the hospitals actually utilizing the expertise of Sharon**
21 **Hospital's own breast-feeding experts, we have instituted**
22 **the pelvic floor physical therapy program for antenatal and**
23 **postpartum patients, and just recently, we also initiated**
24 **the maternal behavioral health program with Dr. Cruz to,**
25 **again, focus on behavioral health issues specifically**

1 related to antepartum and postpartum patients.
2 Q So is it the intent under the CON that pregnant
3 women would receive prenatal care from someone at Sharon
4 Hospital that was employed by Nuvance?
5 A The intent of the CON? Patients have their
6 ability to choose their OB/GYN based on their own decision.
7 Q But would -- would Sharon Hospital be
8 establishing a way for the patients to come to Sharon
9 Hospital and receive prenatal care and post-delivery care?
10 A Not that I'm aware of. They're not establishing
11 an employee provider model at Sharon.
12 Q All right, so, therefore, then, if the -- if
13 there were -- therefore, they would be reliant on resources
14 that are available outside of Sharon Hospital for those
15 services?
16 A No, these services that I'm discussing don't
17 require patients to have any affiliation in the sense of
18 Sharon Hospital other than the fact that their OB/GYN in
19 the community can refer them to these services as they can
20 refer their -- their patients to any --
21 Q But basic prenatal and post-natal care would be
22 the -- continue to be the provence of the outside OB/GYNs?
23 A OB/GYNs that are collaborating with Sharon
24 Hospital, yes.
25 Q All right, would you agree that pregnant women

1 who are at-term are better served if they don't have to
2 travel an hour to get a delivery?
3 A I would agree.
4 Q Do you agree that there are various emergencies
5 that might be encountered that can currently be handled by
6 Sharon Hospital that will not be within Sharon Hospital's
7 capabilities after the CON is employed if it's approved?
8 A I disagree.
9 Q Suppose there's an ectopic pregnancy, would
10 Sharon have the ability to --
11 A Specifically, so that we're clear, that is not an
12 obstetrical situation. That is a gynecological situation
13 that is managed through multiple EDs with their GYN
14 provider throughout the nation.
15 Q I'm sorry, I missed that answer. Would you
16 repeat the answer?
17 A That is not an obstetrical emergency, that that
18 is a gynecological surgery that is managed regularly
19 throughout EDs and gynecological staff.
20 Q Who would do the ectopic emergency surgery if the
21 OB/GYNs were not on-call?
22 ATTORNEY TUCCI: Objection; it's not
23 relevant. The witness has already testified that
24 it doesn't have anything to do with obstetric
25 delivery services.

1 **ATTORNEY KNAG: I don't --**

2 **ATTORNEY TUCCI: -- a procedure outside the**

3 **scope of what the CON involves.**

4 **ATTORNEY KNAG: It's our contention that the**

5 **quality of care is going to diminish if the -- if**

6 **it's proposed the OB/GYNs are no longer on-call**

7 **and I'm just trying to touch on that.**

8 **ATTORNEY TUCCI: The question relates to not**

9 **whether OB/GYNs are on-call or not on-call. The**

10 **question pertains to whether or not there is a**

11 **24/7 inpatient labor and delivery service unit.**

12 **That's the only issue.**

13 **ATTORNEY KNAG: Right, and if there isn't,**

14 **then they would not have an OB/GYNs on-call**

15 **because you're claiming that they're going to be**

16 **saving the money by not paying for that.**

17 **ATTORNEY TUCCI: The witness clearly**

18 **testified that, with respect to the specific**

19 **question asked by the Intervenor's Counsel**

20 **relating to ectopic pregnancy, that that -- that**

21 **that clinical situation, to the extent it might**

22 **exist, is handled in emergency departments.**

23 **ATTORNEY KNAG: But I'm asking her --**

24 **ATTORNEY TUCCI: It's not relevant.**

25 **ATTORNEY KNAG: It is relevant because it's**

1 part of what's going to happen if this is
2 approved, and it's a very important part of
3 what's going to happen if there's no OB/GYN
4 coverage. And she says it's handled in the
5 emergency departments, but I don't know how you
6 handle it if you don't have an OB/GYN surgeon
7 on-call.
8 HEARING OFFICER CSUKA: I'll allow the
9 question.
10 DR. LUCAL: Could you repeat the question?
11 HEARING OFFICER CSUKA: Yeah, I was going to
12 ask you, Attorney Knag, if you can repeat it?
13 Q Yes.
14 So who would do the emergency surgery if there
15 was an ectopic and there was no OB/GYN available?
16 A The gynecologist.
17 Okay, so you're mixing apples and oranges. Just
18 because a labor and delivery unit closes does not mean that
19 the ED cannot have a gynecologist on-call. It also does
20 not mean that any providers in the community cannot be
21 on-call for gynecological issues with their ED.
22 Q But aren't you --
23 A There are multiple OB/GYNs who practice GYN only
24 and there are multiple OB/GYNs who practice OB only.
25 Q But isn't your contention in support of your CON

1 that you're going to save by closing maternity and a key
2 part of the saving is the call agreements with the OB/GYNs
3 and the pediatricians?
4 A I am not familiar with what the call agreement is
5 with the OB/GYNs and the pediatricians.
6 Q Okay, all right, would you agree that births that
7 happen outside of the hospital are a leading cause of
8 neonatal morbidity and mortality?
9 A Yes.
10 Q Would you agree that, at times, it may be more
11 dangerous to transport a women in labor than to deliver
12 her?
13 A Rarely, but yes.
14 Q Do you know that there are many minority farm
15 workers in the area who are already prone not to seek care?
16 ATTORNEY TUCCI: Objection; there's no
17 foundation for that. That's -- that's Mr. Knag
18 testifying about some fact that isn't in the
19 record.
20 ATTORNEY KNAG: I'm asking her and it
21 relates to the fact that if the OB/GYN -- and the
22 OB/GYNs are no longer practicing in Sharon, that
23 it's going to have a particularly negative impact
24 on people of color/minorities who are located in
25 this area.

1 DR. LUCAL: No, I didn't see any e-mail
2 about that.
3 ATTORNEY TUCCI: So, again, again, Mr. Knag
4 has now made --
5 HEARING OFFICER CSUKA: Ms. Epstein, we --
6 if you can mute your device, please, Ruth
7 Epstein.
8 Sorry about that. That's one of the
9 pitfalls of doing virtual hearings.
10 I forgot where we left off, sorry.
11 ATTORNEY TUCCI: Mr. Csuka, just briefly,
12 I'm sorry, Mr. Csuka, this is Ted Tucci.
13 This is a relevance objection. What Mr.
14 Knag has specifically stated in his question is a
15 fear that if labor and delivery services no
16 lodger exist at Sharon Hospital, that there will
17 be no OB/GYN private practices in Sharon or in
18 the service area. That's not the question that's
19 before you or before OHS staff.
20 The issue is not whether or not private
21 physicians will continue to come to Litchfield
22 County to offer OB/GYN services. The issue is
23 whether or not, with respect to that one piece of
24 OB/GYN care that involves a birthing plan at an
25 inpatient hospital, whether or not that service

1 is one that is continued to be needed and is
2 financially-viable in this market.
3 ATTORNEY KNAG: I'll --
4 ATTORNEY TUCCI: OHS is not -- excuse me,
5 excuse me, OHS is not concerned with whether or
6 not a private doctor may or may not continue to
7 have a viable financial practice in the market.
8 ATTORNEY KNAG: I don't agree that OHS is
9 not concerned. OHS is required by the statute to
10 consider the impact of driving the CON on the
11 quality of care, on the accessibility of care,
12 and its impact on minorities, and I'm attempting
13 to induce evidence that's it's going to have a
14 substantial impact on minorities.
15 HEARING OFFICER CSUKA: So I -- I sort of
16 agree with -- with Attorney Tucci. Maybe you
17 skipped a little ahead here. You haven't even
18 established that Dr. Lucal has any knowledge as
19 to the -- the types of -- of like whether there's
20 a high Medicaid population or an indigent
21 population in the area. If you back up a little
22 bit and start from there, we might be able to get
23 to where you're trying to go.
24 ATTORNEY KNAG: All right, I'll try, and if
25 I can't, then Dr. Mortman will fill in the

1 blanks.

2 Q Doctor, do you know whether there are minorities

3 in the Sharon area who deliver at Sharon Hospital?

4 A There are minorities and people of color

5 everywhere, and yes, some do deliver at Sharon Hospital.

6 Q Do you know whether, in particular, there are --

7 there are farm workers who are on Medicaid who comprise a

8 portion of that subset?

9 A (Unintelligible) related to Sharon Hospital in

10 that delivery, I do not know.

11 ATTORNEY KNAG: Okay, all right, I'll pursue

12 this through Dr. Mortman. I have no further

13 questions for Dr. Lucal.

14 HEARING OFFICER CSUKA: Okay.

15 Attorney Knag, correct me if I'm wrong, you

16 did want the -- a financial person to be

17 presented?

18 ATTORNEY KNAG: Yes.

19 HEARING OFFICER CSUKA: Was there anyone

20 else?

21 ATTORNEY KNAG: I had some financial

22 questions that I want to ask, and I have no

23 further questions for this witness.

24 HEARING OFFICER CSUKA: Okay, thank you.

25 Thank you Dr. Lucal.

1 Attorney Tucci, when you come back on to the
2 camera, do you have someone available who can
3 answer some financial questions?
4 ATTORNEY TUCCI: Yes, Mr. Rosenberg is here
5 in the conference room and can come up to the
6 camera and speak to financial issues related to
7 to application. If you're ready to proceed with
8 that, we can do that now.
9 HEARING OFFICER CSUKA: Yeah, I am -- I'm
10 ready.
11 MR. ROSENBERG: Good morning, Steven
12 Rosenberg, S-t-e-v-e-n, R-o-s-e-n-b-e-r-g.
13 HEARING OFFICER CSUKA: Okay, I'm going to
14 put you under oath. Please, raise your right
15 hand.
16 Do you solemnly swear or solemnly and
17 sincerely affirm, as the case may be, that the
18 evidence you will provide today will be the
19 truth, the whole truth, and nothing but the
20 truth, so help you god or upon penalty or
21 perjury?
22 MR. ROSENBERG: I do.
23
24 S T E V E N R O S E N B E R G,
25

1 called as a witness, being first duly sworn (remotely) by
2 HEARING OFFICER CSUKA, testified on his oath as follows:
3
4 HEARING OFFICER CSUKA: And Mr. -- are you a
5 doctor or just a --
6 MR. ROSENBERG: So I am the past CFO of
7 Nuvance Health.
8 HEARING OFFICER CSUKA: Okay, you're not
9 currently the CFO; is that correct?
10 MR. ROSENBERG: So I'm not currently the
11 CFO, but I'm serving in a consultant capacity at
12 this point in time.
13 HEARING OFFICER CSUKA: Okay, thank you.
14 Attorney Knag, you can proceed with whatever
15 questions you have.
16 CROSS EXAMINATION OF STEVEN ROSENBERG
17 BY ATTORNEY KNAG:
18 Q Thank you.
19 Good morning, Mr. Rosenberg.
20 A Good morning.
21 Q Was it in -- when you submitted the CON
22 application, were you involved in the -- preparing that
23 submission?
24 A I was not involved in the detail of the
25 submission, no.

1 **Q Who did the submission in terms of the financial**
2 **aspects?**
3 **A Sure, some of my finance staff.**
4 **Q Your staff?**
5 **A Correct.**
6 **Q And did the -- did the initial CON in Exhibit G**
7 **state that there would be a gain for Sharon Hospital for**
8 **2023 with or without the CON in excess of $160 million?**
9 **A It did. Unfortunately, we made an error. We're**
10 **human. I wish that weren't the case. We subsequently**
11 **found that mistake, corrected it. We added a line instead**
12 **of subtracting a line. The detail of the revenue and**
13 **expenses is correct. The math is wrong. When we redid**
14 **that and resubmitted it, it came to loss of a little over**
15 **$19 million.**
16 **Q And you made the same mistake when you submitted**
17 **a revised version of that schedule with the completeness**
18 **question, in Exhibit I with the completeness question?**
19 **A We did -- yes, we discovered that in**
20 **the (unintelligible). We corrected it when we found that**
21 **mistake, when it was pointed out to us, correct.**
22 **Q Now, you say that you're going to have savings of**
23 **approximately $3 million; is that correct?**
24 **A It is.**
25 **Q And does that savings reflect the fact that you**

1 have been paying traveling nurses to staff the unit?

2 A It reflects the average salary and cost of

3 staffing that unit, some of which would be travelers,

4 correct.

5 Q Right now, are there any nurses that are not

6 travelers?

7 A I am not familiar with that.

8 Q Do you know --

9 A "Yes" is the answer.

10 Q Do you know how much extra money you're required

11 to spend as a result of using travelers rather than

12 employed nurses?

13 A I don't have that information in detail available

14 now.

15 Q Do you know whether the Stroudwater said it was a

16 million dollars a year at that time when they did their

17 report?

18 A I'm not familiar, but I'm sure you could go back

19 and check that.

20 Q In terms of projecting volume for purposes of

21 this comparison, did you assume that the volume would not

22 increase in terms of the volume of babies?

23 A Correct.

24 Q And -- and did you -- in making that projection,

25 did you consider whether the volumes being experienced were

1 depressed based on the fact that there had been certain
2 announcements of closures?
3 ATTORNEY TUCCI: This is the third time. I
4 renew my objection.
5 ATTORNEY KNAG: I think it's relevant to --
6 I'm trying to cross-examine him on his claim of
7 savings and the volume estimate is certainly
8 relevant.
9 ATTORNEY TUCCI: It really is not relevant.
10 I respectfully submit, Hearing Officer Csuka.
11 The theory here and what the Intervenors are
12 going to argue to you at the end of the day is
13 that this is all Sharon Hospital's fault because
14 when they announced their intention to apply to a
15 state agency for permission to close this
16 service, that's the reason why a -- it became
17 ex --
18 ATTORNEY KNAG: Our contention --
19 ATTORNEY TUCCI: -- the facts similarly don't
20 bear that out.
21 ATTORNEY KNAG: Our contention is simply
22 that if it became clear that the unit was not
23 closing because the CON was disapproved, that
24 that would result in higher volumes, and I think
25 it's a reasonable point for us to attempt to

1 prove.

2 HEARING OFFICER CSUKA: I'll allow this

3 witness to answer that question because I guess

4 it goes to the financial projections.

5 DR. ROSENBERG: So we base the

6 forward-looking projections on the current volume

7 do not build any increases or decreases into

8 that.

9 Q How much did you plan -- do you plan to spend on

10 the additional activities that are envisioned by the CON

11 such as additional primary care, behavioral health, and

12 women's health services?

13 A So I don't think we addressed that. We talked

14 about the expansion of services that we would offer in the

15 community. I don't think we put a dollar amount in there

16 on that.

17 Q So, in projecting savings, it doesn't include any

18 additional expenses that are -- that are embraced in those

19 items?

20 A We're talking about the savings related to

21 closure of the maternity unit, that those were talked

22 about, the other items, correct.

23 Q Okay, yes.

24 Now, you say that there was -- there would be a

25 savings -- I would refer you to the -- to the chart that is

1 your financial worksheet, which was submitted as part of
2 the issues paper that was sent to you by OHS just prior to
3 this hearing, where you -- that was where you revised the
4 financial projections to make the corrections you
5 previously described, and in that chart, you said that
6 there would be salaries and wages saved of $2.3 million.
7 Do you know what that consists of?
8 A It consists of staffing on the unit.
9 Q Do you know how it breaks down? Do you have any
10 breakdown of that -- of that number?
11 A Excuse me for one moment. Yeah, $1.6 million of
12 that is regular salary savings as a result of closure of
13 the unit. About $711,000 represents a reduction in agency
14 expense.
15 HEARING OFFICER CSUKA: Mr. Rosenberg, can I
16 just ask you what you're referring to in your
17 hands right now?
18 MR. ROSENBERG: Sure, just a financial
19 worksheet that we've prepared as part of this
20 filing. We would be happy to share it with you.
21 HEARING OFFICER CSUKA: Is that something --
22 maybe Attorney Tucci can answer this? Is that
23 something that's already in the record.
24 ATTORNEY TUCCI: No, Hearing Officer Csuka,
25 it's not in the record. It's a worksheet that

1 backs up -- a detailed worksheet that backs up
2 what is in the -- in the materials in the
3 application and it can be shared.
4 HEARING OFFICER CSUKA: Okay, thank you.
5 ATTORNEY KNAG: We would ask that they --
6 that they e-mail us and you a copy so we can
7 refer to it in our direct examination, which will
8 follow. Is that possible?
9 HEARING OFFICER CSUKA: Attorney Tucci, do
10 you --
11 ATTORNEY TUCCI: Well, Mr. Csuka, the answer
12 is: I'm not sure if it's possible, but we'll
13 endeavor to do that during a break. If at all
14 possible, we will.
15 HEARING OFFICER CSUKA: Okay.
16 Q And then, Doctor, then -- the -- Mr. Rosenberg,
17 there's a line item of $1,984,000 saved for physician fees.
18 What physicians are included in that number?
19 A It includes a 25 percent reduction in an OB
20 subsidy. It has a $600,000 in reduction in OB call, and
21 about a $1.1 million reduction in anaesthesia and
22 surgeries, $1.98 million.
23 Q Okay, do you know if that was the total cost of
24 anaesthesia and surgery, all?
25 A Yes.

1 **Q And isn't it true that anaesthesia and surgery**
2 **support areas other than OB and GYN and maternity?**
3 **A I believe this is the call number just related to**
4 **OB -- the OB/GYN, but we can't confirm that with you.**
5 **Q You don't know at this point? How would you**
6 **confirm that?**
7 **A We'll look at the detail of our numbers.**
8 **Q All right, I would like to get that answer, but**
9 **other than that, I have no further questions for this**
10 **witness.**
11 **HEARING OFFICER CSUKA: Okay, we can -- I'm**
12 **just going to add that we can have that be a late**
13 **file. I think that's a fair question to ask.**
14 **ATTORNEY KNAG: Well, Hearing Officer, I --**
15 **part of our testimony will be an analysis of**
16 **their -- of their presentation and it would be**
17 **very helpful to know that answer before the --**
18 **before we present our testimony. If not, we will**
19 **just have to work around it, but if they can come**
20 **up with the answer now or soon, that would be**
21 **better than waiting until after the hearing.**
22 **HEARING OFFICER CSUKA: Okay.**
23 **ATTORNEY TUCCI: Hearing Officer Csuka, Ted**
24 **Tucci here, we -- you know, we'll do our best to**
25 **provide whatever information we can reasonably**

1 provide, but respectfully, this is not a
2 discovery proceeding. We're here in a hearing.
3 So, if we're unable to do it, obviously,
4 we'll supplement the record with a late file as
5 you've already indicated here.
6 ATTORNEY KNAG: Very well. That's all I
7 have.
8 HEARING OFFICER CSUKA: Okay, and thank you,
9 Mr. Rosenberg.
10 Attorney Knag, did you have any other
11 questions that you wanted answered?
12 ATTORNEY KNAG: None that I haven't asked,
13 no.
14 HEARING OFFICER CSUKA: Okay, Attorney
15 Tucci, I'm sorry, I should have asked: Did you
16 have any redirect for Dr. Rosenberg.
17 ATTORNEY TUCCI: No, I don't. Thank you for
18 asking, though.
19 HEARING OFFICER CSUKA: Okay, I think --
20 let's take a short break now. We can come back
21 in -- jeez, would it be okay with everyone if we
22 came back around 11:50 and then went until, I
23 would say, 1:00, and then we can take a lunch
24 break from 1:00 to 1:30 or 1:45?
25 ATTORNEY TUCCI: That works fine.

1 ATTORNEY KNAG: That's fine with us.
2 HEARING OFFICER CSUKA: So we'll come back
3 at 11:50, and just as a reminder, you should
4 probably turn your audio and your video off, and
5 we will see you back at 11:50.
6 Thank you.
7
8 (Off the record at 11:39 a.m.)
9
10 (Back on the record at 11:53 a.m.)
11
12 HEARING OFFICER CSUKA: Okay, we are back.
13 Attorney Tucci, did you have any luck with
14 getting that financial statement that Mr.
15 Rosenberg was referring to in electronic form?
16 ATTORNEY TUCCI: Yeah, haven't been able to
17 accomplish that during the break, but we can
18 continue to try. It may be that this makes sense
19 to submit it as a late file; however, we'll let
20 you know.
21 HEARING OFFICER CSUKA: Okay, since I think
22 that might be relevant and I think, probably, I
23 just may also have some questions based on that,
24 if it is submitted as a late file, I'm going to
25 permit the Intervenor to submit a response, just

1 because I don't want them to be foreclosed
2 from -- from having an opportunity to review it.
3 ATTORNEY TUCCI: Thank you, Mr. Hearing
4 Officer. Ted Tucci here.
5 Well, understood, and we'll do our best to
6 expedite that so that it can be part of the
7 process here today.
8 HEARING OFFICER CSUKA: Thank you.
9 So we are going to move on to the
10 Intervenor's case.
11 Attorney Knag, I saw that there were 11
12 witnesses, you provided prefile testimony.
13 Are all 11 planning to provide any sort of
14 overview or direct testimony or only --
15 ATTORNEY KNAG: Yes, we're going to follow
16 your direction to stay brief.
17 HEARING OFFICER CSUKA: Thank you, I
18 appreciate that.
19 ATTORNEY KNAG: And I do have a logistical
20 issue I want to raise.
21 Dr. Pri-Paz and Dr. Schweitzer are both
22 working today. They're available right now and I
23 intend to put them on as the first two witnesses,
24 and I'm wondering whether it might be possible --
25 they both have a fairly brief testimony and I'm

1 wondering whether it might be possible that, in
2 addition to cross from the Applicant, that if the
3 staff had any specific questions of them, that
4 they could ask those questions now because of the
5 fact that availability later in the day is going
6 to be a logistical issue.
7 HEARING OFFICER CSUKA: Attorney Tucci, do
8 you have any concerns or objections to going in
9 that order?
10 ATTORNEY TUCCI: No, Hearing Officer Csuka.
11 We'll do our best to accommodate the schedules of
12 the physicians, if that's necessary.
13 HEARING OFFICER CSUKA: Okay. Thank you.
14 So, Attorney Knag, you feel free to present
15 the case in whatever order you think is best, and
16 we will allow cross-exam, if there is any, of Dr.
17 Pri-Paz and Dr. Schweitzer after you present
18 their testimony.
19 ATTORNEY KNAG: Thank you.
20 So I'll -- I'll follow Mr. Tucci's lead and
21 make a short summary of what we're going to do by
22 way of presentation and our key points and leave
23 a more detailed summary to later in the day at
24 the end of the day, but I want to emphasize that
25 the key issue in our view here is that we have a

1 crisis in this country with reference to maternal
2 mortality, and the rate of maternal mortality has
3 been -- has doubled in the last several years in
4 the United States, and why is that? Because
5 we've been seeing this wave of closures of
6 maternity units in rural areas, and once that
7 happens, there's a precipitous increase in
8 maternity and baby death rates.
9 And that's why we can't allow the maternity
10 services to close. That's why the governor has
11 made clear his concern about this. That's why
12 the president and the White House has made clear
13 their concerns about this, and that's why a host
14 of other officials have made a similar point.
15 And we would point out that, unlike other
16 applications like -- such as the Windham
17 application, this is not a case where the
18 hospital is claiming that this service needs to
19 be closed because they can't find the people to
20 do it. To the contrary, the hospital has
21 conceded that it's a high -- it is a high-quality
22 service and that it is an ongoing service that it
23 is able to maintain, and that's a critical
24 difference.
25 All they're talking about, therefore, is

1 that they want to save some money, and we say
2 that the deaths that are going to result, the
3 mortality and morbidity that's going to result
4 from this, based on these statistics, based on
5 the literature do not justify the small savings
6 that they project.
7 And furthermore, we note that in addition to
8 who's -- to maternity -- maternity -- terminated
9 deaths, they are -- they are proposing to delete
10 all of the coverage for OB/GYN and pediatrics,
11 and if they do that, there are going to be a host
12 of other issues that are going to come up that
13 the emergency room cannot adequately service.
14 It's not an emergency room. It's going to
15 be the lack of the availability of an OB/GYN
16 surgeon. If someone has an ectopic, all you can
17 do is put them on transfusion and -- and put them
18 in an ambulance and pray that they make it to the
19 other hospital, but they will be greatly
20 prejudiced by that.
21 And so that -- that lack of accessibility
22 and quality is a key issue that we're focusing on
23 here, and you know, we would further point out
24 that the distances here are longer than we're
25 talking about in the WIndham case. It's -- we're

1 talking about 43 minutes to an hour to get to
2 these other hospitals from Sharon. That's a long
3 way, and so we think that it would be a travesty
4 to close this unit, to allow it to be closed.
5 We think it's imperative to meet the goal of
6 the leadership of this country and this state
7 of -- of reversing the trend of re -- women's
8 mortality, and therefore, we need to have this
9 application denied.
10 So, with that said, I would like to start
11 now with Dr. Pri-Paz. Dr. Pri-Paz is on duty in
12 New York at a hospital, but he's joined us
13 briefly to give us testimony and to respond to
14 cross-examination.
15 HEARING OFFICER CSUKA: I'll just wait for
16 Attorney Tucci to come back. I don't want him to
17 miss anything.
18 ATTORNEY TUCCI: Yes, Ted Tucci.
19 HEARING OFFICER CSUKA: Are you all set,
20 Attorney Tucci?
21 ATTORNEY TUCCI: I'm here, yes.
22 HEARING OFFICER CSUKA: Okay, and do we have
23 Dr. Pri-Paz?
24 DR. PRI-PAZ: Yes.
25 HEARING OFFICER CSUKA: Okay, I'm having

1 trouble pulling you up.
2 DR. PRI-PAZ: Yes, I'm here.
3 HEARING OFFICER CSUKA: There you are.
4 Sorry, I was having trouble finding you in my --
5 DR. PRI-PAZ: Yeah, I tend to --
6 HEARING OFFICER CSUKA: So, please, raise
7 your right hand.
8 Do you solemnly swear or solemnly and
9 sincerely affirm, as the case may be, that the
10 evidence you provided in your prefile testimony
11 and the evidence you shall give today be the
12 truth, the whole truth, and nothing but the
13 truth, so help you god or upon penalty of
14 perjury?
15 DR. PRI-PAZ: I do.
16
17 S H A I M. P R I - P A Z, MD,
18
19 called as a witness, being first duly sworn (remotely) by
20 HEARING OFFICER CSUKA, testified on his oath as follows:
21
22 HEARING OFFICER CSUKA: Do you adopt your
23 prefile testimony?
24 DR. PRI-PAZ: Yes.
25 HEARING OFFICER CSUKA: Okay, thank you.

1 You can proceed.
2
3 DIRECT EXAMINATION OF SHAI M. PRI-PAZ, MD
4
5 DR. PRI-PAZ: Okay, and this is going to go
6 over a bit over my prefile testimony.
7 So I'm an OB/GYN, certified --
8 board-certified OB/GYN, board-certified in
9 maternal fetal medicine. I'm currently
10 practicing while at Cornell in New York, and
11 during my fellowship, I used to moonlight at
12 Sharon Hospital, so that's my knowledge of the
13 hospital. It was a great experience over there.
14 I found the staff to be very professional, very
15 kind. We had -- I was there for weekends.
16 Almost every weekend, we took care of patients,
17 we triaged them, we delivered them. I don't
18 recall, maybe one time, we had to transfer --
19 transport a patient, but I basically got to know
20 the area and the patients and I really endorsed
21 them.
22 So, to talk about the point, the concern
23 with closing it, so we recently had to --
24 actually, two years ago, during COVID, we
25 actually built a new hospital up here just across

1 the street. So the whole maternity ward moved
2 across, and that was a process of like a year, at
3 least, and the training was drills and all kind
4 of scenarios, but still, for about a year, we had
5 to have OB/GYNs in the emergency room because
6 with all the training and with all the
7 preparations, we still ended up having deliveries
8 done in the emergency room that we would not have
9 time to just transport them to the street, even.
10 So -- and that was just across the street.
11 So, when we're talking about about closing
12 the unit and transferring patients 35, 40
13 minutes, it doesn't matter how prepared we are.
14 Things can still happen. Even if we see them
15 during the pregnancy and we tell them to go there
16 for the delivery, you can't control it all,
17 high-risk or not high-risk. Even low-risk
18 patients can become high-risk during labor.
19 Also, I was reading the report about the
20 decreasing number of deliveries, and I don't
21 know, we have patients here -- we are a big
22 hospital, but we still have patients who don't --
23 who basically don't want interventions, who want
24 to do more natural, and I -- there's such a big
25 potential over there in Sharon, that you can have

1 the OB/GYN supervising and you can still do
2 low-risk pregnancies and give them the
3 opportunity to -- think you can be great center.
4 Also, the comments about the prenatal care,
5 like the whole idea of having to see a physician
6 and them knowing that that physician is not going
7 to be there for your delivery is not optimal, in
8 my opinion.
9 The great thing -- one of the things we
10 pride ourselves is trying to actually deliver our
11 own patients, even though we are a high-risk
12 group and it's a big volume. It really gives
13 patients a lot of comfort, satisfaction when we
14 can do the delivery, and I don't know. I don't
15 know if patients will keep coming to us if they
16 knew straightforward that we're not going to do
17 the delivery. I mean, even if it's my partner,
18 which is not ideal, it happens, but I know it's
19 not going to be anyone they know, difficult for
20 the patient.
21 Recruitment, I don't know, I see the
22 discussion there between the OB/GYN, and they're
23 not part of the hospital, but they are the --
24 they are the group that provides you to the
25 hospital. So, when they talked about the

1 ectopic, if you don't have an OB/GYN, I don't
2 think you have the GYN there. So the OB/G is the
3 one that does the GYN, so I don't know who's
4 going to do the ectopics.
5 And I know there was talks about like
6 getting people with low -- to come to a place
7 with low-volume, but you know, it's a new
8 generation. Since COVID, people really like a
9 balance between life and profession and Sharon
10 can give it.
11 So, I think if you really try, you will be
12 able to recruit patients. I had a great time
13 there.
14 To summarize, I think it was a great place.
15 It was a great staff when I was there, provided
16 very important service to the population, which
17 was a very diverse population, and I strongly
18 believe that they should still do it. That's
19 all.
20 HEARING OFFICER CSUKA: Okay, thank you,
21 Doctor.
22 Attorney Tucci, did you have any cross for
23 him?
24 ATTORNEY TUCCI: Yes, Hearing Officer Csuka,
25 thank you, just some brief cross-examination for

1 Dr. Pri-Paz.

2 CROSS EXAMINATION OF SHAI M. PRI-PAZ, MD

3 BY ATTORNEY TUCCI:

4 Q Doctor, can you hear me all right?

5 A Yes.

6 Q Good morning. How are you?

7 A Thanks. How are you?

8 Q Good, thanks.

9 Now, you are presently at Weill Cornell Medical

10 Center in New York City; is that correct?

11 A Yes.

12 Q And you have been at Weill Cornell, I think your

13 prefile indicates, you worked exclusively there for the

14 last 10 years, correct?

15 A 10-plus, yeah, 10-and-a-half, something like

16 that.

17 Q So, since at least 2012, your experience has been

18 focused exclusively on practicing at Weill Cornell,

19 correct?

20 A Yeah, I've been only been at Sharon during my

21 fellowship, so that was before I started at Weill Cornell,

22 yes.

23 Q Okay, and so your experience and your time at

24 Sharon goes back to a period before -- well before 2012,

25 correct?

1 A Yes.

2 Q Okay, now, I've done a little research on Weill

3 Cornell. Tell me if I'm correct. Weill Cornell is a 2,600

4 bed hospital; is that right?

5 A I trust you. I don't know. I just go with the OB

6 part.

7 Q And we have about 1,800 employees in your -- in

8 your large hospital in New York City, correct?

9 A I told you: I trust you. I don't know this

10 information.

11 Q Well, yeah, your prefile says, "I practice in a

12 big medical center in a big city."

13 A That's right, but I don't know the numbers.

14 Q Okay, and you've talked about how, in your view,

15 there's a real good opportunity at Sharon Hospital with

16 respect to potentially doing low-risk births and how, you

17 know, maybe being in a rural setting would be attractive to

18 OB/GYNs.

19 So my question to you, Doctor, is: When are you

20 planning on moving back to Sharon?

21 A How much are you offering me?

22 Q We can talk after.

23 A Okay, then I'll give you the answer.

24 HEARING OFFICER CSUKA: Attorney Knag, did

25 you have any redirect for your witness?

1 ATTORNEY KNAG: No.

2 HEARING OFFICER CSUKA: Okay, thank you, Dr.

3 Pri-Paz.

4 ATTORNEY KNAG: Mr. Hearing Officer, could

5 we -- could we find out whether the staff has any

6 questions? Because Dr. Pri-Paz has to go back to

7 his patients.

8 HEARING OFFICER CSUKA: Yeah, I apologize

9 for that. I did say we would do that.

10 So, Mr. Lazarus, do you have any questions

11 for the Doctor?

12 MR. LAZARUS: We don't have any specific

13 questions, thank you.

14 HEARING OFFICER CSUKA: Okay, and the same

15 goes for Ms. McLaughlin and Ms. Faiella; is that

16 correct?

17 MS. MCLAUGHLIN: Correct.

18 HEARING OFFICER CSUKA: Okay, all right, so

19 Attorney Knag, I think you said Dr. Schweitzer

20 would be --

21 DR. KNAG: Dr. Schweitzer is next, yes.

22 HEARING OFFICER CSUKA: Okay, all right, Dr.

23 Schweitzer --

24 ATTORNEY KNAG: Dr. Pri-Paz is excused; is

25 that correct?

1 HEARING OFFICER CSUKA: Yes.
2 DR. PRI-PAZ: Thank you.
3 HEARING OFFICER CSUKA: Thank you.
4 Please, raise your right hand, Dr.
5 Schweitzer.
6 Do you solemnly swear or solemnly and
7 sincerely affirm, as the case may be, that the
8 evidence you provided in your prefile testimony
9 and the evidence you shall give today shall be
10 the truth, the whole truth, and nothing but the
11 truth, so help you god or upon penalty of
12 perjury?
13 DR. SCHWEITZER: I do, thank you.
14
15 W I L L I A M S C H W I E T Z E R, MD,
16
17 called as a witness, being first duly sworn (remotely) by
18 HEARING OFFICER CSUKA, testified on his oath as follows:
19
20 HEARING OFFICER CSUKA: Thank you, and do
21 adopt your prefile?
22 DR. SCHWEITZER: I do, thank you.
23 HEARING OFFICER CSUKA: Thanks.
24 Okay, you can proceed whenever you're ready.
25

1
2 **DIRECT EXAMINATION OF WILLIAM SCHWEITZER**
3
4 **DR. SCHWEITZER: Okay, well, thank you for**
5 **allowing me to present today.**
6 **My name is William Schweitzer. I'm also a**
7 **board-certified OB/GYN, and actually, until a**
8 **year ago, I was the vice-chair at NYU Langone,**
9 **also in Manhattan, Department of OB/GYN. I**
10 **decided to relocate to the northwest corner**
11 **because of an interest I have in rural medicine**
12 **and a desire to perform a broad range of**
13 **compassionate and comprehensive care to women in**
14 **this area.**
15 **I was recruited by Sharon OB/GYN to join**
16 **their group and it was surprising to me at the**
17 **time that Nuvance or Sharon Hospital was not**
18 **involved during my recruitment process. I**
19 **initially understand that the hospital was**
20 **committed to providing a salary guarantee, but**
21 **they decided to withdraw their offer of support.**
22 **This meant that I would accept the lower salary**
23 **than was initially offered, and I decided to do**
24 **so anyway and did relocate because of interest to**
25 **work in this area.**

1 Now, over this last year, I've been
2 extremely impressed with the quality and safety
3 measures that exist within the maternity unit,
4 and for the years that I was at NYU, I worked
5 very hard to reduce primary sesections(sic) --
6 primary caesarian section rate, maternal
7 hemorrhage, complications of delivery, and I've
8 been really impressed with what Sharon had done.
9 At NYU, we never approached the less than 20
10 percent primary caesarian section rate that
11 Sharon enjoys, but -- and I will stay on because
12 of the superb staff of nurses, physicians, and
13 support people that are here, and also because I
14 realize that the community really needs me. Our
15 group provides not just maternity care, but
16 offers also reproductive choices and treatment
17 for acute and chronic gynecological problems.
18 Abortion services are available within our
19 practice. If the hospital closes maternity and
20 our practice leaves, these services may be
21 difficult to access if our practice is forced to
22 go.
23 I welcome any questions.
24 HEARING OFFICER CSUKA: Thank you, Dr.
25 Schweitzer.

1 Attorney Tucci, did you have any cross-exam
2 for him?
3 ATTORNEY TUCCI: Yes, just briefly.
4 CROSS-EXAMINATION OF WILLIAM SCHWEITZER
5 BY ATTORNEY TUCCI:
6 Q Dr. Schweitzer, good morning. Can you hear me
7 all right?
8 A I can, thank you.
9 Q Doctor, just to confirm for me, you made the
10 decision to join the private practice in Sharon OB/GYN in
11 the -- some time in the fall of 2021; is that correct?
12 A Yes.
13 Q And I think you indicated in your direct
14 testimony that you're committed to staying in this
15 community and continuing to provide patients who need
16 obstetrics care with that care; is that right?
17 A I am.
18 Q And is that commitment regardless of what happens
19 with respect to the outcome of this certificate of need?
20 A I am committed to staying in the area and I will
21 see what my options are, but yes, I will stay.
22 Q Okay, and you made the decision to come to the
23 Sharon community and to join the private practice at Sharon
24 OB/GYN after knowing about the decision by the Sharon board
25 the seek OHS approval to end labor and delivery services at

1 Sharon Hospital, correct?

2 A No, when I first started negotiation, I was

3 unaware of that, and once negotiations were in effect, and

4 I had made my decision emotionally, and also, beginning to

5 do it physically, I found out that the hospital was

6 beginning to close -- was going to close labor and

7 delivery.

8 Q The Sharon Board made -- considered this issue in

9 late August of 2021 and ordered it at that time to seek OHS

10 approval with respect to labor and delivery services. You

11 made your decision to join Sharon OB/GYN after that plan

12 occurred; isn't that correct, sir?

13 A I began negotiation with them in the summer of

14 2021, so yes.

15 Q I just -- I didn't ask when you began

16 negotiations. I asked when you made the decision to say,

17 "I'm going to move to Sharon, Connecticut." That was in

18 the fall of 2021, correct?

19 A I made my decision -- on August 11th, I submitted

20 my resignation.

21 Q Thank you very much. That's all I have.

22 HEARING OFFICER CSUKA: Attorney Knag, did

23 you have any redirect for your witness?

24 REDIRECT EXAMINATION OF WILLIAM SCHWEITZER

25 BY ATTORNEY KNAG:

1 Q So, Doctor, if -- if your group decided that it
2 was necessary to relocate their office from Sharon to some
3 other location nearer to one of the hospitals that were
4 going to provide deliveries, that would mean that -- would
5 that mean that you would also need to move with the group?
6 A I would, yes.
7 HEARING OFFICER CSUKA: Okay, is that it,
8 Attorney Knag?
9 ATTORNEY KNAG: Thank you.
10 And what about the staff?
11 HEARING OFFICER CSUKA: Yes, I was about to
12 ask.
13 Mr. Lazarus, do you have any questions?
14 MR. LAZARUS: No, no specific questions,
15 thank you.
16 HEARING OFFICER CSUKA: And Ms. McLoughlin,
17 and Miss Faiella, do you have any questions?
18 MS. FAIELLA: No.
19 HEARING OFFICER CSUKA: Okay.
20 ATTORNEY KNAG: Dr. Schweitzer is excused?
21 HEARING OFFICER CSUKA: Yes, he is. Thank
22 you, Dr. Schweitzer.
23 DR. SCHWEITZER: You're welcome.
24 HEARING OFFICER CSUKA: So, what I would
25 like to do now is try to get through the rest of

1 your witnesses, and then we can do just -- we can
2 take a break and then we can do cross.
3 ATTORNEY KNAG: Okay.
4 HEARING OFFICER CSUKA: So, Attorney Knag,
5 who would you like to --
6 ATTORNEY KNAG: Dr. Howard Mortman.
7 HEARING OFFICER CSUKA: Do you plan -- okay,
8 do you plan to go in the order that you provided
9 the prefile, just so that I can give Attorney
10 Tucci some --
11 ATTORNEY KNAG: Yes, subject to possible
12 logistical issues if people are not available at
13 the right moment, but yes, it's my hope to stick
14 with the --
15 HEARING OFFICER CSUKA: Okay, thank you.
16 All right, so --
17 ATTORNEY KNAG: Dr. Mortman is the next
18 witness.
19 HEARING OFFICER CSUKA: Thank you.
20 Dr. Mortman, please, raise your right hand.
21 Do you some solemnly swear or solemnly and
22 sincerely affirm, as the case may be, that the
23 evidence you provided in your prefile and the
24 evidence you shall give today shall be the truth,
25 the whole truth, and nothing but the truth, so

1 help you god or upon penalty of perjury?
2 DR. MORTMAN: I do.
3
4 H O W A R D M O R T M A N, MD,
5
6 called as a witness, being first duly sworn (remotely) by
7 HEARING OFFICER CSUKA, testified on his oath as follows:
8
9 HEARING OFFICER CSUKA: Thank you.
10 And do adopt your prefile testimony?
11 DR. MORTMAN: I do.
12 HEARING OFFICER CSUKA: Thank you.
13 Okay, you can proceed whenever you're ready.
14
15 DIRECT EXAMINATION OF HOWARD MORTMAN, MD
16
17 DR. MORTMAN: Thank you.
18 Good morning, Hearing Officer Csuka and
19 staff of the Office of Health Strategy.
20 I've been a resident of Sharon, Connecticut
21 since 1991 following completion of my residency
22 in OB/GYN at Yale New Haven Hospital.
23 Since then, I've practiced medicine,
24 specializing in obstetrics and gynecology to the
25 Sharon OB/GYN Associates, which is currently part

1 of Women's Health Connecticut located at 50
2 Amenia Road in Sharon, Connecticut. Throughout
3 this time, I have had full privileges to provide
4 medical services to patients at Sharon Hospital.
5 I've delivered thousands of babies, performed
6 hundreds of surgeries, and provided other
7 emergency and non-emergency medical services to
8 patients at Sharon Hospital.
9 I'm currently here to testify in opposition
10 to the certificate of need application filed by
11 Nuvance Health in January of 2022 in which it
12 seeks authorization from the Office of Health
13 Strategy to close the labor and delivery unit at
14 Sharon Hospital.
15 The United States is experiencing a crisis
16 in maternal health. Shockingly, among the
17 world's developed nations, the United States
18 leads in the maternal death rate, a reality that
19 should shame us. In response, in June of 2022,
20 the White House issued a landmark document called
21 White House Blueprint for Addressing the Maternal
22 Health Care crisis to address this national
23 emergency. A major focus of the plan is
24 implementation of increased access to local,
25 high-quality maternal healthcare and local labor

1 and delivery services for pregnant women.
2 It is a painful truth that this crisis has
3 erupted right here in the northwest corner of our
4 state, right here in Sharon. OHS's recent
5 proposed final decision regarding the closure of
6 Windham's Hospital maternity unit summarized the
7 conclusions of numerous studies showing the lack
8 of access to appropriate maternal health services
9 resulting from the closure of maternity units in
10 rural communities puts women and children at risk
11 for a number of bad outcomes, including premature
12 birth, low birth weight, maternal mortality,
13 severe maternal morbidity, and an increased risk
14 of postpartum depression as well as a higher rate
15 of infant mortality.
16 These studies further conclude that most
17 pregnancy-related deaths are preventable and can
18 be attributed to a lack of access to care, in
19 large part resulting in out-of-hospital births,
20 and they also note that increased travel distance
21 to obtain care have been associated with an
22 increased risk of non-indicated induced caesarian
23 section, which can lead to more complications,
24 postpartum hemorrhage, prolonged hospital stay,
25 and postpartum depression.

1 OHS adds the finding that in rural counties,
2 the absence of active labor and delivery units is
3 associated with a significant increase in
4 perinatal mortality.
5 While this crisis in women's health care is
6 evident nationwide, Sharon and its surrounding
7 towns both in Connecticut as well as New York
8 have until now been sheltered from these bad
9 outcomes. This is largely due to the world-class
10 maternity unit at Sharon Hospital that has been
11 taken care of women and families for decades with
12 high-quality compassionate and expert care, and
13 importantly, timely care.
14 In the 31 years that I've been here
15 delivering babies at Sharon Hospital, we have not
16 lost a single mother and our outcomes for babies
17 has been consistently excellent. Our
18 always-available maternity unit as well as the
19 readily-available high-quality obstetricians,
20 maternity nurses, pediatricians, operating room,
21 and operating room personnel are essential to
22 prevent our area from expending the nation's
23 maternal health care crisis.
24 I implore OHS to help us preserve our
25 excellent and necessary local access to care for

1 women and to avoid becoming part of what the
2 White House calls a health care desert. Please,
3 do not allow closure of our maternity unit at
4 Sharon Hospital.
5 Our newly-reelected governor, Ned Lamont,
6 has made clear that access to local maternity
7 services must be available in both the northeast
8 and northwest corners of the Connecticut.
9 Our newly-reelected senator, Richard
10 Blumenthal, is all spoke passionately about the
11 need to maintain and support the maternity unit
12 at Sharon Hospital. Congresswoman Jahana Hayes
13 did the same.
14 Our local elected officials, including Maria
15 Horn, also believe that our labor and delivery
16 unit is critical for the safety, well-being, and
17 viability of our communities both in Connecticut
18 and neighboring New York.
19 My submitted written testimony contains
20 extensive detail addressing the healthcare
21 disaster which would befall the residents of our
22 service area for the Sharon Hospital maternity
23 unit to be closed. There is no hospital close
24 enough that can provide the necessary services in
25 a timely manner required to have consistent, good

1 outcomes for mothers and babies. We know the
2 travel time to transfer patients from Sharon
3 Hospital or my from office, which is across the
4 street, or from the surrounding communities to a
5 distant hospital in an attempt to save the life
6 of a pregnant mother or her unborn child or
7 unstabilized, newly-delivered baby, it's never
8 happened on my watch, on our watch. Without our
9 fully-functioning maternity unit and all the
10 ready-available support personnel who are
11 currently available, that would change
12 dramatically.
13 Based on my 31 years of practicing in this
14 remote area, I'm certain that mothers and babies
15 will die and undergo serious morbidity over the
16 coming years.
17 In preparation for the closure of the labor
18 and delivery unit, Nuvance has provided
19 relatively-brief training to emergency room
20 physicians and runs simulated emergencies. They
21 can't provide the skills of experienced OB/GYNs
22 that have completed at least four full years of
23 daily OB/GYN residency.
24 This is not the time to be compromising
25 women's health and safety. The Nuvance protocols

1 established to deal with obstetrical emergencies
2 should maternity close do not include local
3 pediatricians or local obstetricians or the
4 surgical team required to perform urgent
5 caesarian. With a dropping fetal heart rate or
6 an imminently-delivering mother with a breech
7 baby or a prolapsing umbilical cord or urgent
8 placental removal in a severely-hemorrhaging
9 mother who just delivered her baby, and that's
10 just listing a few of the operative emergencies
11 that we dealt with.
12 Emergency room physicians are underqualified
13 to deal with other emergencies that can suddenly
14 occur in any obstetrical or gynecological
15 situation, nor whether they have the appropriate
16 support services or personnel to deal with the
17 myriad of obstetrical and gynecological
18 emergencies that may present.
19 These include but are not limited to
20 shoulder dystocia, placenta previa, and maternal
21 hemorrhage, ruptured ectopic pregnancies, twisted
22 ovaries, premenopausal hemorrhaging, and
23 hemorrhaging during miscarriage. They will be
24 unable to comprehensively manage abnormal fetal
25 heart rate patterns including fetal myocardials,

1 recurrent decelerations, and sinusoidal fetal
2 heart rate patterns.
3 They cannot fully and independently manage
4 eclamptic seizures that can have immediate fetal
5 consequences that may require expeditious
6 cesarean section. They cannot manage postpartum
7 uterine inversion or comprehensively manage
8 preterm labor, especially if it's advanced
9 preterm labor.
10 They're not trained to manage post-delivery
11 lacerations of the cervix vagina, perineum, or
12 rectum that can have severe consequences with
13 hemorrhage that needs to be addressed promptly
14 and often in the operating room.
15 They should not be put in the position of
16 having to resuscitate a newborn full-term or
17 pre-term baby without readily-available pediatric
18 back-up. Nuvance, however, does not plan to have
19 available pediatric back-up in the event of the
20 maternity unit's exposure. Sharon Hospital will
21 be unable to safely manage a patient with a
22 ruptured uterus with the fetus still inside the
23 uterus, where you can lose two humans at once or
24 after delivery, where you can lose the mother,
25 and the list goes on.

1 We've dealt with these emergencies with
2 consistently excellent results until now. Any of
3 these medical emergencies can result in the
4 maternal or fetal death or permanent morbidity if
5 not dealt with in a timely and comprehensive
6 manner.
7 Our maternity unit has prevented deaths and
8 disabilities precisely because of our current
9 capabilities. An unstable patient should not
10 leave Sharon Hospital in an ambulance. The roads
11 in our area are neither straight nor flat and our
12 cell service is often unreliable. We spend a
13 good portion of the year with roads covered in
14 ice and snow that compounds travel even further.
15 I'm not aware that Nuvance has a safe plan
16 for timely ambulance transportation should it
17 succeed in closing the maternity unit, and based
18 on the past 30 years of living and practicing in
19 this area, I do not believe that a safe plan is
20 possible given the distances and the
21 circumstances involved.
22 At Sharon Hospital, we strive to be able to
23 perform cesarean sections within a minimum of 30
24 minutes, a time frame dictated by the American
25 College of Obstetrics and Gynecology, also known

1 at ACOG. Our ability to do this has prevented
2 deaths and serious morbidity in patients and
3 their babies as detailed in my written statement.
4 As mentioned, there is no hospital reliably
5 within 30 minutes of Sharon Hospital even in the
6 best of circumstances. Given the
7 unpredictability of emergencies and knowing that
8 emergencies can arise at any moment of a
9 seemingly-normal labor, not having the capability
10 to deal effectively in a timely fashion with a
11 laboring patient is unacceptable.
12 Depending on conditions or other factors, it
13 can easily take hours to transport a patient.
14 I've been there. I've been there waiting four to
15 five hours for a stable patient to transfer. The
16 Sharon Hospital maternity unit has an
17 unimpeachable reputation for quality and has
18 consistently run one of the best units in the
19 state.
20 ACOG reviewed our unit in March of 2022 and
21 concluded that we were highly-qualified to
22 provide obstetrical care, and that of all the
23 hospitals they had reviewed before, none of them
24 had the perfect chart review that we did. At the
25 closing of the Zoom meeting, they actually

1 implored Nuvance to do everything they could to
2 preserve our unit because of the need for it in
3 our community.
4 Nuvance has publicly acknowledged our high
5 quality, which is indisputable. We consistently
6 do extremely well with benchmarks in comparison
7 to the multiple maternity units in the Nuvance
8 system. Sharon Hospital is one of only three
9 5-star hospitals for safety in the entire state
10 of Connecticut, and this rating takes into
11 account patient satisfaction, timeliness of care,
12 and death rate.
13 I believe this would all change with the
14 closing of the maternity unit. Our OBGYN
15 practice has managed to recruit, as you've heard,
16 a new highly-qualified OB/GYN physician despite
17 Nuvance's refusal to honor previously-offered
18 income guarantee. If we had supportive hospital
19 ownership, I believe we can recruit obstetricians
20 of the highest quality to our practice as-needed
21 in the future.
22 We have seen resignations of every full-time
23 maternity nurse from full-time positions that
24 were employed by Sharon Hospital since Nuvance
25 announced in September of 2021 that they would

1 close the maternity unit during mid-2022. This
2 announcement, preceding the present CON
3 application to OHS since its September 2021
4 announcement, Nuvance has refused to hire any
5 full-time nurses for maternity. Instead, Nuvance
6 has encouraged me and other full-time OBGYNs at
7 Sharon Hospital to seek privileges elsewhere, and
8 by the way, that happened right away after their
9 announcement.
10 Nuvance has undermined our labor and
11 delivery unit in a variety ways, including a
12 offering the charge nurse a --
13 ATTORNEY TUCCI: Objection. That testimony
14 directly violates the Hearing Officer's order
15 regarding the scope of this hearing and the
16 decorum and protocol. I ask that it be stricken.
17 ATTORNEY KNAG: May I be heard?
18 HEARING OFFICER CSUKA: All right, yes.
19 ATTORNEY KNAG: His testimony was already
20 admitted into the record without objection. This
21 is just a summary of the testimony and I believe,
22 in any event, that it's highly-relevant that they
23 tried to recruit the charge nurse.
24 ATTORNEY TUCCI: That is -- that is a
25 misstatement of fact. There has been -- there

1 has been no acknowledgment that any of this
2 testimony is admitted without objection. We made
3 our objection well-known in voluminous briefings
4 to the Hearing Officer objecting in great detail
5 to the improper, out-of-scope, inflammatory, and
6 other baseless statements made in the voluminous
7 prefile testimony that was submitted, and now is
8 the time to correct that error by not allowing it
9 to be repeated in the public hearing.
10 ATTORNEY KNAG: It's not an error. It's a
11 very relevant thing that undermined the unit and
12 increased the -- decreased the patient population
13 and increased the nurses leaving.
14 ATTORNEY TUCCI: Yes, this goes directly to
15 your -- your -- Hearing Officer Csuka, this goes
16 directly to your order that allegations
17 concerning violation of the 2018 agreed
18 settlement are not in any way to be the subject
19 of this hearing, and all this is going to do is
20 prolong the hearing until late in the day or --
21 HEARING OFFICER CSUKA: I'm ready to make a
22 ruling.
23 I -- I think that Attorney Tucci's witness
24 has testified as to how that nurse ended up at
25 the -- at the Danbury Hospital. I don't think we

1 need to get into that again. I am willing to
2 strike that.
3 Dr. Mortman, I do -- I mean, I'm giving you
4 some leeway here because I understand that you
5 are an Intervenor and so you're going to be one
6 of the main witnesses, but I did also order that
7 any statement that's made on the record be, you
8 know, relatively brief, and we're going on -- at
9 this point, I think we're at 15 minutes.
10 So, if you can, I would ask that you try to
11 wrap up whatever it is you would like to put on
12 the record today, and you will have an
13 opportunity to respond to cross-examination and
14 redirect by your attorney -- your attorney and --
15 ATTORNEY KNAG: This is our key witness, and
16 I do hope he'll be brief, and I -- he is being
17 brief because he had a long testimony that he had
18 summarized.
19 DR. MORTMAN: I don't have much more.
20 HEARING OFFICER CSUKA: Okay, that's exactly
21 my point. I mean, you have submitted a lot in
22 terms of written prefile. So, if we can just try
23 to bring this to an end, relatively shorter, I
24 would appreciate it. I do want to make sure we
25 get through all the witnesses and all the public

1 comment today.
2 DR. MORTMAN: In 2018, Health
3 (unintelligible) announced that the maternity
4 unit would close, in 2019, Nuvance acquired
5 Sharon Hospital with a promise it would keep the
6 maternity unit open for at least five years in
7 accordance with the agreed settlement.
8 Nevertheless --
9 ATTORNEY TUCCI: Here we go again.
10 Objection.
11 HEARING OFFICER CSUKA: I'm sorry, what is
12 the nature of your objection?
13 ATTORNEY TUCCI: May I just say this is
14 after explicit direction by the Hearing Officer?
15 HEARING OFFICER CSUKA: Attorney Knag?
16 ATTORNEY KNAG: I believe -- he's not
17 claiming violation. You said you can't prove a
18 violation, but I believe that it's relevant that
19 that was part of what was agreed, and that they
20 then turned around and that helped for a short
21 time and then it turned and said they were
22 closing.
23 So he's just relating the chronology of what
24 happened, which I think is highly relevant to
25 this matter.

1 DR. MORTMAN: Let me move on.
2 ATTORNEY KNAG: He has to rule.
3 HEARING OFFICER CSUKA: Yeah, I was going to
4 sustain the objection again.
5 DR. MORTMAN: In addition, Nuvance sent a
6 letter to all of our pregnant patients in January
7 of 2022. These are my patients that are
8 pregnant, every single one of them received a
9 letter that the maternity unit would close in
10 late spring or summer of 2022 without mentioning
11 that this was not permitted under the agreed
12 settlement or in the absence of an approved CON.
13 This created --
14 ATTORNEY TUCCI: The same thing. I object.
15 I ask the Hearing Officer to strike that
16 testimony from the record.
17 ATTORNEY KNAG: Mr. Hearing Officer, they
18 have a -- they have pointed out that there -- the
19 volume went down to 177 in the latest fiscal
20 year, and the fact that they sent the -- the
21 patients a letter saying that it was going to
22 close when it wasn't going to close, when it
23 didn't close, is highly relevant to why the
24 volume trailed off, and I think we're -- I think
25 we should be entitled to show that they sent this

1 letter -- it's highly relevant to the fact that
2 the volume trailed off following their erroneous
3 letter.
4 ATTORNEY TUCCI: Just briefly, Mr. Csuka,
5 you've already ruled on this issue. If we're
6 going to get into what the letter says or doesn't
7 say, we'll expand the hearing by another hour
8 because that's not what the letter said and there
9 was no violation. It's clear, as a matter of
10 fact, on the record, that the labor and delivery
11 unit remains operational today, and that all
12 Sharon Hospital did is comply with its obligation
13 under the CON statute to request permission, and
14 we did that in a transparent and open way.
15 HEARING OFFICER CSUKA: I'm going to allow
16 it.
17 Doctor, if you could just try to narrow
18 your -- the remainder of your testimony, that
19 would be helpful.
20 THE COURT REPORTER: I'm sorry. I also need
21 to break in really quick. I need you to slow
22 down in your reading. The last couple of times,
23 you were reading very, very fast and I can't keep
24 up with you if you're going to read that fast.
25 DR. MORTMAN: Sure thing. I understand. I

1 was just told to speed things up.
2 This is a very important point, so hear me
3 out on this: When Health Quest announced in 2018
4 the planned closure of maternity, they spoke of a
5 women's center at Sharon's hospital that would
6 offer prenatal care, but not delivery services.
7 That insult would have been wholey-inadequate and
8 unsafe, but now, in their recent completeness
9 responses to OHS, Nuvance actually states they
10 will not even offer prenatal care at Sharon
11 Hospital. Patients will find their way to their
12 own private doctors.
13 There's a significant indigent population in
14 our area. This goes back to something that was
15 speculated on long before I could speak of it
16 personally because every day I speak to these
17 patients in my office with a translator phone.
18 Many of them, they don't speak English. Those
19 patients and the many women that live and visit
20 this area will be put in a profound risk for
21 catastrophic outcomes.
22 Make no mistake, we don't just take our
23 patients that are (unintelligible). We take our
24 patients that are visiting, often pregnant, with
25 emergencies. Their overall access to both

1 obstetrics and gynecological care will also be
2 greatly compromised. This applies to both
3 non-urgent and emergency needs.
4 This is a really important point. With the
5 closing of the maternity unit at Sharon Hospital,
6 our obstetrics and gynecologists will need to
7 provide care for our patients elsewhere. It's
8 worth noting that, as a group, my practice
9 provides far more primary care to women in our
10 service area than any other group.
11 Over the years, until the recent efforts to
12 close the maternity unit began, we had a long
13 history of high quality and low turnover among
14 our nurses.
15 The OHS, if you rule that maternity will
16 remain open, I believe, based on my discussions
17 with these nurses, that those who resigned their
18 full-time positions will not return to the
19 full-time nursing jobs they had before, and
20 moreover, I believe that a commitment from Sharon
21 Hospital to maintain our maternity unit, if that
22 happens, will significantly grow our patient
23 numbers. We need robust determined advertisement
24 and promotion by the hospital of our unit's
25 quality and recognition of its need. We've had

1 none of that.
2 In closing, Governor Lamont, in a
3 pre-election statement to the Connecticut Mirror,
4 he noted, "It's really important that primary
5 care and maternity care be widely and broadly
6 available. If they don't have good maternity
7 care in northwest and northeast Connecticut,
8 young families are a lot less likely to move here
9 and pregnancies would be more at risk."
10 I have (unintelligible) and have been told
11 by several Sharon Hospital physicians they would
12 never have moved here had there been no maternity
13 unit. I'm confident that it will be much more
14 difficult to recruit quality physicians and
15 emergency room physicians through a hospital with
16 the profoundly-reduced capability resulting from
17 closure of the maternity unit and the loss of the
18 readily-available support personnel we've had for
19 many decades.
20 Sharon Hospital has an excellent record of
21 success delivering high-quality care. Nuvance
22 should not be permitted to dismantle it. Our
23 patients and community desperately hope that you
24 make the right decision regarding our vital and
25 irreplaceable maternity unit.

1 Current patients and future generations
2 depend on you for their safety and well-being,
3 and I'm going to tap on three quick points. It's
4 really critical because of testimony that came
5 before from Nuvance is inaccurate.
6 One is this issue about high-risk patients.
7 It was stated, respectfully, by Christina
8 McCulloch that we don't take of nor deliver
9 high-risk patients. We take care of, every
10 single day in my office, multiple high-risk
11 patients and we are very often delivering
12 high-risk patients.
13 As a matter of fact, I delivered a high-risk
14 patient last week, and this Monday, I delivered a
15 number of high-risk patients. Patients with
16 advanced maternal age, obesity, diabetes, prior
17 cesarean section, Accessory Lobe of Placenta,
18 like my patient did have on Friday, or even a
19 very heavy smoker. Those are high-risk patients.
20 We're very comfortable dealing with those
21 patients and we work intimately with the maternal
22 field medicine specialist both at Vassar and
23 UConn, and when needed, we incorporate their
24 consultations into our patient's care. And when
25 a patient needs to deliver elsewhere, which is

1 very much an exception, we arrange for that, and
2 it's a hardship to that patient, but most of the
3 hardship patients that we take care of are
4 delivered at Sharon Hospital with fantastic
5 results.
6 And I would say on the record that the
7 maternal fetal medicine individual at Vassar
8 Hospital and the -- the head of maternal fetal
9 medicine at UConn would testify on our behalf
10 that we are both necessary and our care is
11 impeccable, including our high-risk patient
12 population.
13 So -- and then another point about the
14 transfer of patients: Until now, we're sort of
15 -- we did okay. Let's not forget that the
16 OB/GYNs were very quickly involved with any
17 patient showing up at the ER that was pregnant or
18 with a gynecological emergency, and we knew if a
19 patient could be transferred safely, and many of
20 those patients, I would have in the operating
21 room or often, in maternity, laboring, because I
22 couldn't put them in an ambulance safely or we
23 could lose the mother or a baby.
24 And so the idea that a future without
25 OB/GYNs in charge, without the services that we

1 need for those emergencies, that an emergency
2 room physician may be consulting a distant OB in
3 another hospital or are going to be able to
4 safely transfer those patients, to me, is absurd.
5 And the third point I'm going to make, and
6 then I'm going to finish because I know there's a
7 time issue here, let's just talk about that
8 ectopic pregnancy. So we have dealt with
9 numerous ectopic pregnancies over the years.
10 It's one of the major causes of maternal death,
11 and when those patients rupture their ectopics,
12 they don't have a lot of time, and this is very
13 important: When the initial plan by Nuvance was
14 presented to the medical staff and to that board
15 who went along with it, their plan included
16 cutting 24-hour surgeries. So they would have
17 surgeries to maybe 3:00, 4:00 5:00. It wasn't
18 defined. There wouldn't be any weekend surgery,
19 so what do you do, not only with the ectopic
20 pregnancy that's ruptured there? Even if you
21 have a gynecologist, what do you do with the
22 patient whose baby is dying because the heart
23 rate is dropping, or she's hemorrhaging and you
24 can't transport her and you need to take her
25 immediately to the operating room to remove that

1 placenta before she goes into the BIC, which may
2 not be reversible, and she will die.
3 What do you do with that patient who had no
4 fetal care - and these are true stories - who
5 showed up in my emergency room without any care?
6 We get a phone call. She's got a prolapsed
7 umbilical cord and we take a ride to the OR, we
8 save that baby and mommy. What are we going to
9 do with the patient I dealt with -- actually, I
10 saw her for a six-week check-up when Nuvance
11 announced their closure. So, six weeks before
12 that, she came in through the ER with no care for
13 20 weeks with a ruptured uterus, and by the time
14 I got her to the OR, a completely-separated
15 placenta, I promise you, that baby would have
16 died and that mother probably may have died if
17 you had to transport her, and that's even if we
18 had (unintelligible) qualified OB/GYN making
19 those decisions.
20 So, unless we're prepared to go to the dark
21 ages and become a health care desert, there's no
22 way in the world that our area will be safe if
23 you close maternity and the ancillary service
24 that we've come to expect at Sharon Hospital.
25 I'm very thankful for the time to testify.

1 HEARING OFFICER CSUKA: Thank you,
2 Dr. Mortman.
3 DR. MORTMAN: Thank you.
4 ATTORNEY KNAG: You have to stay here.
5 HEARING OFFICER CSUKA: As I mentioned
6 earlier, I would like to try to get all of the
7 direct testimony from -- I'm sorry, is someone
8 trying to speak?
9 ATTORNEY KNAG: No.
10 HEARING OFFICER CSUKA: I would like to try
11 to get all of the direct testimony on the record
12 before we take a break and let our Attorney Tucci
13 gather his thoughts before beginning
14 cross-examination.
15 So, with that, Dr. Mortman, I'm just going
16 to ask that you sort of return to your group.
17 And Attorney Knag, is it correct that we're
18 going to move on to Mr. Germack?
19 ATTORNEY KNAG: Yes.
20 HEARING OFFICER CSUKA: Thank you.
21 Mr. Germack, can you, please, raise your
22 right hand?
23 Do you solemnly swear or solemnly and
24 sincerely affirm, as the case may be, that the
25 evidence you provided in your prefile testimony

1 and the evidence you shall give here today shall
2 be the truth, the whole truth, and nothing but
3 the truth, so help you god or upon penalty of
4 perjury?
5 MR. GERMACK: I do.
6
7 V I C T O R G E R M A C K,
8
9 called as a witness, being first duly sworn (remotely) by
10 HEARING OFFICER CSUKA, testified on his oath as follows:
11
12 HEARING OFFICER CSUKA: Thank you.
13 And do adopt your prefile testimony?
14 MR. GERMACK: I do.
15 HEARING OFFICER CSUKA: Thank you. You can
16 proceed.
17
18 DIRECT EXAMINATION OF VICTOR GERMACK
19
20 MR. GERMACK: Thank you, Hearing Officer.
21 Good morning. My name is Victor Germack and
22 I previously testified before OHS on August 14th,
23 2001, when Sharon Hospital was first sold to
24 Essent Healthcare. I'm a financial expert so I
25 will focus on the financial issues raised by

1 Nuvance in closing labor and delivery.
2 There are many good reasons for not closing
3 Sharon Hospital's labor and delivery, but my
4 testimony will focus on Nuvance's stated
5 financial cost of maintaining it.
6 Nuvance health's primary stated reason for
7 closing labor and delivery is their claim that
8 they're losing three million dollars annually.
9 Furthermore, Dr. Murphy, in his prefiled
10 testimony, claim that Nuvance, itself, is quote,
11 is facing a dire financial situation, closed
12 quotes. We strongly disagree as our analysis
13 casts doubts on the three million dollar loss
14 claimed. Even if the three million dollar loss
15 was true, this would not justify closing
16 maternity given the overall resources and
17 financial strength of Nuvance and the needs of
18 community.
19 Instead, the hospital should work to reduce
20 any losses and aggressively market labor and
21 delivery services to the community. We outline
22 Sharon Hospital's detailed financial reports to
23 OHS, spoke to Nuvance's CFO in December 2021, and
24 several members of the professional medical
25 staff. We requested a financial statement for

1 labor and delivery.
2 In January 2022, we received an outdated
3 fiscal year 2019 profitability analysis for labor
4 and delivery showing a loss of $3.6 million.
5 This was derived from Page 59 of the Stroudwater
6 consultants report, which was referred to in the
7 CON by Nuvance.
8 We still don't understand why they gave us
9 an old financial statement when they could have
10 given us updated financial statements. We asked
11 for but never received this stated detailed three
12 million labor and delivery loss, detailed
13 explanations for the allocation of all the head
14 charges, or ancillary expenses, which constitute
15 a large percentage of the labor and delivery
16 stated losses.
17 However, using the 2019 analysis, we found
18 what appears to be several major errors in their
19 billion collection procedures, which
20 substantially negatively impacted labor and
21 delivery's costs and cash flow. Additionally, we
22 were unable to fully account or confirm the
23 amount of professional fees they had charged.
24 In addition, Sharon Hospital's premature
25 announcement of closing labor and delivery

1 prompted the full-time employed nurses to quit;
2 thus, forcing the hospital to use staffing
3 agencies for travel nurses.
4 ATTORNEY TUCCI: Move to strike it. Move to
5 strike that. That's complete speculation. It's
6 beyond the scope of this witness's expertise and
7 violates the Hearing Officer's order. Move to
8 strike.
9 ATTORNEY KNAG: I disagree. I think he
10 allowed us to look at the issue of excess cost
11 for nurses, and therefore, that -- and that's, in
12 any event, quite relevant to the question of what
13 the loss is. If they're charging us -- if
14 they're saying they're going to recover by
15 closing labor and delivery an amount that
16 includes a substantial premium for travel nurses
17 rather than regular nurses, that's a factor in
18 considering what the real loss or savings would
19 be, and to not allow us to probe into the -- into
20 the facts prevents us from exploring the issue of
21 whether they, in fact, would be recovering three
22 million dollars if they were allowed to close.
23 ATTORNEY TUCCI: Just briefly in response,
24 Hearing Officer.
25 HEARING OFFICER CSUKA: Sure.

1 ATTORNEY TUCCI: The witness did not testify
2 as to facts. He's speculated, quote, that the
3 premature announcement of the closure of labor
4 and delivery caused nurses to quit. That
5 violates the order of the Hearing Officer. It's
6 complete speculation and it's not fact.
7 ATTORNEY KNAG: It's not complete
8 speculation. Dr. Mortman works in the hospital
9 with these nurses and knows why they quit.
10 ATTORNEY TUCCI: Mr. Germack is --
11 ATTORNEY KNAG: But he had -- he had
12 obtained information from members of medical
13 staff, he said.
14 HEARING OFFICER CSUKA: I'm going to allow
15 that, Attorney Tucci. You can probe into where
16 that information may have come from, that
17 informed him of these -- of these understandings
18 and I'll take it for what it is.
19 ATTORNEY KNAG: You can continue.
20 MR. GERMACK: Thank you, Hearing Officer.
21 This policy forced the hospital to use
22 staffing agencies for travel nurses, paying them
23 up to $225 an hour instead of the normal average
24 rate of around $45 plus per hour. This policy
25 was ill-advised and costly. The difference of

1 $180 an hour equates to all but $300,000 per year
2 for just one nurse at the $225 hourly rate.
3 Currently, I'm told we have around six labor
4 and delivery nurses, some travel and some on a
5 per diem basis. This is confirmed by the
6 Stroudwater consultants, again, mentioned by
7 Nuvance in their filings, who note in their
8 report that in 2019, there was a, quote, one
9 million increase in traveler expense for the OB
10 program plus a $500,000 increase in salaries and
11 wages for Sharon Hospital employees, closed
12 quotes.
13 Thus, the State-approved $3 million dollar
14 labor and delivery loss is overstated on a
15 normalized basis. There is another issue that
16 Nuvance has not noticed or commented on and that
17 is even if they eliminate all of labor and
18 delivery's direct operating expenses, there still
19 remains $1.3 million of overhead that will not be
20 covered.
21 So the real savings won't be $3 million, it
22 will only be by their calculation $1.7 million.
23 Again, this is a very small amount for Nuvance
24 given its large financial strength.
25 We, therefore, contend that the labor and

1 delivery losses asserted by Nuvance above are
2 overstated and inaccurate.
3 So the real question still remains: Is
4 closing labor and delivery worth the cost of the
5 community? We say an emphatic no.
6 Examining Nuvance's fiscal year 2021, all
7 their financial statements show they had a decent
8 year. Nuvance showed a positive gain of $105
9 million, excess of revenue over expenses,
10 positive cash flow from operations, an increase
11 in net assets of $222 million, and $3.8 billion
12 in total assets.
13 Further, Nuvance's Note 11, in their
14 consolidated, audited financial statements, tell
15 us that Nuvance had financial assets available to
16 meet general expenditures over the next 12 months
17 of $1.1 billion. Thus, the stated $3 million
18 labor and delivery loss is neither significant
19 nor material given Nuvance's assets and earnings.
20 One could almost say it's a rounding error.
21 Moreover, any loss is minimal compared to
22 the major damage dropping labor and delivery will
23 do to the future of our hospital on the
24 community. Labor and delivery is a gateway for
25 Sharon's Hospital's many services as it is for

1 most hospitals. If labor and delivery is closed,
2 the net negative impact on Sharon Hospital's
3 revenues will be much greater for Nuvance than
4 keeping it open.
5 Our prefile testimony goes into details as
6 to Sharon Hospital's claimed losses of $41
7 million over the past five years. We explained
8 how Sharon Hospital has not given any financial
9 or economic credit to Sharon Hospital for their
10 procedures and lab tests requested by Sharon
11 Hospital doctors but ordered to be performed at
12 other Nuvance hospitals.
13 The Stroudwater report stated the economic
14 benefit of these procedures that Sharon Hospital,
15 over a five-year period, was $26.5 million with
16 an additional $5 million for lab tests. Also,
17 Nuvance management charged $7-and-a-half million
18 in 2019 for medical practice losses, which
19 occurred under a prior period when Health Quest
20 was the owner.
21 Lastly, Sharon Hospital was charged $5
22 million in a one-time reimbursement in 2021 for
23 prior years corporate overhead expenses. All
24 these economic benefits should be included in the
25 loss calculation attributed to Sharon Hospital.

1 During the intervening 21 years, several
2 profitable services, such as the Smilow Cancer
3 Treatment Center, pain management, and the sleep
4 specialist have been eliminated from Sharon
5 Hospital while losing several good primary care
6 physicians.
7 While the hospital has been sold several
8 times during this period, the primary focus has
9 always been on dropping services, cost-cutting,
10 rather than expanding and marketing needed
11 services to the community.
12 During our 2000 -- December 13th, 2021
13 meeting with Nuvance's CFO, Mr. Steven Rosenberg,
14 I asked Mr. Rosenberg directly how the community
15 could work with him financially to continue labor
16 and delivery. Unfortunately, he was not
17 responsive to my question.
18 We are open to all good-faith discussions
19 with Nuvance and interested community parties to
20 support labor and delivery in a joint fundraising
21 program if Nuvance is committed to labor and
22 delivery long-term.
23 In my view, with renewed commitment with an
24 emphasis on marketing and with the further
25 financial help of local, state, and federal

1 leaders, labor and delivery's future at Sharon
2 Hospital can be assured.
3 Thank you very much for your time and
4 attention. I appreciate it.
5 HEARING OFFICER CSUKA: Thank you,
6 Mr. Germack.
7 ATTORNEY KNAG: Next is Dr. Kavle.
8 HEARING OFFICER CSUKA: That was still of
9 greater length than I was hoping for. If there's
10 anything that your witnesses can do to try to
11 shorten their testimony, I would appreciate it.
12 ATTORNEY KNAG: Thank you. Those were --
13 HEARING OFFICER CSUKA: That's what I
14 assumed, and that's, again, why I was giving some
15 leeway, but you know, with 11 witnesses, it's --
16 that's a lot.
17 So, Dr. Kavle, please, raise your right
18 hand.
19 Do you solemnly swear or solemnly and
20 sincerely affirm, as the case may be, that the
21 evidence that you provided in your prefile
22 testimony and the evidence that you shall give in
23 this case shall the truth, the whole truth, and
24 nothing but the truth so help you god or upon
25 penalty of perjury?

1 DR. KAVLE: Yes.
2
3 E D W A R D K A V L E, MD,
4
5 called as a witness, being first duly sworn (remotely) by
6 HEARING OFFICER CSUKA, testified on his oath as follows:
7
8 HEARING OFFICER CSUKA: Thank you.
9 Do you adopt your prefile testimony?
10 DR. KAVLE: Yes.
11 HEARING OFFICER CSUKA: Thank you.
12 You can proceed.
13
14 DIRECT EXAMINATION OF EDWARD KAVLE, MD
15
16 DR. KAVLE: Sure.
17 So my name is Dr. Kavle, K-a-v-l-e, and I
18 have a practice here in Sharon. I'm the
19 president of a practice that has four practices
20 around the northwest corner. I also work at
21 Bristol Hospital and Charlotte Hungerford in the
22 the neonatal units delivering babies if I'm not
23 delivering babies, taking care of babies that are
24 delivered.
25 I'm not surprised, you know, future of our

1 community and our world, they're often left out,
2 and I think they've been left of Nuvance's
3 presentation and I'm here to represent those
4 one-half of the people that are going to be
5 bothered by Nuvance's plan to close labor and
6 delivery.
7 So I present myself today as a pediatrician
8 who cares about the welfare of children.
9 Everyone knows that maternity units in rural
10 hospitals have been closed, and because of that,
11 there's data to tell us what happens to neonates
12 because of that.
13 You hear some data. After rural hospitals
14 closed their maternity units, there's an increase
15 in births in ERs and out-of-hospital births. For
16 every 100 possible births in a catchment area,
17 you should expect three births per year in that
18 hospital's ER. That's data, fact.
19 I think Dr. Lucal said, you know, somebody
20 had said it's going to be a flood of people.
21 That's not a flood, but if you do the math, that
22 would be between 12 and 15 kids a year delivering
23 in an ER, and that would be one a month. No one
24 said there's going to be a flood, but 15 and one
25 a month is a lot.

1 Closing these maternal centers also exposes
2 infants to poor outcomes, and what that means in
3 neonates that are born, but infants are up to one
4 year, and the morbidity that occurs during poor
5 births at a community hospital ER without
6 coverage exposes them to that problem.
7 Also, it exposes infants to preterm births
8 by up to 5 percent. Of course, preterm births
9 lead to bad outcomes. Women who present to rural
10 hospitals requiring a C-section where there is no
11 C-section available within an hour deliver
12 infants with increased morbidity and mortality
13 and they require double the date of stay in a
14 NICU of babies that are delivered in a place
15 where you can have a C-section within half an
16 hour.
17 All birth reports, and this is a quote, "The
18 ability to perform a C-section in a rural
19 community can be life-saving for the mother and
20 newborn infant, and ultimately, rural hospitals
21 need greater financial support from our federal
22 and state governments. Travel times of over 30
23 minutes in rural areas is associated with worse
24 neonatal outcomes."
25 A brief study in Alabama, where the infant

1 mortality rate had been 7.2, which is below the
2 international target of nine, doubled coincident
3 with the closing of rural maternity centers
4 between 2005 and 2016 and was reversed by
5 allowing them to reopen and use family physicians
6 to deliver. The CDC data from 2015 reflects that
7 infant mortality is high at rural hospitals.
8 Julia Interrante, of the University of
9 Minnesota Rural Research Center, states that,
10 "Maternity," and now this is her quote, "closures
11 with black and indigenous women and infants had
12 even higher risk of morbidity and mortality
13 disproportionately reflecting systemic racism in
14 the act of closing rural labor and delivery
15 units, and despite the closure of labor and
16 delivery in these areas, 1.1 in five women in the
17 surrounding communities remain at childbearing
18 age. So, just before" -- "because the service
19 goes away, the need does not go away."
20 And that's the end of the quote.
21 So, as I read Ms. McCulloch and Dr. Lucal
22 and Dr. Murphy's written testimony, they
23 described Sharon Hospital at least 17 times as a
24 rural hospital, and in their spoken testimony
25 today, they did it 18 times. So I just cited

1 data and studies about the impact of closing a
2 rural hospital maternity unit on the infants in
3 this area.
4 Moreover, I've been in this area for a while
5 and I know that there are many young,
6 childbearing age, minority, low-income,
7 itinerant, non-English speaking families who are
8 going to be most at risk based on our literature.
9 This is not New Milford Hospital.
10 When I came to this area in 1997, people
11 were thinking about closing Winsted Hospital, and
12 I thought, that's fine. It's a six-minute trip
13 down to Torrington. These people can get there.
14 New Milford Hospital is in an urban setting
15 and we are not. Today, as I drove here, it took
16 me, not 25 minutes as usual, but 45 minutes to
17 get here because I followed two school buses, one
18 electrical truck, and then there was an accident
19 on the road coming up from the Housatonic River.
20 So we have challenges in this rural
21 community that New Milford does not face. That
22 would include travel time, EMS services, and the
23 like. We're much more like Fairview Hospital,
24 which is a critical-access hospital.
25 So it won't be like super easy, or -- you

1 know, to see morbidity and mortality in this
2 small community. There will be extra. We know
3 that because of the data, and I really think that
4 that is a very low-bar descent.
5 It's pretty easy to, you know, say that data
6 that we collect, death is a very good end point,
7 right, because if you're doing research, death is
8 pretty certain, but it's a low bar. So death in
9 this area is not something that I want to think
10 about.
11 I went into great detail in my written
12 testimony about Nuvance's plan to train ER
13 providers and nurses to deliver infants at Sharon
14 ER. So we are -- we know that there are going to
15 be about one a month.
16 I'm going to restate: I don't know if I
17 said it in my written testimony, but the N.R.P.
18 textbook has a big quote that says, "Completion
19 does not imply competency."
20 When I was trained, I spent half of my four
21 years in NICUs and dealing with babies that were
22 less than three months old. No ER physician or
23 nurse after this course where you don't touch a
24 patient and just work on a computer is going to
25 be competent to deliver a problem -- a baby.

1 They're -- you know, a baby that can be delivered
2 by somebody's son, they can deliver, but not
3 somebody that has any complication.
4 10 percent of those 12 a year are going to
5 have to have extra help to transition from being
6 in the womb to extra uterine life, and 1 percent
7 is going to need much higher levels of
8 resuscitative efforts that may include placing
9 umbilical lines, intubation, and then skills(sic)
10 afterwards, and the measures to resuscitate a
11 baby actually occur over 30 to 60 second
12 intervals. So we have about 10 minutes to get a
13 baby breathing and having a heart rate after
14 they're born, 10 minutes. So my suspicion is
15 that in an emergency setting with a kid that
16 comes out is going to be in trouble.
17 Aftercare, if you get the kid through the
18 resuscitation is just as daunting, and then it's
19 just absolutely disingenuous to say in a written
20 testimony that because ER physicians are good
21 transport arrangers, that that will help neonates
22 and women. That's not true.
23 Like Dr. Mortman said, and I work on three
24 units, a lot of times, a 34-weeker comes into our
25 unit, and they're too sick to transport. That

1 happens all the time. That doesn't happen
2 rarely. That happens a lot, and now, with -- the
3 people that are in that hospital are responsible
4 to deliver that baby and take care of it until a
5 transport arrives.
6 Now, I've waited six hours for transports
7 here, six hours, because a team is out, they have
8 to go back, they have to get themselves together.
9 Any OB worth their salt would understand that
10 some babies are going to have to be kept here and
11 not transported.
12 And then, in terms of C-sections, there is
13 no way to get a mother that shows up here that
14 needs a C-section to another competent hospital
15 within half an hour. There's no way. You can't
16 do it.
17 So I would never pretend to be able to care
18 for even the simplest heart attack patient at 70
19 years old if I were given a two-day refresher
20 course in which I never touched a live patient
21 and whose textbook says, "Completion does not
22 imply competency" after caring for one or two
23 heart attacks as a medical student 32 years ago.
24 In terms of quality of care, if Nuvance
25 closes this unit, they will be closing their

1 highest-rated maternity center and a center which
2 ACOG recently gave their highest rating, and I
3 say this working at two other centers. This is
4 the highest-quality center I work at.
5 As a real-life example, the other day, I was
6 walking my dog and I was called that there was a
7 baby coming in who was being delivered by a
8 midwife at home and the kid had a shoulder
9 dystocia. Shoulder dystocia is when a kid can't
10 come out, and the kid was stuck for seven to
11 twelve minutes. The midwife called EMS and EMS
12 came and EMS didn't do NRP. They reverted to
13 paddles. They actually ended up shocking this
14 kid, which is not part of resuscitative efforts
15 for a neonate, and gave him Amiodarone, which is
16 incredible, besides giving it six rounds of
17 epinephrine, and by the time the kid got to us,
18 it was still blue.
19 I was called in and the maternal fetal
20 nurses came down because not one person in that
21 ER wanted to touch that kid because they were
22 scared to death, and we, you know, resuscitated
23 that kid. That kid is going to be damaged. He's
24 in the hospital now at the high-tertiary care
25 center on multiple medicines for their seizures

1 and is going to be cerebral palsy.
2 So these things happen. It happened the
3 other day.
4 In terms of doing the numbers --
5 ATTORNEY TUCCI: I apologize for
6 interrupting. We are now going on 15 minutes.
7 The Hearing Officer issued an order that says the
8 comments shall not -- the Intervenor -- the
9 comments shall not (unintelligible) of the
10 prefile testimony.
11 Two, each witness shall make a good faith
12 effort at keeping his, her, their comments brief.
13 At the rate we're going, we're going to be here
14 for 75 more minutes of Intervenor direct
15 testimony. I request that the Hearing Officer
16 take steps to instruct Intervenors' Counsel that
17 we need to manage this process in a way they
18 allows us to complete this hearing in a timely
19 and efficient way, and respectfully, I'm going to
20 need a break in a moment for reasons that I don't
21 need to mention on the record.
22 HEARING OFFICER CSUKA: I agree.
23 DR. KAVLE: I'll be quick. I agree. That's
24 why I agree, too.
25 HEARING OFFICER CSUKA: I want to say one

1 thing before you continue, Doctor.
2 I have a stopwatch going. It was 10 minutes
3 and 23 seconds at the time that Attorney Tucci
4 jumped in. So it was not 15 minutes, but still,
5 we are well-beyond what I was expecting and
6 hoping for in terms of introductory testimony
7 from each of the witnesses.
8 I don't want to cut anyone off, but at the
9 same time, you know, I am very much trying and
10 planning to get this hearing done today because
11 if we don't, then that's -- you know, it's going
12 to push things out significantly and I just don't
13 want to do that.
14 So, after this witness, I am planning to
15 take a, let's say, lunch break, and we can go
16 until -- we can take the lunch break until 2:00,
17 and then we can -- we can pick up wherever we
18 left off.
19 Attorney Tucci, does that work for you or
20 would you prefer to try to get through all the
21 direct and then take a longer lunch break for you
22 to prepare your cross?
23 ATTORNEY TUCCI: I'll leave it to your
24 discretion. Whatever you think is going to move
25 us along more quickly, we will follow that

1 procedure.
2 HEARING OFFICER CSUKA: So let's take a
3 45-minute break after Dr. Kavle completes his
4 direct. Over that break, I'm going to order that
5 the -- the remaining witnesses make every effort
6 possible to shorten their testimony to
7 approximately five minutes per person, no more
8 than that, and then we can -- we can go on from
9 there. Even -- even limiting a person's
10 testimony to five minutes, that would mean one,
11 two, three, four, five, six, an additional half
12 hour of testimony.
13 So, Dr. Kavle, you can continue and then we
14 will take the break.
15 DR. KAVLE: I'm sorry to be long. I think
16 this is important. I'm sorry.
17 Doing the numbers, I was on the floor one
18 day right after the CEO left in 2019 and the
19 nurses reported to me that they hold them they
20 were going to close the unit.
21 I agree with Dr. Mortman that there was a
22 lot of repercussion last spring because a lot of
23 patients came in my office, crying, saying that
24 they couldn't see Dr. Mortman or deliver in that
25 unit. It wasn't true.

1 I've never seen an advertisement for the
2 health -- for the maternity center since I've
3 been here in 1997, and a lot of people say that
4 200 deliveries a year is fine financially for a
5 unit to survive, and we're giving them a break.
6 Most hospitals pay about $1.2 to $1.4 million
7 dollars a year and our group charges Nuvance
8 Hospital only $450,000 a year. So they get an
9 $800,000 break on the neonatal services here.
10 They still can't make it work.
11 I'm not -- the plan to promote primary care
12 is, you know, bewildering to me given the past
13 history, and I think I'll close with that.
14 Thank you very much.
15 HEARING OFFICER CSUKA: Thank you.
16 So, with that, we're going to take our
17 45-minute lunch break. Then we'll have
18 Dr. Kurish, Dr. Whyte, Mr. Colley, Ms. Horn,
19 Ms. Speck, and then Mr. Chandler.
20 Thank you very much, and you should turn
21 your video off and mute your device.
22
23 (Off the record at 1:16 p.m.)
24
25 (Back on the record at 2:02 p.m.)

1
2 HEARING OFFICER CSUKA: So we are back on
3 the record in Docket No. 22-32511-CON at the
4 application of Vassar health Connecticut, d/b/a
5 Sharon Hospital.
6 We left off with the direct testimony of the
7 Intervenors. We're going to pick up with Dr.
8 Kurish and then go from there until 3:00.
9 So between now and 3:00 will be the public
10 comment sign-up period, and all you have to do is
11 just write your name in the chat function in Zoom
12 and we will take you in the order in which you
13 signed up, with a few exceptions; those being, we
14 will have elected officials first and a few other
15 clinical professionals, as well, that have been
16 submitted.
17 So, with that, let's pick up with Dr.
18 Kurish.
19 DR. KURISH: Thank you for requiring a CON
20 for the closure of the maternity unit. I'm a --
21 HEARING OFFICER CSUKA: Hang on, I'm sorry,
22 I didn't realize you were there already. I need
23 to swear you in. Thank you.
24 Please, raise your right hand.
25 Do you solemnly swear or solemnly and

1 sincerely affirm, as the case may be, that the
2 evidence that you provided in your prefile
3 testimony and the evidence that you shall give
4 today shall be the truth, the whole truth, and
5 nothing but the truth, so help you god?
6 DR. KURISH: I do.
7
8 D A V I D K U R I S H, MD,
9
10 called as a witness, being first duly sworn (remotely) by
11 HEARING OFFICER CSUKA, testified on his oath as follows:
12
13 HEARING OFFICER CSUKA: And again, I'm going
14 to ask that the remaining witnesses limit their
15 testimony to five minutes or less, and that's in
16 the interest of making sure that the hearing is
17 done today and all the public have an opportunity
18 to speak.
19 So, thank you, Dr. Kurish. You can proceed.
20
21 DIRECT EXAMINATION OF DAVID KURISH, MD
22
23 DR. KURISH: Thank you requiring a CON to
24 close the maternity unit.
25 I'm a board-certified internist. I was also

1 trained in cardiology at the University of
2 Rochester. I've been here for 44 years
3 (unintelligible) as chief of staff of staff.
4 As we've discussed already, America is in a
5 healthcare crisis. Corporate medicine, Big
6 Pharma, and federal interventions seem to be
7 making things worse rather than better.
8 First of all, rural hospitals, like the
9 disadvantaged in our society, we are taking the
10 brunt of the inequities. One of the roles of OHS
11 is to ensure people have access to maternity and
12 other vital services that small hospitals
13 provide.
14 The next closest hospital is about one hour
15 away from Sharon in good weather. The CON should
16 be denied to avoid catastrophic damage to health
17 care in the tri-state area. It hasn't been
18 pointed out, but about 65 percent of the patients
19 at Sharon Hospital in our service area come from
20 New York state.
21 In 2017, there was 267 births at Sharon
22 Hospital. I spoke with the gynecologist my wife
23 and I used, and you -- as far as he can recall,
24 that goes back any 50 years, there have been no
25 maternity deaths or infant deaths at our

1 hospital.

2 So, to go from 267 births to 176, it's more

3 than a demographic change. There's a lot more

4 going on. Maternity problems started in 2018

5 when Health Quest announced (unintelligible)

6 closure alleging quality issues, but these issues

7 were easily debunked.

8 I feel, with the rest of the management,

9 according to figures provided by Nuvance, there

10 could be 300 deliveries a year in our hospital,

11 but Nuvance required the hospital in 2017

12 (unintelligible) place a keep maternity and other

13 vital services open for at least five years.

14 ATTORNEY TUCCI: Objection. Here we go. I

15 object.

16 It was supposed to be around five minutes,

17 and now, we're getting into alleged violations of

18 other CONs, for which there's no basis.

19 ATTORNEY KNAG: Let's move on.

20 DR. KURISH: (Unintelligible) cannot be

21 trusted.

22 ATTORNEY TUCCI: Again, strike that. It's

23 inflammatory, conspiratorial, derogatory

24 comments.

25 DR. KURISH: Management team hired

1 Stroudwater Associates, a consulting firm
2 specializing in downsizing hospitals to justify
3 the shutdown. Stroudwater did not meet with
4 shareholders in the community, stakeholders in
5 the community. They only spoke with a few
6 doctors before their report was presented.
7 Medical staff performed a leadership council
8 -- performed a leadership council that
9 (unintelligible) in the spring and summer of
10 2021, including a meeting with Dr. John Murphy.
11 Unfortunately, the council had negligible
12 influence on the plan. When a transformation
13 plan was presented to the (unintelligible) staff
14 at a quarterly staff meeting, the staff voted 21
15 to 1 against it. The meeting was confidential
16 because members -- medical staff who are employed
17 by Nuvance had their contracts that they're not
18 allowed to speak up publicly.
19 Subsequently, the medical staff met with the
20 board at Sharon Hospital, and again, to no avail.
21 Thank god, OHS's investigation stopped the
22 closure.
23 Nuvance reports quality when its actions
24 indicate otherwise. Primary care doctors and
25 specialists have not been supported. In the past

1 five years, five primary care doctors --
2 ATTORNEY TUCCI: Objection; irrelevant.
3 Move to strike it.
4 DR. KURISH: -- five specialists in
5 neurology and dermatology have left and were not
6 replaced, primary care doctors and nurse
7 practitioners in our service area and
8 specialists, not only gynecologists and
9 urologists, but other specialists to provide
10 proper care for their patients.
11 Furthermore, patients now have to travel an
12 hour longer (unintelligible) of getting here.
13 Patients are forced to travel to surrounding
14 hospitals to get their tests, x-rays, and other
15 procedures done that they normally had done here.
16 I feel (unintelligible) maternity,
17 after-hour surgery, and the ICU is only part of
18 Nuvance's plan to downsize Sharon Hospital.
19 Unfortunately, communities realize it was
20 happening to our hospital and its effects on the
21 community.
22 On October 16th, 2022, 400 people attended a
23 rally on the Sharon Green to rally against the
24 transformation plan. At the rally, where Senator
25 Blumenthal, Jahana Hayes, Maria Horn, and

1 numerous other selectman or leaders in the
2 community. Since that time, OHS has received 330
3 letters and also subsequent testimony from other
4 members of the community.
5 Governor Lamont has been mentioned, spoken
6 out to support the need for a full-service
7 hospital. To paraphrase him, he said, "You can't
8 have a hospital without a maternity unit."
9 Thank you for your time.
10 HEARING OFFICER CSUKA: Thank you,
11 Dr. Kurish.
12 ATTORNEY KNAG: Dr. Whyte is online.
13 HEARING OFFICER CSUKA: Dr. Whyte, can you
14 speak?
15 DR. WHYTE: Yes, right here.
16 HEARING OFFICER CSUKA: Okay, thank you.
17 Do you solemnly swear or solemnly and
18 sincerely affirm, as the case may be, that the
19 evidence that you provided in your prefile
20 testimony and the evidence that you shall give in
21 this case shall be the truth, the whole truth,
22 and nothing but the truth, so help you god or
23 upon penalty or perjury?
24 DR. WHYTE: I do. I adopt my prefile
25 testimony and I will begin my timer.

1
2 **A N D R E W W H Y T E, MD,**
3
4 **called as a witness, being first duly sworn (remotely) by**
5 **HEARING OFFICER CSUKA, testified on his oath as follows:**
6
7 **HEARING OFFICER CSUKA: Okay, thank you.**
8
9 **DIRECT EXAMINATION OF ANDREW WHYTE, MD**
10 **DR. WHYTE: I'll try to be brief.**
11 **So I'm just going to just forgo trying to**
12 **reread my prefile testimony. If everyone would**
13 **just read that, it would be great.**
14 **I'm here today not as a representative of**
15 **any organization. I'm here solely as**
16 **representing myself, and quite honestly, to speak**
17 **up on behalf of my colleagues in the emergency**
18 **department as well as the community of Sharon. I**
19 **had the privilege of working at Sharon Hospital**
20 **in the emergency department with a group of**
21 **physicians, that we actually manned the emergency**
22 **department from 2002 to 2014.**
23 **I live in New Haven County and made the**
24 **commute for a better part of 12 years. So I'm**
25 **very familiar with the commute and the**

1 difficulties, especially during inclement
2 weather. Why do I bring that up? My first point
3 I would like to bring up is these times you
4 quoted in distances. Distances are nice. Time
5 is the all-killer here. That is a snowstorm is
6 not inevitable in Sharon by any stretch of the
7 imagination. In fact, I was often delayed to my
8 shift even with leaving two hours, three hours
9 for a commute, which would normally take an hour
10 due to a foot of snow or more.
11 I say this because transfer to Charlotte
12 Hungerford or Danbury Hospital may be 45 minutes
13 or an hour on a good day, but could be
14 significantly longer going up or down the hills
15 in Litchfield County to that next closest
16 hospital.
17 I'd like to speak on behalf, also, of my
18 colleagues in the emergency department, that as
19 Dr. Mortman alluded to earlier, emergency
20 physicians, I do agree, are required to know
21 something about, essentially, every specialty and
22 then the next one or at least two steps beyond
23 what goes on in the emergency department. So,
24 cardiac, OB, neurologist, et cetera. I don't
25 need to list everything.

1 Yes, training occurs in medical school and
2 during residency for obstetrics and gynecology.
3 With that said, there are plenty of emergencies
4 that can occur between everything is fine in the
5 womb to the baby is fine. Those emergencies are
6 the part that are difficult for anyone that
7 doesn't train full-time in obstetrics, labor, and
8 delivery will have difficulty managing, and why
9 I, personally, would be afraid practicing in an
10 emergency department that does not allow for the
11 subspecialties coming in.
12 Emergency departments have long call lists
13 in pretty much all subspecialties that are are
14 available in the area for a reason. The reason
15 being is because we cannot be specialists in each
16 area of all medicines, and therefore, we rely on
17 our colleagues in these specialties to come in
18 and help us when we need it.
19 To imagine that an emergency physician would
20 handle every sort of obstetric emergency would be
21 difficult at best, in my opinion. I'm not going
22 to lie: The elation of delivering a perfectly
23 healthy baby is wonderful. I'm not going to lie
24 in the fact that I've told friends, colleagues,
25 family that I would much rather run three or four

1 cardiac arrests at one time than deliver one baby
2 for the mere fact that I'm terrified of what may
3 happen between baby's fine and mom, baby's not
4 doing well coming out of mom.
5 And as far as financially, there's no
6 financial gain for me by speaking today or
7 financial loss to me. I have no incentive to
8 speak one way or the other other than for the
9 benefit of my colleague, as I said, and the
10 community.
11 My question would be: What is the financial
12 worth of one child, one mother, or the
13 combination thereof? Is it $100,000, a hundred
14 million? I would propose that if it's my wife,
15 my daughter, they're worth all the money in the
16 world to me, and to take away a service that
17 already exists is counterintuitive to me when it
18 already exists, and the potential for a
19 horrendous outcome, even if it's small, it's
20 still a percentage, and I'm not a gambler and I
21 don't want to take any gamble on my family nor
22 the community in Sharon, and I'll end my
23 testimony there and reserve for any questions.
24 HEARING OFFICER CSUKA: I did want to say:
25 All of your testimony is very important. We're

1 going to consider it. I'm not limiting you
2 because it's -- it's not important. It's just,
3 you know, my order was to keep testimony brief
4 because there's already a lot in your written
5 testimony.
6 So I didn't want to give the impression that
7 we're somehow not considering it in the same way
8 as we are the Applicant's testimony, and I just
9 wanted the public to know that, as well.
10 So Attorney Knag, you can continue with
11 your --
12 ATTORNEY KNAG: Our next witness is the
13 first selectman of the town of Sharon, Brent
14 Colley.
15 HEARING OFFICER CSUKA: Again, Mr. Colley,
16 please, raise your right hand, thank you.
17 Do you solemnly swear or solemnly and
18 sincerely affirm, as the case may be, that the
19 evidence that you provided in your prefile
20 testimony and the evidence that you shall give in
21 this case shall the truth, the whole truth, and
22 nothing but the truth so help you God or upon
23 penalty of perjury?
24 MR. COLLEY: I do.
25

1
2 B R E N T   C O L L E Y,
3
4 called as a witness, being first duly sworn (remotely) by
5 HEARING OFFICER CSUKA, testified on his oath as follows:
6
7 HEARING OFFICER CSUKA: Thank you. And do
8 adopt your prefile testimony?
9 MR. COLLEY: I do.
10 HEARING OFFICER CSUKA: Okay, you can -- you
11 can proceed whenever you're ready.
12
13 DIRECT EXAMINATION OF BRENT COLLEY
14
15 MR. COLLEY: Sure.
16 So my name is Brent Colley, B-r-e-n-t,
17 C-o-l-l-e-y. I'm the first selectman in Sharon,
18 Connecticut and I will keep it brief.
19 In these small towns, especially Sharon,
20 Cornwall, Salisbury, and Kent, we are out really
21 in the middle of nowhere when it comes to
22 services, and what's important about this
23 hospital is what it provides to everyone, no
24 matter what their age. In the time that we had,
25 because of the 45-minute break, what I did was I

1 took the opportunity to go out into the community
2 and asked people on the street and stores and
3 businesses, "What does Sharon Hospital mean to
4 you," and "what does the closing of maternity to
5 you basically concern you?" And there was a
6 pretty common theme and that was Sharon Hospital
7 is the heart of Sharon. It's the life blood of
8 Sharon. People enjoy access, the community
9 involvement in everything that's involved with
10 it, doctors, nurses, outside doctor facilities,
11 an economic engine which really is what this
12 hospital really is.
13 For people that live in larger towns, we're
14 a factory town, we're a hospital town. So what
15 this is to us is everything. There's two degrees
16 of separation with the hospital to everyone who
17 lives here, meaning that we all either live with
18 someone or know someone who works within the
19 hospital.
20 And as far as the maternity services goes,
21 specifically, it's not just the deliveries, but
22 it's the aftercare. So a lot of the people that
23 move here and have babies, their families become
24 attached to the hospital and OB/GYN as their
25 general provider for services. That was true of

1 my wife. She basically survived two boughts of
2 cancer because of your doctors and GYN.
3 As far as overall concerns with the
4 community is that we are looking at something
5 that we're not quite sure of what's going to
6 grow, meaning that I brought two things of
7 dominos. The domino effects in a lot of rural
8 small hospitals is that one service is gone and
9 then other services fall. How many dominos there
10 are is clearly unclear at this moment in time,
11 and that's the reason why we fight so hard and
12 we're asking of you to really consider what's
13 being asked from Nuvance of us.
14 Obviously, you're going to hear a lot of
15 testimony, you're going to read a lot of
16 testimony, but as a group, as a health care
17 basically overlooking the board, please, consider
18 what this means to us. It's -- you've heard from
19 the doctors. You're hearing from me as a
20 representative of many first selectmen and mayors
21 in our region, 21 to be exact, is that this
22 impacts our overall economy and the services that
23 we provide.
24 Since the pandemic, we are growing and
25 expanding the youth in our communities, and a lot

1 of them came here from, whether it was Brooklyn
2 or Manhattan or Long Island because of the
3 hospital. They're young families, they find it
4 safe here, beautiful here, and they want to
5 expand their life here.
6 Now, to lose maternity at this moment in
7 time is going to impact that and we don't know
8 what that impact will be, but again, that's why
9 we fight so hard to ask of you to look at it, not
10 from a profit standpoint of the hospital, but as
11 an overall quality of life for this region of
12 Connecticut. And it's not just us. New York
13 state is right here. Amenia is right across the
14 border 10 minutes away, and New York and
15 Massachusetts and Connecticut here in this region
16 come together.
17 So I'm keeping it short because I know you
18 guys want to keep it short, but that's the
19 overall theme.
20 Think about what this impact will have on us
21 and what this hospital truly means to us because
22 we've been through a great amount of change in --
23 I've been here just nine years. In nine years,
24 I've been through five CEOs, and a large change
25 from a forprofit to a nonprofit to Health-Plus to

1 Nuvance and I don't know what's next.
2 So I ask of all of you to really look at
3 this from our perspective, and if you can, come
4 on out and visit us. I'm happy to drive you
5 around and show you our beautiful areas and
6 regions, but also show you how long it would take
7 us to get to the different hospitals that are our
8 other options. They're not 40 minutes away.
9 They're 45 to an hour, if we're lucky.
10 And Jean Speck from Kent will talk more
11 about the EMS and ambulance after me, but just
12 consider that. That's my goal.
13 So thank you for your time and your
14 consideration.
15 HEARING OFFICER CSUKA: Thank you,
16 Mr. Colley. Again, I just want to reiterate that
17 my interest is not in keeping your testimony
18 abbreviated or short. My interest is making sure
19 that we run the hearing efficiently and we get
20 through everything that we need to get through.
21 Our next witness is Maria Horn, state
22 representative.
23 Thank you.
24 MS. HORN: Can you hear me?
25 HEARING OFFICER CSUKA: I can.

1 MS. HORN: Great, so I am --
2 HEARING OFFICER CSUKA: Ms. Horn, please
3 raise your right hand. Do you solemnly swear or
4 solemnly and sincerely affirm, as the case may
5 be, that the evidence that you provided in your
6 prefile testimony and the evidence that you shall
7 give in this case shall the truth, the whole
8 truth, and nothing but the truth so help you God
9 or upon penalty of perjury?
10 MS. HORN: I do, and I also adapt my pre --
11 adopt my previous testimony that's also useful.
12
13 M A R I A H O R N,
14
15 called as a witness, being first duly sworn (remotely) by
16 HEARING OFFICER CSUKA, testified on his oath as follows:
17
18 DIRECT EXAMINATION OF MARIA HORN
19
20 MS. HORN: So, yes, I'm State Representative
21 Maria Horn. I represent the 64th District, which
22 includes Sharon and other adjacent communities
23 which are served by Sharon Hospital and I'm
24 limiting a lot of things because I don't want to
25 repeat what others have said, and I really want

1 to thank OHS for conducting such a thoughtful
2 hearing.
3 I have confidence that you are, in fact,
4 hearing from both sides of this and all the
5 evidence before you, which is really important.
6 Sharon Hospital needs partners, and so both sides
7 of this, you know, equation, I believe people are
8 here in good faith trying to resolve the real
9 problems. So I'm grateful for the fact that
10 you're doing it.
11 The central important question, of course,
12 is access to quality, high-quality health care,
13 and this -- this application is very similar to
14 the one that OHS looked at somehow recently with
15 respect to Windham Hospital in which OHS denied
16 the application to close maternity, and
17 that Windham Hospital being a hospital that has a
18 birth rate less than half that of Sharon
19 Hospital, the unit was actually closed and the
20 distances in question were less than at Sharon
21 Hospital.
22 Again, this is a difficult issue for
23 everyone. It has been for many years in Sharon.
24 This is an ongoing conversation about delivering
25 services and particularly medical services in a

1 rural area which is costly, and so I don't
2 question the fact that there is additional costs.
3 If there are significant questions as to
4 quantum of those costs, both in terms of absolute
5 terms and in relative terms that I hope to have
6 engagement with. I do think we've arrived to the
7 point where we need OHS in order to continue with
8 or to have a constructive engagement. Others
9 have discussed the, you know, really frightening
10 nationwide trends with respect to rural
11 hospitals, maternity care in particular, and I
12 am, for one, don't believe that one should look
13 at those challenges and give up on people who
14 live in rural areas.
15 We have to make sure that we, the State, and
16 I, as the incoming chair of the Finance, Revenue,
17 and Bonding Committee, and I know the attorney
18 general and the governor all join in being open
19 to discussing ways to resolve this issue as long
20 as we can face constructive engagement.
21 I've been a part of many meetings with the
22 community and the Sharon Hospital and one meeting
23 with Dr. -- Dr. Murphy about how to resolve this,
24 and we've worked constructively on a series of
25 issues, but not on the one we're hearing about

1 today, and in fact, I was very disheartened when,
2 at one point, I was told by the former chair or
3 the president of Sharon Hospital that he was just
4 wearing me down, which leads to the feeling that
5 we're just sort of going through the motions
6 until -- you know, rather than constructive
7 thinking in how to solve a real problem in a
8 rural community.
9 So I thank OHS for engaging in that
10 conversation and I look forward to being part of
11 those conversations in terms of resources that
12 the State and federal government can bring to try
13 to resolve this because in order to have a
14 thriving community, we need to have a thriving
15 hospital, which includes maternity care.
16 So thank you.
17 HEARING OFFICER CSUKA: Thank you,
18 Representative Horn.
19 ATTORNEY KNAG: Someone needs to mute.
20 So I'm going to ask -- our next witness is
21 Jean Speck, first selectman of the Town of Kent.
22 HEARING OFFICER CSUKA: Ms. Speck, please,
23 raise your right hand. Okay, there you go.
24 Do you solemnly swear or solemnly and
25 sincerely affirm, as the case may be, that the

1 evidence you provided in your prefile and the
2 evidence that you shall give today shall the
3 truth, the whole truth, and nothing but the
4 truth, so help you god or upon penalty of
5 perjury?
6 MS. SPECK: Yes.
7
8 J E A N S P E C K,
9
10 called as a witness, being first duly sworn (remotely) by
11 HEARING OFFICER CSUKA, testified on his oath as follows:
12
13 HEARING OFFICER CSUKA: Thank you.
14 Do you adopt your prefile testimony?
15 MS. SPECK: Yes.
16 HEARING OFFICER CSUKA: Okay, you can
17 proceed whenever you're ready.
18
19 DIRECT EXAMINATION OF JEAN SPECK
20
21 MS. SPECK: Good afternoon and I appreciate
22 the time before the Hearing Officer today.
23 I'm the first selectman of the Town of Kent.
24 I'm a 25-year long resident and a patient of
25 Dr. Mortman's.

1 24 years ago this coming January, my
2 daughter, Sharon, was born at Sharon Hospital,
3 personally delivered by Dr. Mortman, and she
4 was -- she is part of that high-risk birth data.
5 As a person speaking to you today in my
6 capacity as the chief-elected official, I want to
7 underscore that the residents of our community
8 need Sharon Hospital to continue the services of
9 maternity, labor, delivery, and other core
10 services that they're looking to discontinue.
11 I join other local political leaders in
12 emphasizing that this is -- this is going to do
13 harm to our communities.
14 As Brent Colley mentioned earlier, this is a
15 key driver to bring new residents to our towns
16 and to keep those residents who already live
17 here.
18 Second, I want to just discuss with you from
19 the perspective of a former employee of the
20 Department of Public Health. I worked there for
21 10 years in the Office of Medical Services as a
22 regional coordinator, having regulatory oversight
23 over EMS systems in the state.
24 If there was a need for a patient to be -- a
25 pregnant patient to be transferred to another

1 hospital and the one licensed EMS provider was
2 already tied up servicing one of the
3 approximately 23 towns that services over in New
4 York state, Sharon Hospital Emergency Department
5 would have to pick up the phone, literally just
6 as you or I would do, call 9-1-1 ,and have the
7 local EMS provider dispatch to get that patient
8 transported. This is not how the system is
9 designed. That would mean the local certified
10 EMS organization would be unavailable for several
11 hours to respond to any 9-1-1 calls in their
12 primary service area during that time, putting a
13 lot of stress, additional stress, on the
14 surrounding towns.
15 So what happens if someone during that time
16 experiences a cardiac arrest? Another town --
17 another local EMS organization with likely maybe
18 one or two ambulances in their fleet would have
19 to be dispatched under mutual aid for their
20 taxing system.
21
22 (Technical interruption.)
23
24 The six towns surrounding Sharon Hospital
25 all are certified EMS providers whose role,

1 according to DPH regulations, is to respond to
2 9-1-1 requests for services. Certified ambulance
3 organizations doing interfacility transfers is
4 not how the EMS system is designed. EMS systems
5 in every corner of the state are facing staffing
6 shortages, increased training requirements, and
7 burnout secondary to the pandemic. Ending labor
8 and delivery at Sharon Hospital will place even
9 more stress on this already-fragile system.
10 This has not been addressed with Sharon
11 Hospital as yet, and I appreciate the time for --
12 and your balance, Hearing Officer, in trying to
13 get us moved forward.
14 Thanks very much.
15 HEARING OFFICER CSUKA: Thank you.
16 ATTORNEY KNAG: Our final witness is going
17 to be Chisholm Chandler.
18 MR. CHANDLER: Good afternoon.
19 HEARING OFFICER CSUKA: Mr. Chandler,
20 please, raise your right hand.
21 Do you solemnly swear or solemnly and
22 sincerely affirm, as the case may be, that the
23 evidence you have provided in your prefile
24 testimony and the evidence that you shall give
25 today shall be the truth, the whole truth, and

1 nothing but the truth, so help you god or upon
2 penalty of perjury?
3 MR. CHANDLER: I do.
4
5 C H I S H O L M C H A N D L E R,
6
7 called as a witness, being first duly sworn (remotely) by
8 HEARING OFFICER CSUKA, testified on his oath as follows:
9
10 HEARING OFFICER CSUKA: Thank you.
11 And do you adopt your prefile testimony?
12 MR. CHANDLER: I do.
13 HEARING OFFICER CSUKA: Thanks.
14 You can proceed whenever you're ready.
15
16 DIRECT EXAMINATION OF CHISHOLM CHANDLER:
17
18 MR. CHANDLER: Good afternoon, and thank you
19 for allowing me to speak today.
20 My name is Chisholm Chandler and I serve as
21 the Emeritus Headmaster at Salisbury School in
22 Salisbury, Connecticut.
23 As an aside, I was born at Sharon Hospital
24 in June of 1966, and my four children were born
25 there, as well. So we're all tremendously

1 grateful for the hospital's Five Star care
2 referenced earlier in the meeting, and like my --
3 the previous speaker, Dr. Mortman, delivered two
4 of my children.
5 This morning, I'm honored to share my
6 thoughts on this proposed certificate of need
7 application and what we believe is the grievous
8 impact of the potential loss of exceptional
9 women's health care in our area.
10 It's important to note that one of the
11 largest employers in the northwest corner of
12 Connecticut is the independent school industry.
13 ATTORNEY KNAG: When is this appointment?
14 MR. CHANDLER: I'll get to my appointment.
15 And the direct and indirect revenue
16 generated by this sector is a significant part of
17 the local economy, fueling a local retail,
18 restaurant, and real estate businesses in
19 particular.
20 So, today, I'm speaking on behalf of all
21 independent schools located in the area:
22 Berkshire, Forman, Hotchkiss, Indian Mountain,
23 Kent, Millbrook, Rumsey Hall, Salisbury, Taft,
24 and others. This is a group that comprises over
25 2,000 students and school professionals, all of

1 whom stand together in opposing this application,
2 and I have three very brief points to share.
3 The first is the impact of this application
4 on our hiring processes and our abilities to
5 build exceptional educational communities.
6 Independent schools depend on hiring young
7 professionals from all over the country to teach,
8 coach, and mentor adolescent boys and girls, and
9 it is incredibly advantageous for us to recruit
10 young couples intent on establishing routes in
11 raising their own families on our campuses. This
12 is so because longevity and continuity in faculty
13 and staff are critical elements of well-run,
14 highly-valued, and sought-after schools, and
15 having a celebrated and distinguished women's
16 health care practice where faculty and staff can
17 have their babies in a Five Star hospital so
18 close in proximity to our campuses is an
19 important asset for us in terms of our ability to
20 attract and retain these young professionals.
21 Second, the potential impact of diminishing
22 ER capabilities: In addition to maternity
23 resources, a fully-functional and thriving ER is
24 also a critical asset for our school communities.
25 The health and safety of our students and their

1 teachers is something that our clients, who are
2 the tuition-paying parents, expect, and frankly,
3 demand. The impact of this application, which
4 would most certainly diminish ER capabilities, as
5 we heard earlier, by eliminating maternity
6 services and night and weekend surgery coverages
7 is dangerous and frightening to all constituents,
8 heads of school, trustees, faculty and staff, and
9 our clients, the students and their families.
10 Ours is a large universe of stakeholders.
11 Not having these critical services will
12 undoubtedly adversely impact the effective
13 operations of our schools, and so there is
14 potentially enormous collateral damage in
15 approving this application.
16 The final point: The impact on families who
17 moved here during the pandemic. We have had many
18 families relocate to the local area from New York
19 City as a result of the pandemic. We heard this
20 earlier. Local populations have swelled, which
21 is beneficial for many reasons, including the
22 independent school enrollment picture. In fact,
23 there's a current article in the local newspapers
24 that tells the story of this migration. The vast
25 majority of these new residents, according to

1 those who were interviewed for the article, say
2 they intend to make their move permanent and
3 reference the reason that they hadn't realized
4 just how good the local human services were when
5 they were just weekend homeowners and visitors.
6 Downgrading our health care infrastructure,
7 especially women's reproductive care, will have a
8 damaging impact on the surrounding communities,
9 no doubt, and will most certainly weaken our
10 schools. It is our collective opinion that we
11 must, absolutely must maintain our commitment to
12 comprehensive women's health care at Sharon
13 Hospital.
14 Thank you for your time and for listening to
15 the pleas of the independent school community.
16 HEARING OFFICER CSUKA: Thank you, Mr.
17 Chandler.
18 Attorney Knag, do you have anyone else
19 there?
20 ATTORNEY KNAG: No, I think we've covered
21 everyone, and I would just make one -- we have
22 one logistical point: Dr. Whyte has stated that
23 he has some commitments later in the afternoon
24 and if we didn't finish the public comment
25 section fast enough, he might become unavailable.

1 So I would ask that if -- if there's
2 cross-examination or questions from staff for Dr.
3 Whyte, that they be propounded at this time.
4 HEARING OFFICER CSUKA: Okay, at this point,
5 I think we have 26 people who have signed up to
6 provide public comment, so it's likely to take a
7 considerable amount of time, like an
8 hour-and-a-half, maybe two hours, if everybody
9 were to take the full three hours(sic), so --
10 ATTORNEY KNAG: Three minutes.
11 HEARING OFFICER CSUKA: I think we should
12 probably start with him on cross, but I do want
13 to take -- let's take a four-minute break and
14 we'll come back at 2:40, and we'll start with Dr.
15 Whyte.
16
17 (Off the record at 2:36 p.m.)
18
19 (Back on the record at 2:40 p.m.)
20
21 HEARING OFFICER CSUKA: Thank you very much.
22 We are back on the record in the matter of -
23 sorry, I am all over the place right now - Vassar
24 Health Connecticut Inc. d/b/a Sharon Hospital,
25 Docket No. 22-32511-CON.

1 During that short break, we appear to have
2 lost the Court Reporter, and we made efforts to
3 try to get her back, to no avail. We are
4 continuing to record the proceedings through Zoom
5 and we'll make that available to her for purposes
6 of preparing a transcript. Both Counsel have
7 agreed to continue with the hearing,
8 notwithstanding her absence, and with that, we
9 are going to turn to the public comment
10 portion -- or I'm sorry, we're going to just take
11 Dr. Whyte briefly because he has a commitment.
12 So, Attorney Tucci, did you have any
13 cross-examination for Dr. Whyte?
14 ATTORNEY TUCCI: Thank you, Hearing
15 Officer. On behalf of the Applicant, we have no
16 questions for Dr. Whyte.
17 HEARING OFFICER CSUKA: Okay, thank you.
18 So, Dr. Whyte, you can be excused.
19 ATTORNEY KNAG: Does the staff have any
20 questions?
21 HEARING OFFICER CSUKA: I don't believe so.
22 MR. LAZARUS: We do not.
23 HEARING OFFICER CSUKA: And Mr. Lazarus,
24 you're speaking on behalf of yourself and the two
25 analysts?

1 MR. LAZARUS: Yes, yes.
2 ATTORNEY KNAG: So Dr. Whyte is excused?
3 HEARING OFFICER CSUKA: Correct.
4 DR. WHYTE: Thank you very much.
5 HEARING OFFICER CSUKA: Thank you.
6 So, now, we are going to turn to public
7 comment. Let's see. So we will be calling the
8 names of those who have signed up to speak in the
9 order in which they are registered, and
10 afterwards, I will ask that anyone else who is
11 present who wishes to be heard, let us know.
12 There are some exceptions to this. We're going
13 to hear from elected and appointed public
14 officials first, followed by some clinical and
15 non-clinical executives who have other
16 obligations later today, and then we will proceed
17 in -- I believe, in the order in which people
18 signed up.
19 Each person is limited to three minutes.
20 Please, do not be dismayed if I interrupt you and
21 cut you off. I'm doing this in fairness to
22 others present to make sure that everyone who
23 wishes to speak today has an opportunity to do
24 so.
25 I would ask anyone else listening to submit

1 any further written comments to OHS by e-mail or
2 mail no later than one week, that is seven
3 calendar days, from today. Our contact
4 information is on our Website and on the public
5 information sheet, which were provided at the
6 hearing.
7 Thank you for taking the time to be here
8 today and for your cooperation.
9 So we're now ready to hear statements from
10 the public. As I mentioned earlier, Mayda
11 Capozzi and Leslie Greer from our office have
12 been kind enough to keep a list of the
13 individuals who have submitted their names. So I
14 am probably going to need their assistance in
15 listing those off.
16 Anyone who's speaking, I would remind you to
17 turn your video and your microphone on and we
18 will try to give you some heads-up as to who will
19 in the queue. As of this writing, I believe we
20 have in excess of 30 people who have signed up.
21 I don't have the list in front of me right now,
22 but --
23 MS. CAPOZZI: At least 28.
24 HEARING OFFICER CSUKA: 28, okay.
25 So, Mayda, can you just --

1 ATTORNEY TUCCI: Just -- Hearing Officer
2 Csuka, this is Ted Tucci.
3 Just as a point of procedure clarification,
4 and I apologize for my confusion, so we are going
5 to -- we are going to move through the public
6 comment portion of the proceedings and then
7 resume cross- -- the technical part of the
8 hearing? Is that --
9 HEARING OFFICER CSUKA: That was my plan,
10 yes.
11 ATTORNEY TUCCI: Okay.
12 HEARING OFFICER CSUKA: I'm sorry. It's --
13 does that work for you?
14 ATTORNEY TUCCI: That's -- however you want
15 to proceed, we're fine.
16 HEARING OFFICER CSUKA: Okay, that's what I
17 would like to do.
18 So, Mayda, who will be first?
19 MS. CAPOZZI: Representative Stephen
20 Harding.
21 HEARING OFFICER CSUKA: Actually, can you
22 just name the first, let's say, three people who
23 would be on the list?
24 MS. CAPOZZI: Sure.
25 HEARING OFFICER CSUKA: So it would be

1 Representative Harding.
2 MS. CAPOZZI: Mm-hm, Gordon Ridgway, First
3 Selectman of Cornwall, and Dr. Cornelius
4 Ferreira.
5 HEARING OFFICER CSUKA: Okay, so let's start
6 with Representative Harding.
7 MR. HARDING: Good afternoon, Hearing
8 officer Csuka, and members of OHS. I am
9 Representative Stephen Harding representing the
10 107th district. I also am fortunate to be
11 elected as the state senator for the 30th
12 district upcoming in January, which covers the
13 majority of the communities in Connecticut that
14 utilize the incredible services at Sharon
15 Hospital.
16 I am testifying today in addition to the
17 written correspondence I submitted in absolute
18 opposition to the closure of the labor and
19 delivery at Sharon Hospital as well as the
20 critical cuts proposed to the ICU.
21 Just to highlight just quickly, you know, on
22 what I've written, particularly with rural
23 hospitals -- this is what OHS, I think, is there
24 for and should be reviewing today. A rural
25 hospital obviously is defined by its geography,

1 and as I said in my written testimony, Sharon
2 Hospital may not have as many patients as
3 Hartford, New Haven, or other cities in urban
4 areas of our state, but its very location in the
5 middle of a less-populated region makes it that
6 much more important. Sharon Hospital must offer
7 maternity and ICU care to the residents of
8 northwest Connecticut because if they don't, no
9 one else will.
10 There have been previous closures of labor
11 and delivery units across the state in the past,
12 but this one is particularly precarious for the
13 individuals in northwest Connecticut. If you are
14 pregnant and live in Sharon, the closest
15 alternative hospital conceivably is Charlotte
16 Hungerford, and there is no three-lane highway or
17 good way to get there, particularly in the winter
18 season, where there's ice and snow, et cetera.
19 As a father to young children, myself, I
20 cannot imagine forcing a mother to endure the
21 stress of traveling nearly an hour while in labor
22 to reach the hospital medical staff. In some
23 circumstances, this very well may threaten the
24 life of the baby and the mother.
25 Now, you know, we heard the incredible

1 testimony from Dr. Mortman and his advocacy that
2 he has worked with the patients and the newborns
3 at the labor and delivery unit for many years at
4 Sharon Hospital.
5 Individuals -- you would be dealing with
6 individuals' lives: Babies potentially losing
7 their lives, mothers potentially losing their
8 lives if OHS allows this closure.
9 So I am asking -- I am imploring OHS to do
10 the right thing here for the people of northwest
11 Connecticut to ensure that the health and safety
12 and well-being of northwest Connecticut is
13 respected, and I believe OHS has a critical
14 opportunity to do that here and I think they have
15 no choice, please, but to, please, keep the labor
16 and delivery units open and stop the critical
17 cuts to ICU.
18 So I thank you very much for you time.
19 HEARING OFFICER CSUKA: Thank you,
20 Representative Harding.
21 So next on the list would be First Selectman
22 Ridgway.
23 MR. RIDGWAY: Good afternoon, and thank you
24 for holding this hearing on this very important
25 issue.

1 My name is Gordon Ridgway. I am First
2 Selectman of the town of Cornwall, which is
3 adjacent to the town of Kent -- or the town of
4 Kent and also, this hearing in Sharon, which is
5 the primary hospital that most people in Cornwall
6 go to, and I've been First Selectman for over 30
7 years, and I would just like to say to start that
8 there is no support for this transformative plan
9 among any of the local officials that I have
10 talked to, both in Connecticut and in New York
11 State, and I'm here to speak for the most
12 vulnerable people, that's basically the people
13 that have a long way to go to get health care and
14 the youngest members of our community.
15 I think there is tremendous appreciation of
16 our area for what we have now in Sharon Hospital,
17 the great care that we have gotten for
18 generations at Sharon Hospital. I know from
19 personal experience, my three children were born
20 there under the care of Drs. Mortman and Schnurr.
21 All three kids now are EMTs with the Cornwall
22 Ambulance Service, and the picture above me
23 was -- was drawn by a Sharon artist that shows
24 Sharon -- the older section of Sharon, which
25 Cornwall Ambulance has to go over to get to

1 Sharon Hospital, and I think that's very
2 important because a lot of people in other parts
3 of the state may not appreciate our topography.
4 And our ambulance also covers a good part
5 of Sharon on the west bank of the Housatonic
6 River, so we have to go down a hill, up a hill to
7 get people back down the hill and over -- over
8 another hill to get to Sharon Hospital. That's
9 just the reality of what we have. On a good day,
10 it's fine. On a -- on a snowy day, it can be
11 rough.
12 So I would just like to say that seeing and
13 reading up on this issue, I think this
14 transformative plan would transform our region
15 into something much less than it is now. It
16 would take away an extremely vital service to our
17 community. We have had people, young families
18 come here. There's waiting lists in our -- on
19 our child centers here and they are -- rely on
20 this service, and I would like to see Sharon
21 Hospital do more to support this essential
22 service and do the advertising and give the
23 publicity that it needs and help them grow their
24 business and support the hospital because I think
25 we have a really great service here that needs to

1 be supported and enhanced and publicized, not
2 closed.
3 Thank you.
4 HEARING OFFICER CSUKA: Thank you.
5 Next on the list, I believe, was
6 Dr. Ferreira. Is Dr. Ferreira here?
7 DR. FERREIRA: I am here. Thank you so
8 much.
9 So my name is Dr. Cornelius Ferreira and I
10 am Nuvance Health's chair of primary care. I'm
11 here to express my support for Sharon Hospital's
12 application as the best path forward to keep the
13 hospital strong and maintain access to care in
14 the community. With my years of experience in
15 health care, particularly in primary care with a
16 board certification in family medicine, I
17 recognize the importance of supporting women
18 throughout the duration of their life span.
19 However, we must also recognize that a rural
20 community hospital like Sharon Hospital needs to
21 adapt to best meet the needs of our community as
22 health care evolves.
23 Prior to joining Nuvance Health, I worked in
24 rural Iowa, where labor and delivery patients
25 were always referred to tertiary care centers.

1 These patients were safely and successfully
2 transferred to hospitals within driving distance
3 where mothers and babies were still guaranteed
4 high-quality care.
5 Sharon Hospital's proposed transformation
6 plan is focused on strengthening the services
7 that data shows are needed most across the
8 region. Closing labor and delivery is a
9 difficult but necessary part of this plan. As
10 the Sharon community changes and health care
11 delivery evolves, we need to expand access to
12 primary and specialty care across the region for
13 our patients. For example, as my team works to
14 support the transformation plan and focus on
15 growing primary care in a rural market, we must
16 be creative so we can attract new talent to build
17 and maintain a strong infrastructure for the
18 future.
19 We have made progress in partnership with
20 our local volunteer-based recruitment committee.
21 Recent additions of new, skilled clinicians to
22 our primary care team are proof of our commitment
23 to growth-based aspects of the transformation
24 plan.
25 Sharon Hospital's transformation plan will

1 allow us to devote more time and resources to
2 this important work to expand our area's
3 highest-demanded services. Sharon Hospital must
4 adapt to remain sustainable. Beyond that, we
5 need resources to invest in expanding access to
6 care. This plan will allow us to achieve both
7 these important goals so we can keep Sharon
8 Hospital strong, and ultimately, create a
9 healthier region.
10 I urge you to approve this application, and
11 thank you for your consideration.
12 HEARING OFFICER CSUKA: Thank you,
13 Dr. Ferreira.
14 Mayda, who would be the next three?
15 MS. CAPOZZI: Okay, so Dr. Thomas Koobatian,
16 Dr. Mark Marshall, and Bob Schnurr, clinical di-
17 -- clinical.
18 HEARING OFFICER CSUKA: Okay, so we'll start
19 with Dr. Koobatian.
20 DR. KOOBATIAN: Good afternoon.
21 HEARING OFFICER CSUKA: Okay.
22 DR. KOOBATIAN: Hi, my name is Dr. Thomas
23 Koobatian. I've been an emergency physician at
24 New Milford Hospital in New Milford, Connecticut
25 for the past 25 years. I also serve as the

1 hospital's executive director and chief of staff.
2 I'm speaking today because I've experienced the
3 challenges of Sharon Hospital and the difficult
4 decision that needs to be made to continue
5 serving its community.
6 In 2013, New Milford Hospital was facing
7 similar problems as Sharon faces today. With a
8 declining delivery volume, we struggled to
9 maintain financial stability while managing
10 staffing challenges. These obstacles prevented
11 our not-for-profit hospital for making needed
12 investments to maintain and expand crucial
13 services for our community. After a thorough
14 review process, we made the difficult decision to
15 close our labor and delivery unit. While this
16 path was no one's first choice, it was
17 undoubtedly the best decision to serve the
18 community's needs and the hospital's future.
19 It's been nine years since New Milford
20 Hospital closed its maternity unit and we are
21 thriving. We've built a new primary care office
22 that serves thousands of patients a year. We
23 recently opened a new multi-disciplinary office
24 staffed with the most-needed medical specialists.
25 And seeing is believing, so I would like to

1 invite OHS committee members to visit New Milford
2 Hospital and see firsthand this amazing
3 transformation. Our emergency department remains
4 trained and ready for OB emergencies; however,
5 thanks to exhaustive planning and precautions
6 among physicians, EMS providers, and the
7 community, we have not had a single emergency
8 birth in our emergency department.
9 If granted approval to close labor and
10 delivery, Sharon Hospital can replicate New
11 Milford's success. No one enters health care
12 intending to cut services and I know how
13 difficult it was to reach this decision; however,
14 by reallocating resources from this underused
15 service and investing them to improve and expand
16 access elsewhere, Sharon Hospital can better
17 serve its community. Ultimately, Sharon
18 Hospital's transformation plan is the best
19 decision for the hospital and its community.
20 Thank you for your time.
21 HEARING OFFICER CSUKA: Thank you,
22 Dr. Koobatian, and I apologize for pronouncing
23 your name incorrect.
24 DR. KOOBATIAN: No worries.
25 HEARING OFFICER CSUKA: Next on the list is

1 Dr. Marshall, Mark Marshall.
2 DR. MARSHALL: Yes, hi, good afternoon, and
3 thank you.
4 I'm Dr. Mark Marshall, the vice-president of
5 medical affairs at Sharon Hospital and the
6 Nuvance Health System, Sharon County of Medicine.
7 I've practiced at Sharon Hospital and lived in
8 the Sharon community for approximately 24 years.
9 I wish to express my support for Sharon
10 Hospital and its preservation. Economic stresses
11 have placed Sharon Hospital in jeopardy. This
12 essential community hospital cannot be allowed to
13 fail.
14 Speaking for myself and many of my
15 neighbors, we are heartbroken about the
16 possibility of losing a beloved and high-quality
17 service. If we don't act, we are at risk of
18 losing our hospital. I'm saddened by the
19 prospect of losing labor and delivery, but the
20 loss of the hospital would be an irreparable blow
21 to the community.
22 Thank you.
23 HEARING OFFICER CSUKA: Thank you,
24 Dr. Marshall.
25 Then we have Dr. Bob Schnurr.

1 DR. SCHNURR: Thank you for letting me
2 speak. My sartorial choice is not a reflection
3 of my lack of respect for the organization. It's
4 as Mark Antony said to Cleopatra, "I didn't come
5 here to talk," but I feel right now, having
6 listened to all of this, I feel like I should say
7 something.
8 I'm a retired, board-certified OB-GYN, and
9 in addition to that, I served for three years on
10 the Connecticut Mortality -- Maternal Mortality.
11 So, every time a mother died, I was there to
12 review the cases. In addition, I served for
13 three years as a consultant to the State of
14 Connecticut to review any physicians who are
15 being brought up -- any OB-GYN physicians that
16 are being brought up for sort of practice
17 violations. In addition to that, I was one of
18 the founders of Women's Health Care of
19 Connecticut, which then became Women's Health
20 Care U.S.A., and we currently deliver one out of
21 18 babies born in the United States is born to
22 somebody in our practice. So, even though Dr.
23 Mortman tried to look like they're a tiny, little
24 practice, they are supervised by a huge, very
25 high-quality organization that reviews the

1 templates, reviews the standard procedures. So
2 they're not just a rural little community
3 hospital. They're getting the utmost in care.
4 My major concern is that you're not looking
5 at maternity; you're closing women's services. I
6 have been involved for years in recruitment.
7 I've recruited Dr. Jaffe, Mortman, Schweitzer. I
8 recruited many doctors along with many doctors to
9 join my big group. It is not easy.
10 There is no plan that I've seen about
11 retaining women's services here. All of a
12 sudden, they're going to find three GYN doctors
13 to be on-call, one every three nights to cover
14 the emergency room? Dr. Mortman and Schweitzer,
15 they're not going to be able to cover two
16 hospitals. There will not be anybody covering
17 women's services here, either prenatal,
18 post-natal, or gynecological services if you
19 close OB.
20 Thank you very much.
21 HEARING OFFICER CSUKA: Thank you,
22 Dr. Schnurr.
23 Before we move on to the next commenter, I
24 did want to point out that it appears that people
25 are leaving comments in the chat other than just

1 their names. I don't know whether that is also
2 being recorded, so I would suggest that if you do
3 have public comment that you wish to submit, you
4 submit it in written form after the fact or even
5 during the hearing, if you want. Just don't put
6 it in the chat function because it may get lost
7 and it also serves to confuse what is going on
8 during the hearing. We're really just using that
9 for people to sign up so that we are able to keep
10 some sense of order to the people who are
11 providing comment.
12
13 (Off the record at 3:28 p.m.)
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1 CERTIFICATE OF REPORTER

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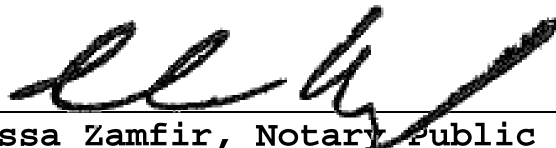
3 I, Melissa Zamfir, a Notary Public, duly commissioned and qualified in and for the District of
4 New Haven, State of Connecticut, do hereby certify that, pursuant to notice and in accordance with the
5 stipulations set forth, do hereby certify that the foregoing testimony is a true and accurate transcription of
6 my stenographic notes to the best of my knowledge and ability of the HEARING REGARDING THE APPROVAL TO TERMINATE
7 INPATIENT LABOR AND DELIVERY SERVICES AT SHARON HOSPITAL on December 6th, 2022.
8 I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the
9 parties to the action in which this deposition is taken, and, further, that I am not a relative or
10 employee of any attorney or counsel employed by the parties hereto or financially interested in the outcome
11 of said action.
In witness whereof I have hereunto set my hand and
12 affixed my notarial seal this 20th day of December, 2022.

13

(My Commission expires July 31, 2024.)

14

15



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Melissa Zamfir, Notary Public
17 Shorthand Reporter, License #455

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1 I N D E X

2 Pg

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