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CONNECTICUT OFFICE OF HEALTH STRATEGY

PAM HEALTH AT WATERBURY

Hearing held via Teleconference on

April 17, 2024, beginning at 9:01 a.m.

HELD BEFORE: HEARING OFFICER ALICIA NOVI, OHS

A P P E A R A N C E S:

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CONNECTICUT OFFICE OF HEALTH STRATEGY
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BY: ALICIA NOVI, ESQUIRE

Also Present:

Kristen Smith - PAM
Nancy Lane
Rob Tribeck
Steven Lazarus - OHS
Annie Faiella
Faye Fentis

Transcript Legend

[sic]	**- Exactly as said.**
[phonetic]	**- Exact spelling not provided.**
[--]	**- Break in speech continuity and/or interrupted sentence.**
[...]	**- Indicates omission of word[s] when reading OR trailing off and not finishing a sentence.**

WITNESS INDEX

[On the record 9:01 a.m.]

HEARING OFFICER NOVI: Good morning everyone. I'm going to ask Attorney Monahan if all of his witnesses are here yet?

MR. MONAHAN: Good morning, Hearing Officer Novi. Yes. You see Kristen Smith, who has just appeared on video, but is on mute. And while she is the only witness that has filed prefiled testimony, we do have several others from the organization who are available on the screen that I can introduce, not as intended witnesses, but to be available in the event that there might be questions by the hearing officer or the panel that might be answered through them or Kristen may be aided by their supplements to some answers.

HEARING OFFICER NOVI: I'm going to go ahead and open the hearing now.

Good morning everybody. This is PAM Health at Waterbury LLC, docket number 21-32490-MDF. My name is Hearing Officer Novi and today is April 17, 2024 and the time is now 9:01 a.m. PAM Health at Waterbury, LLC, the applicant in this matter, seeks a modification

for a previously authorized Certificate of Need for the establishment of a healthcare facility pursuant to Connecticut General Statutes §19a-638(a)1, specifically PAM Health at Waterbury, LLC seeks to remove the Prospect Waterbury, Inc. from the approved CON, leaving PAM health at Waterbury, LLC as the sole owner and petitioner. Throughout this proceeding, I will be interchangeably referring to PAM Health at Waterbury, LLC as PAM and Prospect Waterbury as Waterbury Hospital, for gravity purposes.

Today is April 17, 2024. My name is Alicia Novi. Dr. Deidre S. Gifford, the Executive Director of the Office of Health Strategy designated me to serve as hearing officer for this matter to rule on all motions and recommend findings of fact and conclusions of law upon completion of the hearing. Public Act number 21-2 is amended by Public Act 22-3, authorizes an agency to hold a public hearing by means of electronic equipment. In accordance with this legislation, any person who participates or in the electronic meeting shall make a good faith effort to state his/her or their name and title at the outset of each

occasion that such person participates orally during an uninterrupted dialogue or series of questions and answers. We ask that all members of the public mute the device that they are using to access the hearing and silence any additional devices that are around them. This public hearing is pursuant to Connecticut General Statutes §19a-639a(e). As such, this matter constitutes a contested case under the Uniform Administrative Procedures Act and will be conducted in accordance herewith.

The Office of the Health Strategy is here to assist me in gathering facts related to this modification and will be asking the applicant witnesses questions. I'm going to ask each staff person assisting me today to identify themselves with their name, the spelling of their last name and OHS title.

MR. LAZARUS: Good morning, Steven Lazarus. I'm the Division of Health Care Access.

MS. FAIELLA: Good morning, my name is Annie, Faiella, F-A-I-E-L-L-A. I am CON Team Lead.

HEARING OFFICER NOVI: Also present today

is Faye Fentis, a staff member for our agency who is assisting with hearing logistics and will also gather names for public comment. The Certificate of Need process is a regulatory process and as such, the highest level of respect would be afforded to applicants, members of the public and our staff. Our priority is the integrity and the transparency of the process. Accordingly, decorum must be maintained by all of those present during these proceedings. The hearing is being transcribed and recorded and a video will be made available on the OHS website and YouTube account. All documents related to this hearing have been or will be submitted to OHS are available for review through our Certificate of Need portal which is accessible on the OHS-CON web page.

In making my decision, I will consider and make written findings in accordance with §19a-639 of the Connecticut General Statutes. Lastly, as Zoom hopefully notified you either prior to the start of this hearing or when you entered this hearing. I wish to point out that by appearing on camera in this virtual hearing, you are consenting to being filmed. If you

wish to revoke your consent, please do so at this time by exiting the Zoom hearing or by exiting the Zoom meeting or this hearing room.

Now, I'm going to go ahead and start with I'm going to go over the exhibits and items which I'm going to take administrative notice and I will ask if there are any objections? The CON portal contains the table of record in this case. Exhibits are identified in the table from A to AAA.

Mr. Lazarus, do you have any additional exhibits to enter into the record at this time?

MR. LAZARUS: No.

HEARING OFFICER NOVI: The applicant is hereby noticed that I'm taking administrative notice of the following documents: The Statewide Healthcare Facilities and Services Plan and its supplements, the Facilities and Services Inventory, OHS Acute Care Hospital Discharge Database and the All-Payer Claims Database Claims Data and the Hospital Reporting Systems (HRS), Financial and Utilization Data. I'll also take administrative notice of prior OHS Decisions, Agreed Settlements and Determinations that may be relevant to this

matter, but which have not yet been identified.

Counsel for applicant PAM Health at Waterbury, please identify yourself for the record.

MR. MONAHAN: I am Patrick Monahan of the law firm of Parrett Porto, representing PAM Waterbury in this proceeding.

HEARING OFFICER NOVI: Attorney Monahan, are there any objections to the exhibits in the table of record?

MR. MONAHAN: There are no objections to the exhibits in the table of record and certainly no objection to the administrative notice indications that you made.

HEARING OFFICER NOVI: I will note that that was going to be my second question to you. All identified and marked exhibits are entered as full exhibits.

Attorney Monahan, do you have any additional exhibits you wish to enter at this time?

MR. MONAHAN: No. There are no additional exhibits we wish to enter at this time. Thank you.

HEARING OFFICER NOVI: We will proceed in

the order established in the agenda for today's hearing. I would like to advise the applicant that we may ask questions related to your modification that you feel have already been addressed. We will do this for the purpose of ensuring that the public has knowledge of your proposal and the purpose and for the purpose of clarification. I want to reassure you that we have reviewed your modification request, your underlying application, any completeness responses and prefiled testimony and I will do so many times before issuing a decision.

As this hearing is being held virtually, I ask that all participants to the extent possible should enable the use of video cameras when testifying or commenting during proceedings. I would again like to ask that anyone who does testify or offer testimony, please state your name, and if you have a long last name or a difficult to pronounce last name, that you spell that for the court reporter before you start speaking.

Public comments taken during the hearing will likely go -- although all participants and the public should mute their devices and should

disable their cameras when we go off record or take a break. Please be advised that although we try to shut off the hearing recording during breaks, it may continue. If the recording is on, any audio or video that has not been disabled will be accessible to all participants. Public comment taken during this hearing will be in the order established by OHS during the registration process. However, I may allow public officials to testify out of order. I, or OHS staff, will call each individual by name when it is their turn to speak. Registration for public comment can start now and can be done using the Zoom Chat function. Please list your name and that you would like to make a public comment in the message. Public comment is scheduled to start at 12:00 p.m. If the technical portion of this hearing has not been concluded by 12:00 p.m., the public comment may be postponed until the technical portion is complete. The applicant's witnesses must be available after public comment, as OHS may have follow-up questions based on public comment.

If anyone listening to this hearing would

like to submit written comment in lieu of speaking today, you may do so by emailing your comments to concomment@ct.gov. Again, that's concomment@ct.gov. Again, that's C-O-N-C-O-M, as in Mary, M, as in Mary, E-N-T@ct.gov. You will have seven days from today to enter those comments and I will accept comments to the end of the day on April 24. Are there any other housekeeping matters or procedural issues we need to address before we start, Attorney Monahan?

MR. MONAHAN: None, other than if you'd like me to introduce the others who are not witnesses, I can certainly introduce them because you see their names on the screen; however, I can wait.

HEARING OFFICER NOVI: Let's wait. We're going to get to you. We'll start the technical portion anyway. Let's start with your opening statement and then I will do -- I will swear in your witness and then as we get to additional questions where we may need more, we can swear in the rest.

MR. MONAHAN: Certainly. Thank you very much. We appreciate the fact that we have this

opportunity to present the reasons why we think this modification should be approved by OHS in this public hearing for a full vetting as OHS deems necessary.

My opening statement is very brief because I think the main point that I wish to convey and really what I believe is conveyed by or will be conveyed by the substance of the hearing through testimony and the interactions for question and answer is that the modification, which is essentially the change from having a JV, or a joint venture partnership, of 70 percent, 30 percent with PAM Health as the 70 percent owner at the time of the applicant and Waterbury Hospital, Waterbury Health, if you will, as the 30 percent owner has changed for the reasons stated in the modification and the letter appended to it. And while it is clearly important under Connecticut law and the statutes you have cited that any material modification and that is material because that's how we premised an application and it indeed changes the first provision of the agreed settlement because that agreed settlement is no longer -- the Whereas

provision is not an accurate statement at this point in time. We believe that that change, allowing PAM Health to be the 100 percent owner of PAM Health at Waterbury, the driver of this project, does nothing to the detriment of the findings, the critical core findings, the statutory findings upon which the approval was ultimately granted through the agreed settlement. It is -- we believe that it will be evidenced by Kristen Smith's testimony, and I would like to, depending on how the questioning and answer unfolds, reserve any other comments about that core principle that we believe there is, while there has been a change, it is not something that upsets the apple cart, so to speak. The big apple cart of a very I think remarkable and true vetted public hearing of all the statutory guidelines that led to the granting of the CON through an agreed settlement and we agree that none of those findings are altered in any material respect. So thank you for the opportunity to give a brief opening and we will proceed as you deem appropriate.

HEARING OFFICER NOVI: Thank you, Attorney

Monahan. If you would like to identify all individuals by name who are planning on providing remarks on the modification, I will swear them in after they are all identified.

MR. MONAHAN: Certainly. Of course, we have Kristen Smith. I know you deal with swearing her in at the time she is up for testimony, but in addition to Kristen Smith on the PAM Health team, we have Nancy Lane, who is from PDA, Inc. and who serves as a longtime consultant and analyst for PAM Health. We also have, and she will be available as the others that I name will be available, in the event that there's a question that sort of falls more into the expertise of that particular person. We also have with us Mr. Anthony Lampasona, who is one of the senior directors of Catalyst Development and as you have probably seen in the testimony, Catalyst has been the instrumental arm of PAM Health, if you will, not only in other places, but certainly here in Connecticut in advancing this project actually to a substantial degree at this point in time. So to the extent there is any question about the progress that has taken place and the

progress or planning steps at least in the wings in the event of approval of this modification, Mr. Lampasona can certainly aid us in that. While I do -- right now I see that that is -- Kristen, is there anyone else that is with you that I should introduce, or Anthony?

MS. SMITH: No, there's nobody else with me, and I don't see Rob Tribeck on here.

HEARING OFFICER NOVI: He is on here.

MR. TRIBECK: I am on.

MR. MONAHAN: I wanted to introduce Rob Tribeck, but I didn't see his name. Now seeing his name, I certainly want to introduce him. Rob is the Chief Legal Officer of PAM Health, and to the extent you've seen his name or questions come up in connection with any of the matters that he might be able to lend support to, he is available to do that.

HEARING OFFICER NOVI: What I'm going to do at this time is I'm going to ask that -- I wrote down last names only, so I do apologize if I do not get the salutations before the last name correct, I'm going to ask that Miss Smith, please turn your camera on and your microphone.

Miss Lane, please turn your camera on and your microphone. Mr. Lampasano, please turn your camera and your microphone on. Mr. Tribeck, please turn your camera on and your microphone. At this point, I will ask you all -- I'm going to go ahead and ask you to raise your right hand and swear you in. I will ask you individually to then answer yes. That way the court reporter can record you saying yes individually. Please all raise your right hand.

[All Persons Indicated Sworn by Hearing Officer Novi.]

HEARING OFFICER NOVI: Miss Smith?

MISS SMITH: Yes.

HEARING OFFICER NOVI: Miss Lane?

MISS LANE: Yes.

HEARING OFFICER NOVI: Mr. Lampasano?

MR. LAMPASANO: Yes.

HEARING OFFICER NOVI: And Mr. Tribeck?

MR. TRIBECK: Yes.

HEARING OFFICER NOVI: All right. Thank you. Go ahead and put your hands down now everyone.

I would like to remind everybody when

giving your testimony, please make sure to state your full name and spell your last name if you have a difficult last name and state whether you adopt any written testimony prior to testifying today. The applicants may now submit their testimony. I ask that all witnesses define any acronyms for the benefit of the public and the clarity of the record. Attorney Monahan, you may proceed.

MR. MONAHAN: Thank you, Hearing Officer Novi. We would like to call Kristen Smith as a witness. And as you know, Kristen Smith has submitted prefiled testimony and if appropriate as the first question, I will ask her do you adopt, unless this is something you, as hearing officer, wish to do, but I will ask it.

EXAMINATION BY MR. MONAHAN OF KRISTEN SMITH

Q Do you adopt your prefiled written testimony as your testimony in this proceeding to start us off in this examination?

A Yes, I do.

Q Thank you. Now, Miss Smith, I am not going to ask you to regurgitate what has been written in that

prefiled testimony and we have received, as is customary, the certain assurance that of course your prefiled testimony has been reviewed and will be reviewed in connection with this proceeding by the OHS hearing officer and staff accompanying her.

However, very generally, what I would like to do is ask you to, for lack of a better term, amplify, if you will, what I alluded to, if not directly said in my opening, about why it is you believe that this modification, this change in ownership, this I'll say departure of Waterbury from the joint venture should do nothing from a regulatory or a legal or practical point of view to prevent you, PAM Health, from moving forward with this inpatient rehab hospital which the hearing officer I think will often be referred to as an RIH as an acronym, but I would ask Miss Smith to comment on that.

A Great. Thank you. Good morning everyone. First, I'll introduce myself and provide a brief overview of PAM Health in case some of you are new to this proceeding and what we've done and accomplished since the issuance and granting of the CON in March of 2023. My name is Kristen Smith. I am Senior Executive Vice President, Chief Business Officer for PAM Health. PAM Health is based in Enola, Pennsylvania, which is outside of Harrisburg, Pennsylvania. We specialize in the

operation of post acute care hospitals, long-term acute care hospitals, also known as LTACHs, and majority of our hospitals are inpatient rehabilitation hospitals, otherwise known as RIH. Currently we have 67 hospitals in 22 states and the majority of those hospitals are in patient rehabilitation hospitals. By the end of this year, we will be reaching approximately 75 hospitals total. I want to make note that I said the majority of those hospitals are inpatient rehabilitation hospitals and less than 20 percent of those inpatient rehabilitation hospitals have an existing formal JV partner. And with that, I'm going to proceed with the questions and responses, not in detail, but the questions that OHS issued us when it was determined and known that the entity PAM Health at Waterbury, LLC was changing from a 70/30 percent ownership to a 100 percent ownership, which as Pat mentioned, in our business and in what we do, that is not material because that has not changed the need that's been identified in the community and the service that we can provide and know how to do and what we do well in each community we serve.

The first question that was risen or hearing issue number one was to outline PAM Health at Waterbury, LLC's plan to continue with the CON without Waterbury Hospital as a partner. As I mentioned, the majority of

our inpatient rehabilitation hospitals don't have a formalized JV partner. We go into a market after full investigation and determination of an unmet need that we can serve as a company. And that was determined in this CON settlement, in the agreed settlement initially. There's a patient need, and PAM Health at Waterbury, LLC can meet that need. Evidence in the testimony which outlines, and I won't go into detail, but the question says Outline how we plan to continue with the CON in the absence of the JV partner. I think it's very evident and written out clearly what we have done and what we do plan to continue from a development and construction standpoint as it relates to the hospital.

So after the issuance in March of 2023, Catalyst, our development partner, proceeded and started making headway and doing all of the necessary predevelopment timeline projects that are necessary to bring this to construction. And to date, PAM Health and Catalyst has spent $1.2 million in all of the predevelopment activities as outlined in my testimony, which demonstrates our commitment as a company, PAM Health, to enter this market and meet the need with or without a JV partner.

The only item I want to highlight as it relates to the Catalyst development timeline of

outlines in the testimony is the fact that we are ready to break ground. The only impeding factor in breaking ground is now the decision of this modification request. The building permit has been approved and the issuance is just pending OHS approval of our modification request.

The second issue raised by OHS relates to referral streams, so in particular, it asks for us to outline the referral streams PAM Health at Waterbury, LLC plans to utilize and how do we plan to sustain a patient volume at the hospital. So, I am going to just outline an example of the most recent opening that we've undergone in one of our markets without a JV partnership to just outline exactly what we do from a community integration standpoint, collaboration across the essential healthcare providers as it relates to inpatient rehabilitation. So, most recently we opened a hospital in Venice, Florida and that hospital opened in December of 2023. We are four months into that hospital opening and have almost an 80 percent occupancy rate. A) There was an unmet need in Venice; b) we put forth our

preopening timeline which is essential in executing a successful hospital opening that integrates within a community, collaborates with other short-term acute care hospitals and provides that essential service that is unmet in that area. So an example with Venice, six to nine months and what we plan to do here if we're granted the approval of the modification request, six to nine months prior to opening our hospital, we hire our Chief Executive Officer, CEO; Director of Strategic Initiatives, our DSI and start recruiting a Medical Director, Physical Medicine and Rehabilitation Medical Director and the Complimentary Medical Staff.

As an organization, we go into these markets and we have been successful as evidenced through Venice in a four-month ramp up from volume perspective because of two things, the unmet need that we've identified and our ability to go into that market, but most importantly the ability to serve as the post acute provider of choice as it relates to inpatient rehabilitation for those providers and most importantly for those patients in need

of the service. Our referral streams and what we expect in Waterbury as outlined in our original proceeding that demonstrated a 23-area town in Western Connecticut that has zero inpatient rehabilitation beds is to go into that market six to nine months before in Waterbury and the surrounding area, integrate and collaborate with not only those that have demonstrated support for this project, which was evidenced through various physicians, some of them not even associated with Waterbury Hospital, various community participants and organizations and Griffin Hospital, letters of support that we've received that we have not heard any opposition to our intent to still go into this market and also collaborate and partner with Waterbury Hospital, Bristol and St. Mary's, none of which offer inpatient rehabilitation services.

And whether or not Waterbury Hospital is owned by Yale-New Haven or Prospect Medical, that is still uncertain; we don't know what's going to happen. That closing date is still pending. That doesn't change the need. No matter who owns that hospital, those patients

in Waterbury do not have access to that service. The patients at Bristol, the patients at St. Mary's do not have access to that service unless they go outside of our identified service area and travel.

So we, PAM Health, are committed, we've been committed since day one, we've identified a determined need in that area and we would appreciate the approval of this modification request so we can continue to get issuance of the permit to break ground and begin the process of building this hospital and offering this level of service that currently does not exist in this area.

MR. MONAHAN: May I continue with an additional question, Hearing Officer?

HEARING OFFICER NOVI: Yes.

BY MR. MONAHAN:

Q Thank you, Miss Smith. And in that amplification of your written testimony, you talked about, you know, the Venice example was one, but examples of confidence in moving into a new location where there has been a demonstrated need as is the case here with efforts and collaboration.

Could you explain a little bit more for the OHS

staff and the hearing officer whether that involves components of education, about the distinctions between an IRH and LTACH and other forms of rehab care. Maybe just give a little bit more specificity about what collaboration and integration in the community means even though you do not have a formal JV partner.

A Absolutely. I appreciate too the fact and refer to it often as a formal JV partner because whether or not there's a formal JV partner, we partner with all healthcare providers in the market and community support systems available and associations that are available. So I mentioned our Chief Executive Officer and our Director of Strategic Initiative that are hired well in advance of opening. We start a Medical Advisory Committee, which identifies our medical director, potential medical staff and educates. That's our first kind of physician integration and relationship, interactions and education that we initially provide, especially in an area that doesn't have this service. So certainly education is key on the types of services and the types of patients that we provide as an inpatient rehabilitation hospital. The CEOs are connecting with hospital administrators, very strong connection with other hospital CEOs, their strategy team, because we offer them a service that will help with the continuity of care and decrease length of stay for

short-term acute care hospitals, which was evidenced in Waterbury's testimony that discharge planning is an issue for them, was an issue for them. And we then will work with not only the administrative teams, but case management to help those patients get the right level of care at the right time and break down the barriers that currently exist in trying to place patients in need of this service. Those activities begin six to nine months prior to opening. We will open the hospital and then go through as a demonstration period, but at that point in time offer educational sessions within the hospital, tours, integrate with not only the short-term acute care hospitals, but we've described this at length in my previous testimony how we offer a service that is very unique during that continuum of care for patients in need of inpatient rehab. And our short-term acute care hospitals are not our only referral source. We receive patients from long-term acute care hospitals like Gaylord, like the hospital specialty that were part of that hearing. Those patients are in need of inpatient rehabilitation often when they discharge from those settings for us to progress their rehabilitation and get them to return to the community.

So short-term acute care hospitals, but certainly the long-term acute care hospitals, skilled

nursing facilities, primary care physicians, home health. Those are all referral sources and those are all our key constituents that we reach out to, as well as patients, support groups, etc. on the services that we can provide to the community.

Q Perhaps just one last -- maybe the last follow-up question to that, because, you know, we are -- again, we are here, no mystery, because of the absence of Waterbury Health as the formal, as you put it, joint venture partner. And you just explained whether it's called partnering or collaboration and integration that would be taking place. By the same token as educating about the very specified IRH eligible need or services that you could provide for those in need, is it PAM Health's policy, intention, practice, call it what you will, if you are not the right location or not the right place for a particular patient who belongs either in in your opinion an LTACH or an acute care hospital or some other setting, is there ever any hesitation about making sure that that patient gets to the right location from your point of view?

A Absolutely not. We have a very specified service that we can provide patients and that we are specifically required to demonstrate evidence of medical necessity. So I mentioned our Director of Strategic

Initiatives team that, the DSI, that's the director, but underneath that Director of Strategic Initiatives is a group of clinical navigators and the role of a clinical navigator is to go into the hospitals and also other referral systems or referral sources and provide an assessment and document an assessment of that clinical picture and demonstrate medical necessity for inpatient rehabilitation and also educate if they don't meet criteria where they can be best served. Those group of individuals that are out in the community are very essential in ensuring that patients get the right level of care at the right time and are appropriate for inpatient rehabilitation upon admission and if not, then routed to a better location that would best serve that patient.

Q My last question, Miss Smith, is during the original proceeding and indeed carrying through in your testimony here, in fact most recently in this last answer, the theme has been and I think was developed by all upstanding Connecticut providers who both participated, all participated in that proceeding and those who didn't participate in the original proceeding, but it seems to me like what you're saying is you're generally operating from a what's best for the patient.

A Absolutely. Absolutely.

Q And since the change that led to the

modification or the change that has led to the modification, have you received any indication that any of the outstanding healthcare providers in this state, whether they be the institutions, systems or individuals, would in any way deviate from that what's best for the principle approach to taking care of patients at all?

A No.

MR. MONAHAN: I have no other questions of Miss Smith.

HEARING OFFICER NOVI: Do you have any other questions of your other witnesses, Attorney Monahan?

MR. MONAHAN: I do not. I believe if I am permitted, I may ask to your permission at different times if I feel that depending on questions that may be asked of OHS how to direct or at least suggest that one or another witness may be able to either supplement Miss Smith's answer or answer more directly.

HEARING OFFICER NOVI: Okay. So what I'm going to do at this time is let's take a short ten-minute break and then OHS will come back with our questions. And then you can have whichever of your witnesses answer those questions as you feel necessary; okay?

MR. MONAHAN: Thank you.

HEARING OFFICER NOVI: It is now 9:40. We will see everyone back here at 9:50. I do want to remind everybody that we do ask that you turn off your video camera and your microphone while we are on break, as we will try our best to do the same but cannot promise that. Thank you everybody.

[Off the record 9:40 a.m.]

[Back on the record 9:50 a.m.]

HEARING OFFICER NOVI: It is now 9:50, as the Zoom recording just told you. We are recording this hearing. If you -- by remaining in this hearing, you consent to being filmed for this hearing. If you would like to revoke that consent, please exit the hearing at this time.

Before we begin with our questions from our analyst, I would just like to remind anybody that if you would like to sign up to make a public comment, public comment will start at 12:00 p.m. and you can start right now by entering our Chat function and putting in that you would like to make a public comment and give your name to Miss Fentis, who is

helping us with our technical support today. She will take your name and have you ready. If you would like to submit a written comment, we are taking email comments for the next week through our email address concomment@ct.gov. Again, that's concomment@ct.gov.

With that, we will go ahead. I will turn the questioning over to Miss Faiella.

MS. FAIELLA: It looks like Attorney Monday has a question first.

HEARING OFFICER NOVI: Attorney Monahan, how can I help?

MR. MONAHAN: I apologize. I have one, maybe a belated housekeeping question and I apologize for that. Having thought that your early reference to all being able to review prior CON rulings, determinations, etc., I didn't think it was necessary, but to be doubly sure in the event that it comes up, may the agreed settlement recently that was issued between Yale-New Haven Health System, Prospect and OHS be deemed to be taken under administrative notice in the event that it needs to be referred to or is referred to by a witness or me?

HEARING OFFICER NOVI: Absolutely. That is part of the record, yes.

MR. MONAHAN: Thank you very much.

HEARING OFFICER NOVI: With that, Miss Faiella.

EXAMINATION BY MS. FAIELLA OF KRISTEN SMITH

Q My first question is, if the modification is approved, is a transfer agreement still going to be executed between Waterbury Hospital and the applicant?

A That would be our intent, to maintain a transfer agreement between Waterbury Hospital. We do that in other markets which we serve for say transfer of patients and/or diagnostics, etc. So, yes, we would intend to have that transfer agreement with Waterbury, also perhaps St. Mary's or Bristol, but most likely start with Waterbury and yes, that would be the intent.

Q Have discussions begun with Waterbury Hospital to ensure that the transfer agreement is executed?

A No, not at this time.

Q Thank you.

HEARING OFFICER NOVI: I have one follow-up question to that. When would you start these discussions?

A Specific to a transfer agreement?

HEARING OFFICER NOVI: Yes.

A Closer to the opening of the hospital.

HEARING OFFICER NOVI: If you were unable to get a transfer agreement with Waterbury Hospital, what would your contingency plan be?

A We would seek other short-term acute care hospitals, St. Mary's, Bristol.

HEARING OFFICER NOVI: Have you made overtures toward them yet?

A No, not at this time. We typically, from a transfer agreement standpoint, all of our contracts, etc., agreements within the Waterbury Health Hospital and any other providers, EMS, etc., those types of agreements and contracts usually start with our preopening timeline and the implementation or hiring of people in the area to start those discussions which is nine months before opening.

BY MS. FAIELLA:

Q You mentioned St. Mary's and Bristol Hospital. Are you anticipating a larger volume to come from these facilities?

A A larger volume than?

Q Than originally anticipated.

A No, not necessarily. When we went into this

project, we looked at the need of the whole service area and preliminarily whenever we go into a market, our first kind of blush of an area I guess you would say is utilization data for inpatient rehab and that's based on short-term acute care hospital discharges. So, Waterbury would be a referral source for us, with or without that formal JV partner, St. Mary's and Bristol would be a referral source, with or without the JV partnership. Because at the end of the day, patient need hasn't changed. These patients still exist in these hospitals. And the clinical decision making for the need of inpatient rehab is not altered by any means with or without a Waterbury JV partnership.

Q Are you still expecting 80 percent to come from Waterbury Hospital?

A Yes. We do not anticipate any changes of what we had stated previously from a referral standpoint, volume, patient bed need, etc.

Q One last question I do have is for now at least, is if the applicant doesn't receive the volume that's anticipated, not just from Waterbury Hospital but in totality given the agreed settlement that's just taken place and other changes and CONs, what is the contingency plan then if the applicant does not receive the anticipated volume?

A There is no doubt in PAM Health's mind that we can meet this need and fill this hospital. That's again, irregardless of a JV partnership, etc. There is an astronomical amount of need, not only in that 23-area town service area, but even with those patients that go and seek services elsewhere that come back to the Waterbury area, undoubtedly, there is no question in our mind, given our experience in similar markets and the rate at which we start admitting these patients, I think I mentioned at one point during my original testimony, Delaware, especially we see this in CON states. Delaware was a CON state that we went into, originally without a partner, filled that bed. It was the largest -- the quickest ramp up we have had at that time across any of our other rehab hospitals, filled that bed, and I think this is important to note as well, although we didn't have a partner at that point in time, they recognized that need of the patients and our success to be able to provide this unique specialty service to patients in that area and wanted to partner with us in our second hospital in Delaware. Now we're about to open in September our third hospital in Delaware. Still CON state, still received CON approval and really acquired that JV partner well after we opened the original hospitals. My point being that we recognize, and I mentioned the Venice, Florida hospital that we just

opened. Florida, you may or may not know, used to be a CON state. They lifted the CON. We're on our sixth or seventh hospital there and the volume, as I mentioned, Venice has been our quickest ramp up to date in history of opening rehab hospitals, particularly in CON states, which demonstrate a significantly higher need for the service area. So, I mean I don't want to sound like we come into an area without a contingency plan. We don't need a contingency plan because we are so confident that there is a significant need in this area for this rehab hospital.

MS. FAIELLA: I have no further questions.

HEARING OFFICER NOVI: I have a follow-up question. I understand that you're saying that you picked up partners along the way because you are so good. However, this is a reverse of your Delaware. This was a original CON and I was here, I've been here throughout the whole thing, where you came in with a partner. Your partner said we are going to be sending our patients and we can promise that. Now you're telling me we don't need a partner, but that partner was sending a significant volume to you. Now you're saying that shouldn't change, but they're not here to say that's not going to change. But they're also being bought by

somebody who does have their own rehab facilities and their own rehab services that they offer through a very large extensive network. So, what are you doing to strengthen your position individually without relying on Waterbury Hospital?

A Okay. First -- my first response to that question is perhaps -- I don't want to say a concern because yes, certainly we came in with united front with a partnership and excited about the partnership, what the two entities would contribute to this rehab hospital. But in no way, shape or form can a provider say they guarantee admissions. That's illegal. You can't guarantee admissions. It's patient choice and clinical decision making. And that's what I had originally said as well. This service is not offered currently in the 23-area towns that we've identified, it's not available to patients, nobody is providing it. That doesn't change whether Waterbury is a JV partner of ours. At the end of the day, the patients are still in Waterbury, the patients are still in other acute care hospitals. The patients still need post recovery inpatient rehabilitation services and a provider cannot direct and guarantee referrals. It's not about that. It's about all of the healthcare providers in the area integrating, collaborating and working together

to make sure that patients that need that service know about that service and have a choice to receive those services, which they deserve, and currently they do not have. And as it relates to Yale, certainly they do have inpatient rehabilitation, not in this service area and not enough beds currently right now to meet the need of their volume within their health system. So we will go into the market and partnership and are open to partnerships and discussions when the decision is made and the closing date occurs. We've reached out to Yale, we've been in touch with Waterbury through all of this and intend to do so when we enter the market just like we do in any other market and become a partner, informal or potentially formal, if that's something that they choose to do. That won't change.

What we're focused on and what we are committed to is bringing this service that currently doesn't exist to patients that are in need of it.

HEARING OFFICER NOVI: That's it for my follow-up questions. Mr. Lazarus, do you have follow-up questions? Steve, do you have any questions? You are muted.

MR. LAZARUS: No, I do not.

HEARING OFFICER NOVI: Okay. Great. I think at this time we will go back to follow-up

questions by the applicant, follow-up by counsel to questions posed by OHS. Attorney Monahan.

MR. MONAHAN: Thank you. I appreciate that.

EXAMINATION BY MR. MONAHAN OF KRISTEN SMITH

Q Let's go back to the thrust of many of the OHS questions, which was the undoubtedly expressed enthusiasm about a partnership in the original proceeding with Waterbury Health. And in particular, Justin Lundbye's, the then CEO's testimony regarding the desire to have the ability to discharge IRH eligible patients to an IRH in the community.

Is it your belief that regardless of the new owner, whether it be a Prospect entity owner of an acute care hospital that has the community population that has already been vetted and demonstrated through analysis versus a Yale-New Haven Health System partner owning that acute care hospital? Is your point that those two entities, regardless of ownership, you are presuming are going to operate on the fundamental basis of what's best for our patients in discharging to the optimal place for appropriate care?

A Yes.

Q Do you get any indication regardless of -- with all of us here, sitting both visibly and not visibly, recognizing the tremendous resources of the largest system in the state, Yale-New Haven Health System, has anything in your efforts to communicate with Yale-New Haven Health System while they were trying to -- while they were working intensely with the CON proceeding that led to their agreed settlement, has anything suggested to you that they would -- that anyone in that system if they took ownership of Waterbury Hospital would shut you out, not because of a patient need issue, but because of a financial or lack of financial partnership issue?

A No.

Q Okay. So, from your point of view, in reviewing the original proceeding and now this modification, is there anything about the loss of a 30 percent partner that changes to a 100 percent solely owned partner that somehow suggests that that's going to have a magnitude of a change in how clinicians make decisions about serving the best interest of the patients in need in the primary service area?

A No, it would not.

Q Now, you also mentioned transfer agreements or at least the question was asked about transfer agreements.

Now, in your experience, in collaboration, could you just put in sort of plain terms what a transfer agreement is and means to you.

A Sure. The transfer agreement is set up between the inpatient rehabilitation hospital and short-term acute care hospital just in the determination -- and, again, this goes back to patient need and clinical decision making, that if the patient starts to decline and needs higher medical attention, there's a transfer agreement in place for that patient to go directly into that hospital for those services. In addition to the transfer agreement, we also set up other services that the short-term acute care hospital can provide for us, diagnostics, etc. We have never had any resistance, whether it's a JV partner or not a JV partner with the short-term acute care hospitals wanting to have those agreements in place for continuity of care and supporting the patients' needs and the community needs.

Q All right. With that in mind and recalling back to the original proceeding, one of the things that was mentioned by a number of witnesses, not just PAM Health witnesses, but the outstanding nature of patient care system and patient care intentions within the State of Connecticut consistent with the statewide healthcare plan, healthcare and facilities plan, that has been

administratively noticed in this proceeding, which is at its core to serve the basic needs of patients. Have you received, in exploring -- when you explored originally your intent to come into Connecticut and since the change from 30 percent to now you are the 100 percent owner without a 30 percent partner, do you have any reason to believe that that type of financial transactional arrangement is going to turn the quality care premise of transfer agreements upside down such that acute care hospitals would reject you out of hand because you're not a financial partner of theirs?

A No.

Q Would it surprise you if a hospital did that?

A Absolutely. Absolutely. Because as healthcare providers, whether it's physicians, clinicians, etc., our mission is to provide that patient care that's necessary to the patients at the right time and in the right place. And an entity change which is really minority, right, we're still the majority owner -- we were the majority partner, we are the majority owner, PAM Health has been committed to bring this service to the community, that a 30 percent change in us becoming a 100 percent sole owners does not and should not. I can't -- I don't know how it could alter any of the necessary patient clinical decision making that occur, the discharge disposition of patients

and the care that's necessary for the patients we serve across the continuum.

Q In the event that there was such a I'll say an outright refusal to enter into a transfer agreement or other type of collaboration with a service that was providing patients with a service that the OHS has already demonstrated a need for, would you concur with me that that would be certainly -- which I don't -- it's not my opinion, but which you have said you certainly don't expect, but if it did occur, would you also believe besides being surprising, it would lead to suboptimal care of patients?

A Absolutely.

Q The other thing that came up in the OHS questions that I'd like to touch on is the fact that when you are in a community like Waterbury, as you thus far are entering and not just entering, you have actually done things in Waterbury to advance the ball on the CON, do communications and collaboration often take time or does it happen in an instant? Can you give some example of you had mentioned educational components, literally getting to know your neighbor, so to speak. What leads up to the conversations, just examples of what leads up to the conversations where one talks about a transfer agreement? The knowledge of here's who we are, here's what we offer

for those discharges that you think we are best equipped to serve you, what leads up to that?

A Well, again, certainly we have a preopening timeline that we, you know, execute in all of the hospitals and markets that we enter. The key individuals that we bring in or hire locally, that's usually -- we certainly recruit locally first for these types of positions that I had mentioned previously, the Chief Executive Officer, the CEO of the hospital, the Director of Strategic Initiative and then securing a Medical Director, those are the three key individuals that really start those conversations and communications to all referral services. And, again, our short-term acute care hospitals are a primary referral source, but we often get referral sources from other entities as well, skilled nursing facilities, long-term acute care hospitals. We understand, especially when we're coming into a market similar to Waterbury that does not currently have any inpatient rehabilitation beds to offer, that there is a bit of an educational learning curve on the differentiation of services that we can offer and the benefit of those services. Most likely those patients are receiving services in either a skilled nursing facility, which is not comparable to an inpatient rehab hospital, or perhaps even going out of that service area or staying in

a primary service area that's not close to home, which outcomes and studies show that patients really demonstrate when they're looking for rehab hospitals, which again is patient choice, that they would rather be closer to home to receive those services. So we reach out and connect with all of those referral sources, provide collaterals, education sessions, demonstrate the programs that we offer for certain patient types, depending on key services that those short-term acute care hospitals provide, such as stroke, such as brain injury, etc. and how we fit in as a service to meet the needs of those patients along their recovery and across that continuum of care. So those efforts begin well in advance during the preopening phase.

Q Okay. I have two additional questions and I think I will have covered what I think may have been important to try to sort of round out or clarify to some extent. You're aware that in the course of, and this goes back to the question regarding if patients don't come in let's say to your IRH as quickly as you may have anticipated. One of the provisions in the agreed settlement in fact accounts for that, right, in that the initial construction is limited to a 34-bed IRH; is that correct?

A That's correct.

Q As opposed to the original 42 requests; correct?

A Yes, that's correct.

Q So the agreed settlement that you indeed worked through with OHS contemplated that, Okay, let's see what happens and then there is the ability in the event of that foothold at 34 to expand to the 42; correct?

A Yes, that's correct.

Q And you accepted that in the settlement agreement as a certainly fair opportunity to accept the fact that there might be some I'll say start-up curve, start-up time, some ability to demonstrate the ability to -- I'm not going to say just for the patients, but to demonstrate to your professional colleagues that you would like to join as a member of an outstanding Connecticut medical community to serve patients, to potentially go from 34 to 42 beds; is that correct?

A Yes, that's correct.

Q Okay. The last thing I want to focus on is you had mentioned the word, and of course in your highly qualified background, you're not a lawyer, but you did state certain things, promises of referrals could be the legal end. I want to curl that for some clarification here, because virtually anyone in your position or in a healthcare executive position who deals with partnerships and relationships with potentially referring entities recognizes that there are fraud and abuse laws that in

many instances prohibit referrals, promised referrals under certain circumstances; correct?

A Correct.

Q So, if you can rather than sort of try to step in the realm of the legal opinion, am I correct in assuming that what you are really saying is your conversations with the medical community, most broadly in the State of Connecticut, because Yale-New Haven Health System is all over the State of Connecticut, your communications, whatever they may be with LTACHs, Gaylord in particular and Hospital for Special Care, among the two that were interveners in the original proceeding, primary care physicians, your goal cannot be to extract a promise of referrals --

A No.

Q -- from any of those institutions or any acute care hospital, but to establish the kind of collaboration and relationship where people, to use your term, recognizing the importance of placing a patient in the right place on the continuum of care will act out of prudence and ethical and clinical sound judgment as opposed to a bargain for a promise of a referral; correct?

A Correct.

Q And at no point in time in the original proceeding, while you certainly expected based on the

enthusiastic testimony of Justin Lundbye and the initial enthusiasm from Prospect, at no point did anyone ever convey to you a promise of a certain number of referrals --

A No.

Q -- in exchange for any other type of behavior, compensation, participation and agreement or anything of that sort; correct?

A Correct.

Q The whole combination of the original partnership, which you are now continuing confidently, 100 percent is based on the clinical and competent decision making that goes into putting a patient in the right place for the right care?

A Yes. Absolutely.

MR. MONAHAN: I have no other questions.

HEARING OFFICER NOVI: Thank you, Attorney Monahan. At this point, I'm going to make a brief reminder about public participation, then we will take a long break until public participation begins. After public participation, we will do our closing statements and end the hearing. Are you okay with that, Attorney Monahan?

MR. MONAHAN: I am.

HEARING OFFICER NOVI: I will at this point like to remind anybody who is listening right now that if you would like to sign up to make a public comment, which will begin at 12:00 p.m., please do so in either our Chat function and let Miss Fentis know that you would like to make public comment by stating your name. If you are on a phone, please let her know that you are on a phone, you will not be able to turn a camera on so that she knows that as well. If you would like to make a written comment in lieu of making a public comment in the hearing today, you may send those comments to concomment@ct.gov. Again, that's concomment@ct.gov. I will be accepting comments through April 24, which is next Wednesday. At this time, we're going to take a long recess. We will be back here at 12:00 p.m. for the public participation section and the closing statements. Thank you everybody and I will see you at 12.

[Off the record 10:23 a.m.]

[Back on the record 12:00 p.m.]

HEARING OFFICER NOVI: Good afternoon. I ask to start the video. Good afternoon. It's

now 12:00 p.m. and Zoom has just notified that we are recording this hearing and your remaining in this hearing is your consent to be recorded. If you would like to revoke your consent of being recorded, then please exit the hearing at this time. All right.

Welcome back. For those of you just joining us, this is the second portion of today's hearing concerning a modification of a previously authorized CON for PAM Health at Waterbury, LLC. This is docket number -- I apologize, I did not write that number on the back. This is docket number 21-32490-MDF. We had the technical portion this morning. Sign up for the public comment has been all morning on Zoom in the comment section. We have not had any requests to make public comment. I will give one last shot at this time for anybody who would like to make a public comment to go ahead and enter into the Chat feature that you would like to make a public comment. Miss Fentis will take your name and last note if we have any people who would like to. All right.

Seeing as we have not had any sign ups and

nobody came into the Chat feature, I will skip over the order of public comment as we have nobody here who would like to make one. I will let you know, however, that we strongly encourage anyone listening who would like to submit written comments to OHS by email or mail, we will take those comments no later than one week from today. That is seven calendar days from today, either online at our email address at concomment@ct.gov or you may mail them; however, it must reach our office within seven days. I would recommend it's a faster solution to use our email address. I'd also like to thank anybody who does submit written comments in advance for their comments.

At this time, we are ready for -- since we have no public comments, I will ask both Mr. Lazarus and Miss Faiella, do you have any late filed submissions that you would like to request?

MS. FAIELLA: No, I do not.

HEARING OFFICER NOVI: Steve, are you all set?

MR. LAZARUS: No, thank you.

HEARING OFFICER NOVI: At this time, I

will move to closing argument or statement from the applicant's attorney. Attorney Monahan, would you like to make your closing statement?

MR. MONAHAN: Yes. Thank you, Hearing Officer Novi. I do have one logistical question, if I may, before I make some closing remarks.

HEARING OFFICER NOVI: Of course.

MR. MONAHAN: Given if there had been public statements or public comment preceding my closing remarks, I may have been able to incorporate some comment about those or address those. My question is whether in the event you receive written public comments, will we have an opportunity to see those written comments and perhaps offer within a very short period of time, if appropriate, any type of comment in response to those that you receive?

HEARING OFFICER NOVI: I have not normally allowed that in my hearings. The comment period is seven days. They are treated as public comments, so you shouldn't be getting expert testimony in that time so I would recommend that the hospital may file a comment. Let me think about that. Public comment is

just public comment. You've made your case, you've made an argument today. Anything that comes in is the opinion of people in the community. It will be weighed as that and given the appropriate weight found by either myself as the hearing officer or take it into account in negotiations as necessary.

MR. MONAHAN: Fair enough. I appreciate that.

HEARING OFFICER NOVI: It will be weighed appropriately with the understanding that you were not given a chance to offer comment back on anybody else's. I just think leaving the record open for seven days for them to make a comment and then allowing you additional time for making comments creates a very long process that may not need to be lengthened.

MR. MONAHAN: Understood. And I appreciate the clarity of the answer. Thank you very much.

With that in mind, I do have a few closing remarks on this and I am going to emphasize this modification proceeding because I think in essence, it's important for everyone involved in this to recognize that that's what we are

here for, a modification to determine whether it has such a material impact that it should essentially negate the whole original proceeding that was vetted or alter in a substantial way or be understood to simply change what we believe it is, a business partnership that is now not a business partnership of 70/30, but in no way alters the findings and the foundation upon which the CON was approved through an agreed settlement.

So I start with this. The overriding principle, and from the start of this proceeding and in virtually every CON proceeding that I've been involved in, the critical question behind our CON laws is what is best for the patients in the State of Connecticut? And as you, Hearing Officer, alluded to in the beginning, the Statewide Healthcare Services of Facilities plan, dating back to 2012 through the 2018 and beyond plan and inventories states the essence of that. In 2012, the CON overview at the very beginning of the healthcare plan states that CON regulation and related planning are intended to promote access, ensure quality and help control costs

by limiting marketing entry to those facilities and services that are found to be needed, appropriately supported and designed to promote quality and equitable access to care fundamental to our state health planning system. In 2018, in the executive summary of that statewide health plan supplement, there is a statement that states, and I quote, The plan is an advisory document intended to be a blueprint for healthcare delivery in Connecticut, a resource for policymakers and those involved in the Certificate of Need process and a planning tool to identify unmet needs and gaps in service. So, fundamentally, from day one through the most current executive summary, those are the tenets of our health planning process as guidelines. We then take the next critical step into the actual legislative enactments and statutes that put into effect the principles and the guidelines by which those laudable objectives can be and should be accomplished. And those, as we all know, are found in §19a-639(a) which are the guidelines and principles by which the Office of Health Strategy conducts its determination

when reviewing an application for CON. It is critical, I believe, that to understand or I suggest that all understand that that has already occurred in this case in the original proceeding. This proceeding very plainly and obviously has been focused on the modification. It has not been a redo of what has already been thoroughly vetted, reviewed, negotiated and expressed in a final agreed settlement. And in that agreed settlement, on every applicable statutory principle that is directed to whether a CON should be granted, the finding was that the principle and the guideline had been met, that the evidence had sufficed and was substantial enough to demonstrate completion of what was necessary to satisfy those elements. Nothing in this proceeding, even with the modification statement of Okay, there's a 30 percent owner who no longer is a 30 percent owner, there's nothing about that and there is nothing that was introduced as evidence that in any way can be construed to negate the very findings of the original agreed settlement. So, we did not have Waterbury Health in the original proceeding saying because we are a

30 percent partner in this joint venture, we believe there is a public need. We did not have them saying -- but if we weren't a member of this joint venture, we would not be saying there's a public need. And I say that as somewhat of, not to be flip, but to be genuine, that the reason professionals in this state, the clinical professionals and the clinical executives testify at these proceedings on these elements is to demonstrate what their opinions and analytically demonstrated findings are in connection with need, feasibility, non duplication and all the other elements that were found satisfied in this proceeding.

So, my number one point is clearly in our opinion, there has been nothing about this modification, the sole ownership by PAM Health, who has been driving from day one the progress, especially since the granting of the CON through the agreed settlement. There is nothing that negates any of those critical findings. We started this modification proceeding, I believe with nothing changing. There is a need and it has been determined by OHS that there is a need. And that not only is

there a need, there is a void because there is no IRH in the primary service area that was at issue. And so, that is why PAM Health and Kristen Smith, in particular as spokesperson for PAM Health, didn't come here in a meek or lack of confident demeanor about the ability to drive forward to satisfy that need. She has completely supported by success, the knowhow, the integration and education and tools that one uses and has used already in Connecticut and will continue to use in Connecticut to honor the obligations of the agreed settlement.

Now, when I think back on that introductory statement of what I just said about the nature of this proceeding, I am being sensitive to the questions that were asked by OHS, which I completely respect and which were evident even in advance of this public hearing through the OHS public issues that were issued to us and they were fair questions about Okay, what are you going to do now that Waterbury Hospital is not a 30 percent part of this and what does it mean for, you know, patient referrals and volume? I think that leads to the really for all of us who are listening here

to look at this in two columns. Let's look at what's certain and what's uncertain. What is certain is we have an unblemished finding of need, no evidence of negation, along with, and I do not want to be repetitive, the findings of every other element of the statute found in the agreed settlement as being satisfied. That is a certainty. It exists. What we also have as certain is the primary substantive testifying entity through people who participated, including Kristen, in the original proceeding, not only backing up the ability to carry out the obligations that they represented that led to the CON approval, but stating in written and oral testimony they've carried the ball even further while two things were happening, one, and understandably, Prospect and Waterbury Health and their affiliated entities were engaged substantially in without being privy to them discussions with OHS, with Yale-New Haven Health System, with filings, so on and so forth that clearly absorbed much of their effort. Yet, instead of like shrinking in the background, PAM Health rose up and moved forward. And it wasn't until the second thing

that happened in January when Prospect made it clear that it was no longer going to be part of the joint venture that we came before PAM Health, came before this agency to in good faith point out this change, because as I've mentioned before, it's the first Whereas provision in the agreement. And now that is different because they are 100 percent. If it wasn't said outright by PAM Health through Kristen's testimony, I believe what came through, and I suggest that you give some consideration to a feeling of empowerment because the uncertainty now of whether PAM Health is going to have Prospect as a partner or Yale-New Haven Health System as a partner is gone. And why it is empowering is that PAM Health has the ability to move forward without that uncertainty. That's looking at a little bit of what is certain. And on the certainty side, one additional point that came through in today's testimony was Kristen pointing out, Kristen Smith pointing out, that this is not adversarial, we're not in an adversarial position with Connecticut healthcare providers, health, we are not in an adversarial position

with Waterbury Health, we are not in an adversarial position with Yale-New Haven Health System, we are in no adversarial position with any entity in the State of Connecticut.

What PAM Health wants is to stand shoulder to shoulder on a common phrase that was coming that is more than a phrase, it's consistent with our state plan and statutes to be part of the integral continuum of care to serve the right patients who have the particular need that they can service at the right time in the areas and for the other referring providers who need that kind of help to help them with their patients. And that goes back to my initial statement of What's best for the patient? So that's why PAM Health is sitting here despite this modification. Okay.

But now what's uncertain, and again, this is comments derived from questions that I totally respect and anticipate and I think we all did from the fair notice of the public hearing issues that were raised, but what is uncertain is who really is going to own Waterbury Hospital? Now, as I sit here and having read the agreed settlement between

Yale-New Haven Health System, Prospect and OHS, and I commend all those involved for the tremendous effort and detail that went into creating that agreed settlement to attempt to bring to at least close to the point of closure whether an acquisition could occur. But under that agreed settlement, there's some very important things I think to keep in mind. As it is written at this very moment in time, there is no acquisition, it is not a certainty and in fact, in the very important section of that agreed settlement, if the --

HEARING OFFICER NOVI: Mr. Monahan, I don't want this hearing to focus so much on the agreed settlement. You can mention it, but just for agency sake and firewalls, stick to your modification request, not going into detail about sections of the Yale-New Haven agreed settlement that I was not part of.

MR. MONAHAN: Okay. So it's clear, I was referring to what the public document was.

HEARING OFFICER NOVI: I understand. Let's stick to instead of talking about in depth sections of a settlement that is in a different case, let's stick to --

MR. MONAHAN: Understood.

HEARING OFFICER NOVI: Let's stick to ours. I'd rather not go in depth to that one that is not this hearing. This is a modification on the request of PAM.

MR. MONAHAN: Understood. I appreciate that. The summary point, without getting into any provisions, is there's uncertainty about ultimately whether this will close in October or not. And the reason why that's important is because of the very question that was asked of Kristen Smith about What if Yale-New Haven owns the hospital? So I think that puts both OHS very honestly and PAM Health in a realm of uncertainty and certain speculation. We hope it all works out the best for everybody, but we're certain whoever it is, whoever it is, we're going to collaborate with to insure that we're sitting right there in their community to service the needs of those patients deemed eligible for IRH services. That's what is certain versus uncertain. The other uncertainty, and very candidly, it was a fair question about Do we have a transfer agreement at this point? And I believe that it is -- it

should be considered understandable that number one, PAM Health, as expressed by Kristen Smith, has a very detailed and successful timeline and plan for implementing transfer agreements and that is a certainty. That is part of a plan. It's not made up as it goes along. And second, even if there could have been or there might be one or more who might view that there should be a transfer agreement already in the works, the reality is that without going into provisions, we know that Waterbury Hospital and the prospective acquirer were involved in deep discussions and we were not privy and party to that. So the reality is after we received our agreed settlement, PAM Health did everything it could do to advance this project and a transfer agreement is in line to be done. And there's no evidence that any acute care hospital, and it would be shocking I think to any of us, that any acute care hospital in the region surrounding this new IRH would effectively put their hand up and say stay away. That's not consistent with what our state is about. That's not consistent with the continuum of care. And to take it to its greatest extreme,

if there were an outright refusal, it raises a series of questions about not the behavior of PAM Health, but the behavior and the restrictive conduct of any of those hospitals who would essentially banish PAM Health from its door, whether it's under empower reasons, antitrust issues or any other issues. I say that because I believe it's an absurdity candidly to think that we will not have a valid transfer agreement in place given the care, the compassion, the state plan and the coming together that this state through its healthcare institutions has shown when people are in need. And what you have is PAM Health standing here saying We want to be and we have been approved to be, subject to this modification, standing right in with you to receive appropriate referrals, to make appropriate referrals, to educate and to be educated, to contribute to the state healthcare plan, to learn from the state healthcare plan. That's where Pam Health's heart is.

So in summary, if this modification were to be somehow used as a way to undermine the successful completion of a full-blown public

hearing that we all know was filled with examination, witnesses, cross-examination, argument, briefing, if we allow or if the state in my opinion allows OHS -- or excuse me, allows this modification to be the reason why this CON is in the worst case eradicated or in a still serious case authored in any significant way that does not allow them to satisfy the need that has been amply demonstrated, I believe that that is a suggestion that the state planning model is acting in deference to uncertainty and speculation and that is in my opinion not what this is about. You have certainty on one hand, uncertainty on the other and I respectfully request that you consider what OHS properly, diligently in its determinations did with very serious work through the original proceeding what it has done here in raising fair, respectful, proper questions, which I think we have addressed to demonstrate that we're ready to go to satisfy that need that still exists and please let us do that. Thank you.

HEARING OFFICER NOVI: All right. Thank you very much. I would like to thank everybody

for attending the hearing today. It is now 12:32. This hearing is hereby adjourned, but the record will remain open until closed by OHS. Thank you all and have a nice day. Goodbye.

[The hearing was adjourned at 12:32 p.m.]

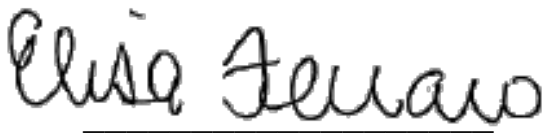
**STATE OF CONNECTICUT : **

: CHESHIRE

COUNTY OF NEW HAVEN :

I, Elisa Ferraro, Notary Public for the State of Connecticut, do hereby certify that the preceding pages are representative of the hearing of the Connecticut Office of Health Strategy and the PAM Health at Waterbury, LLC, was taken before me, held via Zoom videoconferencing, commencing at 9:01 a.m. on Wednesday, April 17, 2024.

Dated at New Haven, Connecticut, this 23rd day of April 2024.



Notary Public

My Commission Expires: December 31, 2026.

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