CERTIFIED COPY

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF HEALTH STRATEGY

JOHNSON MEMORIAL HOSPITAL (23-32692-CON)

Certificate of Need Application and Public Hearing

Re: Proposal to Establish a Freestanding Outpatient Surgical Facility Adjacent to its Current Surgery Center at 148 Hazard Avenue, Enfield, Connecticut, 06082, Which Will Be Terminated from the Hospital License

HELD BEFORE: DANIEL CSUKA, ESQ.,
THE HEARING OFFICER

DATE: May 22, 2024

TIME: 9:03 a.m.

PLACE: (Held Via Teleconference)

Reporter: Robert G. Dixon, N.P., CVR-M #857

APPEARANCES

For JOHNSON MEMORIAL HOSPITAL (Applicant):

HINCKLEY ALLEN
20 Church Street
Hartford, Connecticut 06103
By: DAVID A. DeBASSIO, ESQ.
DDebassio@hinckleyallen.com
860.725.6200

OHS Staff:

STEVEN LAZARUS,
CON Program Supervisor

ANNALIESE FAIELLA,
Operations Manager

NICOLE TOMCZUK,
Health Analyst

FAYE FENTIS,
Case Manager

(Begin: 9:03 a.m.)

THE HEARING OFFICER: Good morning, everyone. Thank you for being here.

Johnson Memorial Hospital has filed an application for a certificate of need seeking to establish a new outpatient surgical facility, and in the process of doing that, terminate its existing Johnson Surgical Center from its hospital license.

The new ambulatory surgery center will be located adjacent to the existing facility. The total estimated capital expenditure for the proposal is $17.8 million.

Today is May 22, 2024. My name is Daniel Csuka. OHS Executive Director Deidre Gifford has authorized OHS General Counsel Anthony Casagrande to designate hearing officers for CON matters, and he has designated me to serve as the Hearing Officer for this one, to rule on all motions and to recommend findings of fact and conclusions of law upon completion of the hearing.

This hearing is being held online only utilizing the Zoom video conference platform as authorized by Connecticut General Statute Section

1-225a. In accordance with the statute, any person who participates orally in an electronic meeting should make a good-faith effort to state his or her 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 being held pursuant to Connecticut General Statute Section 19a-639a, sub F, sub 2. Although this does not constitute a contested case under the Uniform Administrative Procedure Act, the manner in which OHS conducts these proceedings will be guided by the UAPA provisions and the regulations of Connecticut State Agencies beginning at 19a-9-224.

Although I will be asking the majority of questions today, Office of Health Strategy staff is also here to assist me in gathering facts related to this application and may also be asking the applicant witnesses questions.

At this time I'm going to ask each staff

person with me to identify themselves with their name, spelling of their last name, and OHS title, and we will start with Steve.

MR. LAZARUS: Good morning, Steven Lazarus, L-a-z-a-r-u-s, and I'm the CO and program supervisor.

THE HEARING OFFICER: Thank you.

Annie?

MS. FAIELLA: Good morning, Annie Faiella, F-a-i-e-l-l-a, and's I'm the CON team lead.

THE HEARING OFFICER: Thank you.

And Nicole?

(No audible response.)

THE HEARING OFFICER: Nicole, if you're talking, we can't hear you.

There you are.

(No audible response.)

THE HEARING OFFICER: No?

MR. LAZARUS: I don't think your audio is working.

THE HEARING OFFICER: Okay. So that's Nicole Tomczuk, T-o-m-c-z-u-k, and I'm not sure what her actual

title is.

MR. LAZARUS: Planning analyst .

THE HEARING OFFICER: Okay.

MR. LAZARUS: No, healthcare analyst, I believe.

THE HEARING OFFICER: Okay. So Nicole, maybe you can log off and try to resolve your audio issues and then come back and join us, but we're going to proceed.

So also present is our office's paralegal, Faye Fentis, who is assisting with the hearing logistics, gathering of the names in the public comment, and providing miscellaneous other support.

The CON process is a regulatory process, and as such, the highest level of respect will be accorded to the Applicant, members of the public, and our staff. Our priority is the integrity and transparency of this process. Accordingly, decorum must be maintained by all present during these proceedings.

This hearing is being transcribed and recorded, and the video will also be made available on the OHS website and its YouTube account. All documents related to this hearing that have been or will be submitted to OHS are

available for review through our CON portal, which is accessible on the OHS CON webpage.

In making my decision I will consider and make written findings of fact in accordance with Section 19a-639 of the Connecticut General Statutes.

Lastly, as Zoom notified you in the course of entering 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 meeting.

So the first thing I'm going to do is I'm going to start by going over the exhibits and the items of which I am taking administrative notice, and then I will ask if there are any objections.

The CON portal contains the pre-hearing table of record in this case. At the time of its filing on Monday exhibits were identified in the table from A to R.

(Exhibits letters A through R, marked for identification an noted in index.)

THE HEARING OFFICER: I saw this morning that Attorney

DeBassio filed a motion that we requested be filed as well as an affidavit. I haven't had an opportunity to review that, but those documents will be made part of the record, so those will be S and T, respectively.

(Exhibits letters S and T, marked for identification an noted in index.)

THE HEARING OFFICER: I'm going to start with the OHS side. Steve, Annie, Nicole, do you have any additional exhibits to enter into the record at this time?

MR. LAZARUS: Not at this time. Thank you.

MS. FAIELLA: No, thank you.

THE HEARING OFFICER: And presumably, Nicole would say no if she were here.

I'm not aware of any other exhibits that we plan to enter at this time.

The Applicant is hereby noticed that I am taking administrative notice of the following documents, the statewide healthcare facilities and services plan and its supplements, the facilities and services inventory, the OHS acute care hospital discharge database, all payer claims

database claims data; and hospital reporting system that's HRS financial and utilization data.

To the extent that we rely on any of those for purposes of coming to a decision, an excerpt will be provided and the Applicant will have an opportunity to respond. At this time, I don't think that we have provided any excerpts, so there's nothing to respond to at this time.

I'm also planning to take administrative notice of the following dockets; Docket Number 22-32486-CON, which is the docket for the civil penalty proceeding against Johnson Memorial Hospital relating to its termination of labor and delivery services. I don't think there's anything that I'm going to have to use from that, but out of an abundance of caution, I wanted to make reference to it; as well as Docket Number 22-32612-CON, and that's the docket for Johnson Memorial Hospital seeking authorization to terminate labor and delivery services.

I have already provided a portion of that. I've provided the hearing transcript from that. I believe that is the only portion of that docket that we will be needing to refer to. So you have that in the record.

I may also take administrative notice of other prior OHS decisions, agreed settlements, and determinations that may be relevant to this matter, but which have not yet been identified.

Counsel for the applicant, Attorney DeBassio, can you please identify yourself?

MR. DeBASSIO: Yes, good morning, Hearing Officer.

My name is David DeBassio. That's D-e-B-a-s-s-i-o, from the law firm of Hinckley Allen on behalf of Johnson Memorial Hospital.

THE HEARING OFFICER: Thank you. And do you have any objections to the exhibits in the table of record or the entering of those two exhibits that I indicated were filed this morning by e-mail?

MR. DeBASSIO: No, not at all. And I apologize for the late filing on the motion to seal the affidavit.

We had technical issues with preparing the documents to be Bates and marked pursuant to the rules of procedure, which necessitated filing this morning.

THE HEARING OFFICER: It's not a problem. I don't expect that there will be any questions on those. I just wanted them for completeness purposes. I will, of course, reserve the right to potentially hold another hearing date in the event we need it.

But again, I don't think that will be needed.

MR. DeBASSIO: No, thank you. You anticipated my next statement -- that we do understand, given the late filing, that OHS, when they get a chance to review those documents, may want a brief subsequent hearing to which we have no objection.

THE HEARING OFFICER: Okay. And as you indicated in your letter, that will probably mostly be conducted in executive session given the nature of the documents, assuming we find that they are subject to the confidentiality that you have indicated that they are.

So all identified and marked exhibits are entered as full exhibits then.

Do you have -- Attorney DeBassio, do you have any additional exhibits that you wish to enter at this time?

MR. DeBASSIO: No, not at this time. Thank you.

THE HEARING OFFICER: Okay. Thank you. And we will proceed in the order established in the agenda for today's hearing.

I do want to start by advising the Applicant that we may ask questions related to your application that you feel you have already addressed. We will do this for the purpose of

ensuring that the public has knowledge about your proposal and for the purpose of clarification.

I want to reassure you that we have reviewed your application, your completeness responses, pre-filed testimony, and so on, and I will do so again many times before issuing a decision.

Anyone attending today should enable the use of video cameras when testifying or commenting remotely during the proceedings, however all participants and the public should mute their devices and should disable their cameras when we go off the record and take a break.

Please be advised that although we will 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, if there is any, will be taken during the hearing and will likely go in the order established by OHS during the registration process, however I may allow for public officials to testify out of order.

I or OHS staff will call each individual by name when it is his or her turn to speak, and registration for public comment will begin at 11

and continue to 12.

If the technical portion of the hearing has not been completed by 12, 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 additional follow-up questions based on the public comment.

Attorney DeBassio, are there any other housekeeping matters or procedural issues that you would like to address before we start?

MR. DeBASSIO: No, thank you.

THE HEARING OFFICER: Thank you.

So moving on, do you have an opening statement that you would like to present?

MR. DeBASSIO: Thank you, your Honor. I'm going to reserve most of my comments for my closing statement because I want to be respectful of OHS, my client, and the public's time. I would just like to say that it is a privilege to be here before OHS again representing Johnson Memorial Hospital.

With me today is Deborah Bitsoli, the President of Trinity Health of New England Medical Group and Trinity Health of New England Clinically Integrated Network. We also have Dr. Robert

Roose, the President of Johnson Memorial Hospital. We have Claudio Capone, the Vice President of Strategy and Business Development for Trinity Health of New England.

Ms. Bitsoli will start us off by adopting her pre-filed testimony. And as you yourself referenced, your Honor, a lot of this is going to be duplicative of the information that's already part of the record contained in the application itself and the pre-filed answers to questions that OHS has posed to us, but we're going to be repeating a lot of it just to get it on the public record.

And then, as I mentioned, Dr. Roose and Mr. Capone are here to answer any financial or technical questions OHS may have once Ms. Bitsoli has adopted and submitted her pre-filed testimony.

THE HEARING OFFICER: Thank you.

I'm going to have the three individuals who you identified, Ms. Bitsoli, Dr. Roose, and Mr. Capone raise their right hand, and I'm going to swear you in.

D E B O R A H B I T S O L I,

R O B E R T R O O S E,

C L A U D I O C A P O N E,

called as witnesses, being first duly sworn by THE Hearing Officer, were examined and testified under oath as follows:

THE HEARING OFFICER: And let the record reflect that Mr. Capone also answered affirmatively, but he was on mute.

So Ms. Bitsoli, when giving your testimony, please make sure to adopt any written testimony that you have already submitted, and you can proceed whenever you're ready.

THE WITNESS (Bitsoli): Okay. Well, thank you and good morning, everybody. Thanks for giving me an opportunity to speak this morning. So my name is Deborah Bitsoli. I will spell -- it's B-i-t-s-o-l-i. And again, appreciate the time this morning.

So I am the President of the Trinity Health Medical Group as well as the President of the Trinity Health Clinically Integrated Network. Johnson is a member hospital of Trinity Health of New England, which is an integrated healthcare delivery system that's a member of Trinity Health

based out of Livonia, Michigan.

So as I said, we appreciate the opportunity this morning to testify in support of the certificate of need Application for the termination of hospital license at Johnson Surgical Center, and concurrently for the establishment of an outpatient surgical center.

Johnson Memorial is seeking approval to convert its four operating room licensed surgery center located at 148 Hazard Avenue in Enfield, Connecticut, from a hospital-based outpatient department to a freestanding outpatient surgical facility located adjacent to the existing site.

Technically, there are no services being terminated in the market, just the replacement of the hospital outpatient department surgery center with an ambulatory surgery center designation that will allow us to provide additional services.

My testimony today will focus largely on how approving this application will better meet -- meet the needs of the community as well as patients overall. This will include improving access to low-cost, high-value surgical care.

In my capacity as president of the medical group of Trinity Health of New England, I was also

consulted and participated in the decision to seek the termination of the hospital license at Johnson Surgical Center, and concurrently for the establishment of the outpatient surgical center itself. As I will discuss further in the testimony, it was a decision that was ultimately driven by quality of care for the patients, the residents of the community, and really ensuring the best outcomes for the patients.

A little bit about my background; I am a certified public accountant with over 18 years of experience in planning, development, and execution of effective strategies, policies, and procedures that improve financial and operating functions of healthcare organizations, both in hospitals, physician groups, and other medical service settings. One of the focuses of my career has been to execute action plans to drive continuous improvement of the healthcare facilities I work with and for.

One of the keys for any healthcare organization to be successful is to involve all the stakeholders, the board members, the medical leadership, administrative and clinical staff, community leaders, as well as providers in

providing the most successful outcomes. And we've done this in this particular case very well. A copy of my CV is included in the application on pages 56 to 59.

The second piece I would add is a lifelong learner and someone who has dedicated my career to health care. I really do take the initiative to keep abreast of healthcare management best practices and evolving trends that support patient-centric care, quality, and safety, while at the same time being mindful of financial performance. This is best accomplished by providing opportunities to educate frontline workers and deliver effective presentations to influence key internal and external stakeholders to, again, meet the needs of the community and also continue facing the healthcare challenges by providing excellent care in an excellent environment.

A little bit of background; in 2018, Trinity Health of New England's strategic plan identified the Enfield market as a key market to expand and modernize its ambulatory offerings. This was based on reviewing population growth, median household income, payer mix exchanges, disease

incident rates, and projections in clinical service demand based on the population emerging in Enfield.

This strategy resulted in a refresh of the Enfield campus, including the rebuild of the Johnson Memorial Surgical Center. After further review of the industry and local trends, it was decided that the surgery center would be most successful in reaching its goal as a joint-ventured outpatient-based ambulatory surgery center. The building is set to be completed in May of 2024 and a go-live date of July 2024.

This plan includes the rebuilding of four existing operating suites into a new state-of-the-art ambulatory surgery center on the Enfield campus. Investment in our ASC will better meet the needs of the community, improving access to low-cost, high-value surgical care. This initiative supports the health system's preparation for the shift of care from inpatient to the outpatient care setting.

The current operating rooms are undersized and outdated, and we're very challenged fitting in state-of-the-art equipment in those operating room suites. The development of the new ASC will

support larger, expanded outpatient procedures, such as orthopedics, spine, and will also significantly improve the workflow for the providers as well as the patient experience overall.

So to provide additional detail, the proposed center will better meet our community needs in the following ways. First, increased value. So as part of the mission, Trinity Health of New England seeks to provide people-centered care. The proposed project will transform the patient experience by providing convenience to the patients in terms of ease of access, scheduling, and location.

The new ASC will be co-located with Johnson's outpatient imaging on the first floor and plans to have medical office space built out in the future. This will allow our patients to receive most of their outpatient care in one location, both imaging as well as the ambulatory surgery, and it will offer a lower-cost alternative to hospitals for outpatient surgeries. ASCs provide patients greater value through increased patient satisfaction and improved outcomes.

The second area would be physician alignment.

Physician ownership will incentivize physicians to provide low-cost, high-quality care to our patients. This will result in a value-driven operation.

Further, physicians who practice at the site will have the opportunity to increase their productivity due to the increased efficiency of the center and their direct involvement in recruiting and training staff. This will provide the benefit to our patients through improved patient quality and also enhanced efficiency.

With those improvements, the ASC will serve as an attractive site of care as an alternative payment model continues to develop in Connecticut as the shift from the hospital base to the outpatient setting.

The final point I would make to the committee is the industry trend. The proposed ASC complements the industry trend of joint ventures between physicians and hospitals; the project, in general alignment with Trinity Health of New England resources, processes, sourcing, and initiatives.

While the majority of low-cost surgeries are outpatient cases already, the project aligns with

the industry trend of gradually shifting other procedures to same-day and dedicated outpatient settings. The services that are currently provided at this surgery center will continue in the new ASC, and aside from that, from oral surgery.

These services include general surgery, gastrointestinal, gynecology, obstetrics, colorectal, ophthalmology, orthopedics, pain, podiatry, and urology. The new service that will be provided also includes total joints in our state-of-the-art OR built out for orthopedic procedures.

The impact of patient care of establishing a freestanding ambulatory surgery center will increase access to surgeries and surgical resources in multiple specialties for those in primary service area. The proposal improves access of health care in the region by accommodating the expected volume and the growth of outpatient surgical procedures.

Due to the limited capabilities within the current Johnson Surgery Center there are many barriers to keeping up with the expected volume due to the outdated design of the operating rooms,

the size of the operating room, and also the support spaces needed to take care of the patients in an effective and efficient manner.

The newly built ASC will improve both operating room utilization and efficiency and be adaptable for growth, including items like orthopedic surgery. The new designation will provide the same care in lower cost setting than as a hospital satellite location.

The largest patient population is currently being served by the Johnson Surgery Center. Patients from the service area will continue to receive care and there are no anticipated reductions in service or patient population because of this proposal. As it is currently the practice, potential patients will continue to have the choice of using this surgery center or other providers in the service area.

Currently, outpatient surgical procedures are provided at the Johnson Surgery Center. The operating rooms and the equipment are outdated, limiting the ability to perform all appropriate outpatient cases at the center.

The current center was never designed to accommodate the mix of procedures that are now

being performed in an outpatient setting. Over the years, great effort has been made to keep the facility up to date, however the operating rooms have become increasingly limited to today's cases.

As an example, some of the surgical towers do not fit in the operating room today due to limited space and ceiling heights. The proposed center will be designed for the efficient delivery of care and meet the growing demand of outpatient surgical services. This plan increases utilization of the current four operating rooms by the newly recruited surgeons and the shift of appropriate outpatient procedures.

The current location at 148 Hazard Avenue serves as an integral access point for patients in the greater Enfield area. It will continue to be the only ambulatory surgical facility in the area and the new center is being built adjacent to the current location. It's also fiscally prudent to build on the existing site since Johnson Memorial owns the land and currently operates other clinical services in the adjacent building.

The most recent community health needs assessment completed by Johnson Memorial Hospital in 2022 includes healthcare survey information

from those in Johnson Memorial. Residents shared that the cost of healthcare services is a major factor in not having healthcare coverage or accessing care.

If you look at attachment eight for Johnson's community health needs assessment in FY23, the Johnson Surgery Center had 1,928 patient encounters, of which 20.2 percent are insured by Medicaid. By establishing the current hospital outpatient location to an outpatient surgery center, this removes the facility fee and more closely follows the lower ambulatory outpatient rates compared to our HOPD rates.

The community will continue to have access to care now at a lower cost and this change will increase access to care by helping to reduce the financial burden faced by patients seeking surgical services, including Medicaid.

Over the next 10 years, SG2 projects outpatient surgery to increase by 10.2 percent in the Enfield market. Both general surgery and orthopedics, among other services not relevant to this proposal, are service lines with the highest demand and projected growth.

Underserved groups will benefit from the

proposal because it creates a lower cost site of care in a town with disproportionate share of poverty. Having this option will increase access to lower cost care and look to reduce the financial burden faced by patients seeking outpatient surgery centers.

This center will be on Johnson Memorial's Enfield campus and will be again to access those members of the community. If approved, the proposed surgery center will increase access by adding surgical services not currently offered at the current ambulatory surgery center.

The ASC has been designed with the patient experience in mind with better designed space, calming decor and finishes, wider space, larger base for the patients. The clinical space was designed to provide the utmost efficient surgical care to improve patient flow, modern pre and post-surgical areas, and modern high-tech operating rooms. Additionally, as previously mentioned, the proposal will improve access by offering a low-cost option that the original site had, which included facility fees.

So in conclusion, approving the certificate of need for the termination of the hospital

license at Johnson Surgical Center and concurrently for the establishment of an outpatient surgery center will allow Johnson Memorial to replace the services of the Johnson Surgery Center with a modern and more efficient surgery center licensed as an ambulatory surgery center joint venture.

Technically, there are no services being terminated in the market, just the replacement of the hospital operating designation with an ambulatory surgery designation that will provide additional services. In my professional opinion, this decision will, not only improve patient care in the primary service area, but also offer many, many benefits to the community itself.

Thank you for the opportunity to testify here today in support of the certificate of need application that we are discussing this morning.

Thank you, and we will open it up to any questions.

THE HEARING OFFICER: Thank you, Ms. Bitsoli.

MR. DeBASSIO: Before we open it up to any questions, just to make sure we have a clear record -- I know you went over most of your written pre-filed testimony, but I believe we skipped the step where

you formally adopted the actual written pre-filed testimony.

So I just want to have a clean record and ask you, do you formally adopt the written pre-filed testimony that you submitted in this case?

THE WITNESS (Bitsoli): Yes, I do.

MR. DeBASSIO: Thank you.

THE HEARING OFFICER: Thank you, Attorney DeBassio. I was planning to do that myself, so I appreciate that.

MR. DeBASSIO: I apologize for usurping.

THE HEARING OFFICER: I also noticed in her testimony that she made reference to the community health needs assessment from 2022. I don't recall seeing that as part of the record, so I'm going to take administrative notice of that document.

Attorney DeBassio, do you have any issues with me doing that? I know it's publicly accessible and --

MR. DeBASSIO: No, your Honor, I don't.

THE HEARING OFFICER: Okay. Thank you.

So did you have any other preliminary comments you wanted to make? Or did you want anyone else to make any preliminary comments?

MR. DeBASSIO: No, thank you. Other than just to

indicate that all of the witnesses are available to answer any questions OHS may have.

THE HEARING OFFICER: Okay. Thank you.

I think we're just going to jump right into it then. And the first question I have is sort of a technical clarification. Is the application to establish a facility with four ORs, or three ORs, and then add an additional at some point within the next couple of years?

THE WITNESS (Capone): I can answer that, Hearing Officer. This is Claudio Capone, C-a-p-o-n-e, Regional Vice President of Strategic Planning and Business Development for Trinity Health of New England.

The proposal is to take the four licensed OR beds that we currently have at Johnson and shift those over to the new facility. We are going to open with three, and at some point as volume increases, we'll -- we'll look to open the fourth.

THE HEARING OFFICER: Okay. Thank you.

So building on that, what would be the threshold, the specific threshold that needs to be met in order for JMH to open the fourth OR?

THE WITNESS (Capone): Typically, when you get to above 80 percent OR capacity and we're having difficulty

scheduling is when we would look to open the fourth OR.

THE HEARING OFFICER: Okay. And you expect that to occur within the first -- I think you said one to two years. Is that correct?

THE WITNESS (Capone): That's the plan, yes.

THE HEARING OFFICER: Okay. So the statutes for CON are sort of interesting, because they allow an entity to increase their OR capacity once every three years. So is there a reason why you're seeking approval for four instead of three, and then opening an additional one in three years?

THE WITNESS (Capone): It's simply that we wanted to just continue with the four that we had licensed and move those over. We didn't contemplate filing the CON as a two or three-OR ASC.

We looked at it as, let's take the four that we have currently licensed and convert that to the new proposal.

THE HEARING OFFICER: Okay. And as part of the plans for this facility, is there space for a fifth OR?

THE WITNESS (Capone): No --

THE HEARING OFFICER: Are you currently building as if a fifth OR will be part of this?

THE WITNESS (Capone): There is no space for a fifth

OR. It's being built to spec four ORs.

THE HEARING OFFICER: Okay. Thank you.

THE WITNESS (Capone): Uh-huh.

THE HEARING OFFICER: So just shifting focus a little bit, one of the statutes, Section 19a-639a, sub 5, states that a CON is required for the termination of services by a hospital.

I know technically you are not terminating any services. You're just moving them from one facility to -- well, technically two others, one to the hospital and then one, most of the other services to this new facility.

Some of the questions from -- we have a supplemental termination form. Some of those questions would apply here and I just want to run through those a little bit and have the Witnesses respond to those.

So the first question I had is question 1B on the form, and it's to explain the process undertaken in making the decision to terminate the services from the hospital license and then move them to the new entity.

So what was that process like? And anyone can respond to that, Mr. Capone or Ms. Bitsoli, Dr. Roose.

THE WITNESS (Capone): Do you mind identifying which page of the document you're looking at? Sorry.

THE HEARING OFFICER: I don't have it in front of me.

THE WITNESS (Capone): And can you restate -- restate the question then, please?

THE HEARING OFFICER: I'm trying to pull it up -- but the question is, what was the process that was undertaken in making the decision to terminate the services from the hospital license and move them to the new facility from sort of an administrative perspective, I would say?

THE WITNESS (Capone): We were following what we -- we did with our other surgery center, a similar process where we had existing ORs at St. Francis and converted them over to the Lighthouse.

Today -- today it's called the Lighthouse Surgery Center, and we followed the same process there because that was the process we were told to follow during that similar conversion of hospital-based ORs to now a freestanding joint-ventured ASC.

THE HEARING OFFICER: And did that process start with the 2018 facility plan? I can't recall the exact name of it, but --

THE WITNESS (Capone): Sure. It predated it.

THE HEARING OFFICER: Okay. So did it require a vote from the JMH Board of Directors? And that's another question on that supplemental form; did the termination require a vote of the JMH Board?

THE WITNESS (Capone): The board serves in an advisory role, so they did advise on the matter and did recommend it to the Trinity Health of New England Board for approval, yes.

THE HEARING OFFICER: Okay. So Trinity, the Trinity of New England, they voted on it and they approved it?

THE WITNESS (Capone): Correct.

THE HEARING OFFICER: Okay. So typically what we do is we request that those, the minutes from that meeting be produced.

So Attorney DeBassio, what I'm going to ask is that the minutes from that meeting and any other relevant meetings be produced as a late file?

MR. DeBASSIO: That that shouldn't be a problem, other than I'm not entirely sure what you would be looking for when you talked about any other relevant meetings, or minutes.

THE HEARING OFFICER: If there are any other votes other than the Trinity of New England vote to

approve this, like if there was one required of the mothership, so to speak, the main Trinity.

MR. DeBASSIO: No, I understand. You're just looking for minutes related to the vote to terminate at Johnson and transition to the ambulatory surgery center?

THE HEARING OFFICER: Correct.

MR. DeBASSIO: Got it.

THE HEARING OFFICER: And we will go over all these late files towards the end. That way there's just a clean list, and I'll also issue an order either later today or early tomorrow that identifies them as well.

MR. DeBASSIO: Thank you.

THE HEARING OFFICER: So I know Ms. Bitsoli spoke about this, but I just sort of wanted to break it down a little bit. What are the advantages of this proposal specifically to patients?

THE WITNESS (Bitsoli): So let -- let me start a little bit. I think there's three areas that the patients are going to benefit. The first would be just a state-of-the-art environment. The area that the patient would be in pre-surgery is much larger. It has walls around it. So the existing environment is just a much, much better

environment.

I think the second way the patients benefit is the ORs are state-of-the-art. They're actually larger. There is equipment today that exists that providers need to do particular types of surgery where they need a larger operating room to be able to accommodate that surgery. So this will allow us to do those surgeries in this setting.

And then I think that the last way the patients benefit is there is a shift from insurance carriers really asking to do surgery in an outpatient setting where possible, and it translates to less dollars that the patient has to pay. So I really do believe there's an advantage to the patients and the community in Enfield as a result of this.

And I'll open it up for Rob if he'd like to add anything to that.

THE WITNESS (Roose): So just for the -- the group, Dr. Robert Roose, R-o-o-s-e, President, Johnson Memorial Hospital. Thank you, Debbie, for your comments and the question.

We've highlighted several of the advantages for patients, which include experience, which includes state-of-the-art abilities to operate and

receive operations in a new environment. And I would just -- and the value that's delivered to the patients.

I would just continue to add that this emphasize -- this, this surgery center emphasizes access and expanding the array of procedures available for the community. And so patients will directly benefit from procedures being delivered in the surgery center that are not currently able to be delivered in the existing surgery center as well.

So access, value, and experience, both from a direct as well as from an environmental perspective.

THE HEARING OFFICER: Thank you.

Building on that a little bit, Ms. Bitsoli mentioned there were some surgical towers that can't currently be fit in your current operating rooms. Which services do those towers pertain to specifically?

THE WITNESS (Bitsoli): Those towers would pertain really to some of the larger orthopedic cases. And again, it's just due to the size of the older operating rooms.

So they're also more forward compatible with

procedures that we're going to add to the ambulatory surgery center in the future.

THE HEARING OFFICER: Okay. So backing up a little bit now, as I said, I wanted to break it down a little bit. So what are the advantages of the proposal to Johnson Memorial Hospital?

THE WITNESS (Roose): I will speak to that. Johnson Memorial Hospital's Enfield campus is an incredibly important part of our services that we deliver to the community, both in Enfield, but also Stafford and the surrounding cities and towns.

And so strengthening the services that we provide in Enfield, which continue to be expanded, both with a renovated and expanded cancer center, the development of the ambulatory care center on the Enfield campus and other ambulatory services will enhance the performance and the level of care that Johnson Memorial Hospital provides to their community.

So it will enhance the environment, both for direct care, like imaging and lab and other ambulatory services, but also provide a stronger connection to the hospital for referrals of patients that need a higher level of care to be

provided in the hospital facility itself.

THE HEARING OFFICER: And are there any advantages to Trinity Health of New England that are separate and apart from the ones that you just described with respect to JMH?

THE WITNESS (Roose): I think there, I would say that they are part of the same advantages in creating a network that provides value to patients in the community.

And engaging in a joint venture to ambulatory surgery center and strengthening the campus of services, both hospital-based and ambulatory in Enfield, strengthens Trinity Health of New England as a primary service area that we are looking to meet the needs of the community.

THE HEARING OFFICER: Thank you.

And the last grouping, what are the advantages of the proposal to the physician members that are going to be part of this new entity?

THE WITNESS (Roose): I'll -- I can start and then invite others to make comments.

As -- as a physician and all of us that work closely with physicians know that patients come first, and the experience that can be delivered to

provide that service to patients is the top priority. So physicians that will align with this surgery center will have their focus on quality of care first, on expansion of access to be able to provide services in a top-class environment, and also on efficiency, and so to align in a way that delivers value.

So quality over cost will be the physician's primary motivation. So it will align incentives within our healthcare system to deliver on those promises. Physicians specifically will be looking for a place in the community where they can meet the needs of their patients and bring different types of procedures into the Enfield community, as mentioned, total joint replacement and other types of procedures in a way that will be the best experience that can be provided.

THE WITNESS (Bitsoli): And Daniel, I would only add, we have done multiple walkthroughs in the new ambulatory surgery center. And the first place the providers, physicians want to go to is the operating room.

So just the lighting, the size, the aesthetics, the layout, they're just very enthusiastic, as Dr. Roose indicated, about going

in there with their patients, because it is going to be a better experience for both them and the patients.

So a lot of enthusiasm and excitement about getting in there to actually do their cases.

THE WITNESS (Capone): And can I also add, one of the things that we're working with as we build this, this center is having the physician's input from ground level. Many of them have been involved with decision making on equipment, layouts, lighting, post and pre-recovery.

So we -- we've taken an approach of inviting them to be part of the process from early on.

THE HEARING OFFICER: It sounds from what you're saying that the group of physicians that is expected to have member interests in this facility has already been solidified. Is that a correct understanding?

THE WITNESS (Capone): Not yet.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): It's still in flux.

THE HEARING OFFICER: Have most of them been identified?

THE WITNESS (Capone): We have most of them identified. We have a core group who we know are going to perform cases there that have been involved with

the design work.

THE HEARING OFFICER: Okay. Have any of them signed any sort of contractual document that says, we're planning to have membership interests in this facility?

THE WITNESS (Capone): Not at this point.

THE HEARING OFFICER: I may have more questions on that in the future as we get into things more. I have to think about it, but I wanted to continue with some of the questions that are on that supplemental form that I mentioned earlier.

So question 2F asks about migration of patient medical records. How will that process work? How will transitioning those medical -- the existing medical records work over to the new facility?

THE WITNESS (Roose): So I would -- would answer that to say that the existing medical records are part of Johnson Memorial Hospital's health information management system, and they will remain there as long as statutorily required and be accessible to patients that need those records.

As we open up new services for records that are needed to be transferred in to other systems, we would arrange for either the integration

through interface access for those records, or an alternative process by which they will be available for providers and patients as would be required by regulation to make sure that that happens. Depending on the specific example, that may look different.

And so, providers, for example, in the new ambulatory surgery center that would need access to orders and/or lab images will have them present and readily available and accessible for them. Prior records would be available through some of those means as described as we evaluate and set up those processes closer to start date.

THE HEARING OFFICER: It sounds like what you're saying is there won't be an additional financial cost for data migration. Is that correct?

THE WITNESS (Roose): I can ask if Claudio has any assessment on that as part of this project, but that's not my understanding.

THE WITNESS (Capone): There is no projected additional cost for -- for data migration. It's the -- the EMR that's going into the ASC will provide -- there will be a connection with our -- with our Epic being able to port data over from the visit.

But then physicians, as Dr. Roose has

mentioned, will have access to our Epic and will continue to have access to Epic, and they can see the patient's information through the various portals that Epic provides.

THE HEARING OFFICER: Okay. Thank you.

I'm trying to pull up the form because in my notes I have indicated that there's a question I want to ask, and I'm having trouble making sense of it. So give me a moment.

So on that supplemental form, question 3B asks about additional costs to patients. So I understand that there will be a lack of hospital facility fees, and that's a major benefit to patients from a cost perspective.

Are there any additional costs to patients that will be added by moving this over to the new facility?

THE WITNESS (Capone): So you're asking whether or not there will be any additional costs from doing cases at this center to patients?

THE HEARING OFFICER: Correct.

THE WITNESS (Capone): No. No, there are no -- no additional costs.

I guess let me -- let me ask, like, what additional costs are you thinking about? I mean,

they will have the cost of doing the case, but there are no additional costs beyond that.

THE HEARING OFFICER: Okay. That answers my question.

THE WITNESS (Capone): Okay.

THE HEARING OFFICER: So I'm not sure if the Witnesses are able to answer this question, but I will ask it. Do any of you happen to know if the current facility is considered hospital-based under Connecticut General Statutes 19a-508c, sub A, sub 7?

THE WITNESS (Roose): I -- I cannot speak to that specific statute without seeing that statute.

THE HEARING OFFICER: Okay. I didn't think that would be the case. I just wasn't sure how, how to get to this.

And do any of you happen to know if CMS has determined that the existing facility is considered a part of a hospital campus?

THE WITNESS (Capone): I can answer that. Excuse the fire alarm that's going off in the background. So I apologize for the extra noise, but they're running a test here.

So the current center is -- operates as a department of Johnson Memorial Hospital. And so it -- it operates as a hospital department.

THE HEARING OFFICER: Okay.
THE WITNESS (Roose): It is a campus of the hospital.
THE WITNESS (Capone): Correct. Yeah, it's a campus of the hospital. Correct.
THE HEARING OFFICER: Isn't it possible for Trinity or JMH to opt not to charge a hospital fee, a hospital facility fee right now?
THE WITNESS (Roose): I -- I am not clear if that's an option that we would consider based on our policies and procedures.
THE HEARING OFFICER: Does anyone have anything else to add to that?

(No response.)

THE HEARING OFFICER: Okay. So question 4A in that supplemental form talks about historical and projected utilization. So I understand that oral surgery is going to be moved to the hospital.

Do you have any sense of what the projected utilization for oral surgery will be in the coming years?
THE WITNESS (Roose): I do not have the numbers present in front of me. Claudio, I don't know if you do.
THE WITNESS (Capone): Yeah, we would have to get to --

get those two in a late file.

THE WITNESS (Roose): We can submit that in a late file if you're looking for specific numbers. In conversations, we have not anticipated that volume significantly changing, and it is not a particularly high volume currently.

THE HEARING OFFICER: At the current facility, I think it actually is relatively high. I think it's like the second or third most utilized service at that, at the surgery center.

So similarly, I think that question 4B asks about payer mix for services that will no longer be offered that will not be transferred. So I would like a late file of that as well, projecting forward, probably about five years for oral surgery.

So I'm going to move off of the supplemental termination form and start talking more about the CON criteria themselves. I'm going to start first with the idea of clear public need.

So in several locations the Applicant has stated that it plans to start with three ORs and then open up a fourth as demand increases. You've also provided some SG2 data that Ms. Bitsoli actually referenced in her opening statement.

So is there not currently a need for four ORs in the service area?

THE WITNESS (Capone): So at this point the demand is not four, for four ORs, you're correct. But in the future, we do see demand rising to the four within the next couple of years.

THE HEARING OFFICER: Okay. And do you have any sense of what will change between the first and second year that will result in having the sufficient demand to open the fourth?

THE WITNESS (Capone): Sure. So part of it is recruitments, as some of the physicians have mentioned to us. Second to that would be growth and -- and the conversion of what's being done currently in the inpatient setting that's going to the outpatient setting.

Think of joints, for example. You're seeing more and more joints moving over to the outpatient arena, and those are some of the drivers that we are using to project the use of the fourth OR.

THE HEARING OFFICER: So I want to go back to talking about oral surgery for a moment.

In page 31 of the application, it does seem to make up a large volume of the services currently being provided. If you were to bring

that over to the new facility rather than send it over to JMH, wouldn't you have sufficient volume to open up a fourth?

Or let me phrase it differently. Would you have sufficient volume to open up the fourth from the beginning?

THE WITNESS (Capone): I believe those cases are done -- Dr. Roose, correct me if I'm wrong -- I believe they're done more in the procedural space than the OR itself.

THE WITNESS (Roose): Yes, and I think we'd have to look at that. And we'll have to get back in terms of what that looks like in terms of numbers in future years.

THE HEARING OFFICER: Okay. And you've said you'll be providing that as a late file?

THE WITNESS (Roose): Uh-huh.

THE HEARING OFFICER: Okay. So why? Why is oral surgery being moved to the main campus when all the others are being moved to the new facility?

THE WITNESS (Capone): It was determined to move oral surgery over to the main campus because it -- because of the way the cases operate in terms of utilization of rooms, the types of procedures that they were doing.

So we determined to move that over to the hospital side to continue providing that service. Probably better -- better suited for those types of cases.

THE HEARING OFFICER: Are you able to speak in more specifics? I'm sorry, that was just a very sort of generalized response.

THE WITNESS (Capone): Yeah, it's just -- again, it's just I don't have any more specifics outside of that, but when we looked at oral surgery, that was one of the ones that, just based on the type of cases that they're doing, you know, removal of abscesses, some jaw work, things like that, that those cases are probably better suited not in the ASC setting, but moving over to -- to the Johnson main campus.

There has been conversation about potentially moving it back to the ASC, but at this point when we filed the CON, the decision was made to move them over to the campus.

THE HEARING OFFICER: And those oral surgeries will continue to have the hospital facility fee attached to them?

THE WITNESS (Capone): Yes.

THE HEARING OFFICER: So some of the application states

that you're going to be starting neurosurgery and total joint services at the new facility.

Why neurosurgery?

THE WITNESS (Capone): The question was, why neurosurgery? I'm sorry, I can't hear you. Sometimes -- the alarm is very loud in here. I apologize.

THE HEARING OFFICER: I can't hear the alarm, for what it's worth. So thank you for reminding me that you have that going on.

THE WITNESS (Capone): What was the question again?

THE HEARING OFFICER: The question is, why are you planning to start neurosurgery, rather than some other service at the new facility?

THE WITNESS (Capone): We have interest from a couple of our neurosurgeons who want to do some of the -- the spine cases that have now moved to the outpatient arena. That they're currently seeing patients from the greater Enfield market either doing them down at St. Francis or doing them up at Mercy.

And so it would be much more convenient for those patients to be serviced at Enfield, at the new surgery center. And as Ms. Bitsoli mentioned earlier, the space itself today is not really

conducive to having neurosurgery cases done there in an efficient manner, so that's why we wanted to add neurosurgery cases to -- to that location.

THE HEARING OFFICER: So you are currently offering it at the hospital, though, and you're planning to move it to the ASC center it sounds like?

THE WITNESS (Capone): We are -- we are we are seeing patients from the Enfield market. They're being done either at Mercy, or mostly St. Francis.

THE HEARING OFFICER: Okay. Let's see.

I think, let's take a five-minute break if everybody is okay with that. I want to speak with the team about a couple things. So let's plan to come back at 1015.

And again, just as a reminder we're still able to hear you even though the recording has stopped, so.

(Pause: 10:08 a.m. to 10:16 a.m.)

MS. FAIELLA: Dan, you're muted.

THE HEARING OFFICER: I am muted, I apologize.

So there were a couple of followups to some of the questions and statements that were made earlier. One was concerning oral surgery. Are

there any -- Mr. Capone, you spoke to, sort of, the clinical aspects and the clinical reasoning for wanting to move it over to JMH.

Are there any non-clinical reasons, financial or otherwise, to want to move it to the main campus?

THE WITNESS (Capone): Yeah, I think the other, the other main reason is that since this is going to be a joint venture, the physicians are -- are leading us into what -- what makes the right complement of services that go into that center.

And you know, with a brand new facility, with the capabilities to add neurosurgery, you know, decisions that -- that were being made were to take care of oral surgery at the hospital, but have neurosurgery move in and adding additional orthopedics. And really that's being done in concert with the -- the surgeons who are looking to invest in the center, too. So there is that collaboration with them, so.

THE HEARING OFFICER: Of the surgeons who have informed informally that they plan to have membership interests in the new surgery center, are any of them -- well, I guess I know the answer to that.

Prior to deciding to move it over to the main

hospital did any of those, the oral surgery surgeons express interest in becoming part of the new surgery center?

THE WITNESS (Capone): Yes, that they did. And after speaking with them, we're still leaving it open that they can do cases there in the future, if -- if that's advisable by the -- the governing body of the -- of the ASC.

But for the time being, they were fine going over to -- to doing cases at Johnson.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): So there is an opportunity for them, is what I want to say, to potentially come back there if that governing body approves it.

THE HEARING OFFICER: All right. And Ms. Bitsoli earlier mentioned plans to build out the medical office space in the future. I was wondering if that could be fleshed out a little bit more.

What exactly is meant by that?

THE WITNESS (Capone): I -- I can jump in on that. So not really identified in this CON clearly is that this is a two-story facility, and the top floor is the ambulatory surgery center.

The first floor is a medical office building that is replacing some of the medical office space

that's in the adjacent building at 148 Hazard Avenue. Half of that first floor -- this is not the ASC, this is the first floor medical office space -- is currently vacant. And we're looking at opportunities to move medical practices there.

And the other half is the replacement of the existing imaging center that is literally right next door. We're moving that into this space as well. That's remaining as a hospital-based function. It's just moving that site over.

THE HEARING OFFICER: Okay. And something else just occurred to me. Earlier, you mentioned that you had identified a number of physicians who had expressed interests in having membership interests. I think you used the word "most." You've identified most of them.

Do you have a sense of how far away you are from reaching the number that you want?

THE WITNESS (Capone): We're actually actively working on it in the next couple of weeks, so -- and we will know more.

THE HEARING OFFICER: If I were to ask you for a number, like how far you are away from the key number that you're looking for, you aren't able to offer that at this point?

THE WITNESS (Capone): It -- it would not be accurate, Hearing Officer. I mean, I would -- if you give us a couple of weeks, they -- there's a deadline for them to get back to us.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): So it's -- actually the 31st is the deadline, so.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): Then we'll know.

THE HEARING OFFICER: Going to move on to utilization questions. Specifically in the application, in response to question 39, you provide some utilization figures that show sort of some unusual results.

I was just hoping to take them one at a time and develop an understanding of what may have been driving those differences from year to year.

So the first one is the surgery center went from performing 336 GI surgeries in fiscal year 2022, to 721 GI surgeries in 2023. So that's essentially a doubling in the amount of GI surgeries from one year to the next.

I was curious if you had any insight as to where that came from?

MR. DeBASSIO: Your Honor, before my clients answer, I

just want to confirm. Do all of you have access to the CON application and can pull it up on your screens when we're going over these questions?

THE WITNESS (Capone): Yes.

THE WITNESS (Roose): I don't, attorney, actually at the moment, but.

MR. DeBASSIO: If I send it to you, would that?

THE WITNESS (Roose): That should work.

MR. DeBASSIO: Okay. I apologize, your Honor, but usually doing these live, I could point to my binder to Dr. Roose and say, this is the page we're talking about.

But since we're doing it remotely, I just don't want them working in -- and answering these questions in a vacuum, so to speak.

THE HEARING OFFICER: I understand. So maybe it makes sense to move on, because the next couple of questions I have refer to specific pages in the application. So let me see where I can go next.

So as Ms. Bitsoli said earlier, and it was referenced in a couple of places in the record, one of the benefits to patients of the new facility is that they will be able to be treated at a facility closer to them. I was wondering if that could be explained a little more, because my

understanding is that the existing facility is directly adjacent to the proposed facility.

So how is that a benefit? It seems like it's the same to me.

THE WITNESS (Bitsoli): Yeah, I'll actually take that one. I think that that comment relates to the fact that because the rooms in the new ASC are larger, we're now going to be able to do more procedures in those larger OR rooms where we couldn't in the current ASC.

So I think the advantage to patients is procedures that we can't do in the current ASC, we will be able to do now in the new ambulatory surgery center. And that's going to offer them the ability to stay local in Enfield.

THE HEARING OFFICER: Okay. That makes better sense. Thank you, I appreciate that.

Do you all have access to the application now, specifically page 31?

THE WITNESS (Roose): That file, Attorney DeBassio, did not open for me. I'll have to -- I am having some technical difficulties on my Outlook today, I will say. So it may -- it may be that. So I'm not able to.

MR. DeBASSIO: Dr. Roose, I just sent it to you in

another, in another format.

THE WITNESS (Roose): Okay. Let me try that.

THE HEARING OFFICER: I'm wondering if I can share my screen.

Steve, Annie, do you happen to know if I'm able to do that?

MR. LAZARUS: You should be able to share screen. If not, Faye can give you access to that.

THE HEARING OFFICER: All right. That might be the easiest way to do this.

MR. DeBASSIO: Dr. Roose, did that e-mail work?

THE WITNESS (Roose): I haven't received yet, actually.

MR. DeBASSIO: I'm just concerned with the size of the application coming through the --

THE WITNESS (Roose): Yeah.

THE HEARING OFFICER: So can you all see my screen right now?

MR. DeBASSIO: Yes.

THE WITNESS (Capone): Yes.

THE HEARING OFFICER: Okay. So the question I asked earlier is, the surgery center went from performing 336 GI surgeries in fiscal year 2022 to 721 surgeries in fiscal year 2023, and that's right here.

I was curious if you had an explanation for

that jump?

THE WITNESS (Roose): Claudio, do you want to comment on that? Would you like --

THE WITNESS (Capone): I'd have to go look at the -- the data behind it, Dr. Roose. I'm trying to do that in a different screen here.

THE WITNESS (Roose): Okay.

THE HEARING OFFICER: Similarly, in fiscal year 2022, you went from 339 ophthalmology down to 95, but in the prior year you had done 333, which is roughly equal to 339. So I was wondering what accounted for that large jump as well?

THE WITNESS (Roose): So I can -- if I can speak, you know, generally speaking, and if there's more detail that's needed we could provide a late file.

At times with the surgery center and the hospital, both operating as hospital departments in two campuses of Johnson Memorial Hospital, there have been decisions made by providers and/or administrative leadership about the best place for certain types of procedures, i.e., the hospital in Stafford Springs or the surgery center in Enfield.

Gastroenterology, for example, endoscopy procedures, not surgeries per se, but procedures, have moved out of the hospital setting in Stafford

predominantly to be done in more outpatient environments like the surgery center, albeit still a hospital department, over years.

And actually, as we anticipate the future, there are less and less payers willing to provide general screening endoscopy procedures even in a hospital department. And so therefore, moving to a model like an ambulatory surgery center is critical to be able to maintain access for patients in the community.

Conversely, ophthalmology during the period of construction, there was a need to move ophthalmology cases back to the hospital out of the surgery center for the concern of vibrations in the local environment that would impact the quality of care due to the microscopes and the technical procedures needed to be done.

So while they would predominantly be done in an ambulatory setting outside of a traditional hospital, in fiscal year 23 we needed to move many of those back to the Stafford campus because of the construction that was occurring on the Enfield campus to allow for those procedures. And then we are in the -- we have since, in fiscal year 24, moved them back towards the surgery environment.

So those are two examples of decisions made in partnership with physicians about the best place for the procedures to be done in those cases.

THE HEARING OFFICER: Okay. And I also wanted to ask about this difference here as well. Orthopedics went from 354 to 208, and then it sort of remained relatively stable through even the current fiscal year. So do you have any explanation for that?

THE WITNESS (Roose): So I'll let Claudio comment if there's further, but the shift of orthopedics out of hospital-based departments into ambulatory surgery centers is a very strong industry trend. And with that has come also some provider changes over years; recently, in fiscal year '24, a retirement of an orthopedic surgeon as well, who was operating at the surgery center.

The excitement and engagement of orthopedic surgeons currently as we look forward is hinged upon there being an ambulatory surgery center environment that is outside of the traditional hospital environment to be able to drive efficiency and -- and grow, regrow that volume in that community.

So there are kind of two factors at play with

orthopedics, which is an area of growth and tremendous community need of which the new surgery center would be able to fill that gap to which would reverse the trend here, which has seen those services move away from the Johnson Surgical Center, specifically.

THE HEARING OFFICER: Do you have any understanding as to where the surgeries are moving, what facilities they have moved to, if not the surgery center?

THE WITNESS (Roose): Claudio, could we comment on that or?

THE WITNESS (Capone): We'd have to look into it. I'm assuming we're talking about the lead orthopedic surgeon who was there when he announced his retirement around this time and started to -- to wind down his practice as we look to add additional orthopedic surgeons from Mercy, Dr. Roose.

So I don't have exactly where they're going, Hearing Officer, just I -- we'd have to look that up.

THE HEARING OFFICER: So where this question is going is that there seems to have been a decline and then there's a very large jump with the advent of this, this new facility up to over a thousand by

fiscal year 2026.

So I'm just questioning whether that is actually attainable, and if so, how are you confident that this number will be obtained?

THE WITNESS (Capone): It's the recruitment of additional orthopedic surgeons that are coming in to do cases here that currently are doing cases in either Massachusetts or -- or in Connecticut.

So at the -- at the time, I believe there was one dedicated orthopedic surgeon in that market who has announced his retirement. There's been another surgeon over the last couple of years who started picking up cases, but the balance of what you see here on this screen is going to be those additional surgeons who are not doing cases at this particular surgery center.

There's a couple of new surgeons to the market that have just been recruited by private orthopedic groups that are affiliated with Training Health New England that are also bringing cases to the center. So it's really -- it's really a staffing increase of the number of orthopedic surgeons.

THE HEARING OFFICER: Okay. And those physicians that you speak of have indicated that they'll be

signing on for a membership interest in the new ASA?

THE WITNESS (Capone): They've all indicated they are going to do cases there.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): We're still working through the membership.

THE HEARING OFFICER: The membership component? Okay.

THE WITNESS (Capone): And then just going back to your GI question, I did get some data. It's going back up to the previous page there, 31. That increase seems to be -- and I'll have to give you an late file why, but it seems to be one of our lead GI physicians who had a pretty significant increase in volume from 22 to 23.

THE HEARING OFFICER: Okay. I'm going to stop sharing my screen for a moment. Actually -- no, I can probably do this.

So right now I'm showing you the completeness letter response.

(Pause.)

So this refers to page 32 of the application, so I'll pull that up. So from fiscal year 2023 to fiscal year 2026, based on these numbers, you're projecting a growth of 42 percent, which considers

volume change over three years. And that's a calculation that we performed, or the analysts performed based on the numbers that you have provided.

So you're projecting a 42 percent increase in volume change over the three years. If you compare only fiscal year 2023 to fiscal year 2026, the projection actually jumps up to a 184 percent increase. So the question that I have based on that -- actually I have a couple of questions.

The first one is, given the nationwide healthcare worker shortage and your noted difficulty in recruitment and retention, how can you be assured that you will be able to service this volume?

MR. DeBASSIO: Can I just interject? When you ask about their noted difficulty with recruiting and retention, are you referring specifically to the difficulties they've had with labor and delivery?

Because I don't believe Johnson Memorial is really on record as having other difficulties in terms of recruitment and retention.

THE HEARING OFFICER: In the transcript that was provided that was from the OB and the labor and delivery application, but they did speak in

general terms with respect to -- and I can pull up those pages. I think it's the last three page citations that were provided in that, in the notice and request for compliance.

MR. DeBASSIO: You're referring to Dr. Roose's testimony?

THE HEARING OFFICER: Correct.

THE WITNESS (Roose): I can certainly speak to, there are stark differences in the ability to recruit and retain workforce in settings such as these, as opposed to some settings that are some other settings.

And so that an ambulatory surgery center setting such as this which comes with, generally speaking, Monday through Friday work hours with no on-call services that maintains, you know, quality and efficiency is a highly attractive place for a worker workforce to be part of.

There are certain settings in hospitals or otherwise that come with, you know, on-call requirements or are in more remote rural -- rural locations where recruitment and retention can be more challenging.

That being said, there have been remarkable efforts to engage and grow services in those areas

as well, to which there have been some successes, and yet there are still some major challenges and others.

With the -- I will just say a comment. With the interest in this particular surgery center, there have been -- has been a significant level of staff that have expressed interest in working and do not see that recruitment as a barrier to us achieving and meeting community needs.

THE HEARING OFFICER: Has Trinity had any issues recruiting and retaining any healthcare workers with respect to their other ASCs or hospital outpatient departments?

THE WITNESS (Roose): I'll let -- I'll let Claudio comment if there was any challenges in recruitment that was noted in the other ambulatory surgery centers or ambulatory areas, but generally speaking, our outpatient areas have been well staffed.

THE WITNESS (Capone): Yeah. So for -- we have one ambulatory surgery center in Connecticut, the Lighthouse Surgery Center, which has not had challenges recruiting. As a matter of fact, has done pretty well at recruiting staff for all the reasons that Dr. Roose has mentioned.

THE HEARING OFFICER: So you stated in -- Ms. Bitsoli stated in her prefiled testimony, and earlier as well, that SG2 projects outpatient surgery to increase 10.2 percent in the Enfield market over the next 10 years.

And the question I have about that is, how do you reconcile this with your projected figures? Either a 42 percent increase by fiscal year 2026, or 184 percent increase by fiscal year 2026?

THE WITNESS (Capone): Yeah, so I'll answer that. So we use SG2 to compliment the projections going forward. So we took SG2's growth rate, so that's what's applied year over year, plus what the interested surgeons were bringing based on conversations with them, with the volumes that they see that they could bring to the center.

So the -- that's how we use SG2, as sort of calculating the -- first of all, to ensure that the demand is there, but second of all, to calculate the increase year over year.

THE HEARING OFFICER: If you don't see the expected increase and it's more in alignment with the SG2 numbers, would this be a sustainable facility if it was only a 10.2 percent increase over the next 10 years?

THE WITNESS (Capone): We haven't run the numbers, looking at it from that perspective, Hearing Officer. It's not something that we've done, so I can't answer that question.

THE HEARING OFFICER: Okay. And I think I would want that as a late file.

So you just mentioned that you were looking at SG2 plus the physician volume that you expect for the physicians who are going to be doing procedures at this facility. Have they provided any data to reflect there the amount of volume that they will be bringing?

THE WITNESS (Capone): Mostly --

THE HEARING OFFICER: Or has it just been sort of verbal, like off the cuff remarks?

THE WITNESS (Capone): Most of it -- most of it has been verbal conversations with them, understanding what volume they have, and then we -- we discount it. And then I mentioned in the application that we cross reference with our claims tool just to ensure that they're not overstating numbers.

THE HEARING OFFICER: Okay. So it sounds like a number of these physicians are already part of the Trinity network. Is that correct?

THE WITNESS (Capone): Correct.

THE HEARING OFFICER: Okay. So you do have a way of verifying that one way or the other?

THE WITNESS (Capone): Yeah.

MR. DeBASSIO: Just to clarify, your Honor, I believe the highlight of the point Mr. Capone has made, when they do that very verification, they apply a discount rate as well just to make sure that these projections are going to be more in line with what they can actually expect as opposed to, you know, under perfect conditions, and you see a hundred percent of that come over.

So even when they do get those numbers from the claims, you know, cross referenced with SG2, these are not 110 percent numbers. These are conservative numbers based on an analysis of those two figures.

Correct, Mr. Capone?

THE WITNESS (Capone): That's correct.

THE HEARING OFFICER: Okay. Thank you for that clarification.

MS. FAIELLA: This is Annie Faiella, a member of the OHS staff. I have a couple of questions.

It was said that you have most of the physicians identified who will have share in this joint venture. Are all the physicians going to

have equal shares, or are they going to have various level of ownership percentages?

THE WITNESS (Capone): So like any other ASC, a typical ASC, what you would see is they would own up to a certain percentage. So in aggregate they will own 49, up to 49 percent.

Individual surgeons can buy up to typically 2 percent. I think it's 5 percent. I'd have to double check, but I think it's 5 percent per each surgeon at the max.

MS. FAIELLA: So but it is possible that each surgeon will have a different ownership amount?

THE WITNESS (Capone): Yes.

MS. FAIELLA: Okay.

THE WITNESS (Capone): It'll vary between that, that two like I mentioned.

MS. FAIELLA: And then my other question is, I know you mentioned that most of these surgeons are already part of Trinity. Are they exclusively working with Trinity then?

THE WITNESS (Capone): The -- the private community physicians, some of them are not exclusive to Trinity. They may have relationships at other freestanding ASCs or they may be doing work at other hospitals.

Many physicians, as you know, have privileges not just at Trinity. They might have privileges elsewhere, so.

MS. FAIELLA: So then with that being said, the number of, or the volume that you're projecting to come from these surgeons, is this their total caseload or the caseload that they have at JMH already?

THE WITNESS (Capone): It's a combination of what they had at JMH plus any growth that they saw. Some of them bringing in new providers or new colleagues. So there's growth baked into that. Yeah.

MS. FAIELLA: So then there is a potential that some of that volume isn't going to be at JMH. It might be at another ASC location that they already have, that they have privileges at.

THE WITNESS (Capone): It could be. We did not ask them to identify by case which one is coming from where.

MS. FAIELLA: Okay. Thank you.

THE HEARING OFFICER: And then building on the question Annie just had, you state that some of the current caseload is sent to Johnson Memorial's main campus and some to St. Francis.

Is there a difference in the types of cases that are sent to Johnson Memorial versus St.

Francis?

THE WITNESS (Capone): I'll start there and ask Dr. Roose to jump in, but all the inpatient cases obviously are done at Johnson or St. Francis. And in any -- any case that is not deemed safe to do, any outpatient case that is not deemed safe to do in an outpatient surgery center like the current Johnson Center, because of comorbidities or technologies that are needed, then those are done either at -- at Johnson or St. Francis or Mercy, depending on where the patient is coming from.

I'll ask Dr. Roose to add to that.

THE WITNESS (Roose): I think that explains it. And if there's more specifics on that question, please let me know, but the capabilities at either facility, if the patients are not -- the needs are not able to be met in an ambulatory surgery center setting, then they will be done in a hospital.

And if the capabilities are there for them to be done at Johnson Memorial Hospital, then we would look to do them there based on patient and provider preference. And if -- if not, then St. Francis Hospital Medical Center.

THE HEARING OFFICER: Okay. Thank you.

Give me one moment.

(Pause.)

It was stated earlier that physician ownership will incentivize physicians to provide low cost, high quality care to patients. How does physician ownership incentivize lower costs?

THE WITNESS (Capone): I -- I can start there. And so typically what you see in ASCs, when you have physician ownership, being an owner, they're much more sensitive and involved with decision making, understanding the impact of sometimes purchasing equipment that might not necessarily serve all the needs, but might be costly, that the costs need to be passed down to the patient or making choices that are not really efficient for the whole surgery center.

So having physicians take the lead on that, specifically those who own the surgery center and have a vested interest in it -- we've seen in, not only in our local ASC, but some other ASCs throughout Trinity Health and other organizations that have been more successful in having more efficient turns of their patients, better outcomes, better quality. It's really letting -- letting the physicians lead that, especially those who are owners and have that interest.

I don't know if -- Dr. Roose, if you have any?

THE WITNESS (Roose): I think you articulated it well. It aligns all of the individuals involved in the care, particularly the -- the surgeons and physicians in ensuring that the environment is of the highest quality, but one that is operating as efficiently and as clinically oriented as possible.

So to limit, you know, any extraneous costs or services that aren't directly focused on the patient, and that helps lower the costs and ensure that access is met.

THE HEARING OFFICER: Are any of you aware of any peer reviewed articles, or anything that support that, that contention that physician ownership drives lower costs?

THE WITNESS (Capone): We would have to do a -- I don't have anything up the top of my head, Hearing Officer, at this point.

THE HEARING OFFICER: Similarly, are you aware of any documents that support the claim that it incentivizes higher quality?

THE WITNESS (Capone): Yeah. We -- we would have to do a search, and I don't have anything that comes to

mind at this moment.

THE HEARING OFFICER: So we can indicate that those are late files, and to the extent that you're able to provide something to support those claims, I think that would be helpful.

THE WITNESS (Capone): Sure. Absolutely.

THE HEARING OFFICER: I understand that you don't have anything in particular in mind. So if it doesn't exist, it doesn't exist. We'll have to take your word for it.

THE WITNESS (Capone): Yeah. We're just -- my response is based on performance of our existing surgery center and other surgery centers that other organizations that I've worked at or are part of Trinity Health. So we have seen, you know, quality and performance improvements.

THE WITNESS (Bitsoli): And I would just add just the other thing we know is by getting the key stakeholders involved in it at the table, when the provider or doctor is at the table in the dialogue, what we typically do see because they're a key stakeholder is outcomes are better.

THE HEARING OFFICER: Okay.

MR. DeBASSIO: I would also note attached to the CON, at page 75, I believe is an article from the

American Academy of Orthopedic Surgeons that discusses this very issue.

THE HEARING OFFICER: Okay. Thank you.

On page 23 of the application, the Applicant states that the average cost for a commercially insured patient will drop from 864 to 518 dollars as a result of the proposal. I was wondering what accounts for that drop?

Is that solely the hospital facility fee, or are there other factors involved there?

THE WITNESS (Capone): That's primarily the facility fee that's driving that, that decline.

THE HEARING OFFICER: So you say primarily. Are there other factors, or is it just the facility fee?

THE WITNESS (Capone): That there could be in there, and it depends on the case. It really depends on the type of equipment being used. The -- if it's a total joint, you know, the types of screws, I mean, what's being charged to the -- to the patient.

These centers typically will -- will look to maximize the efficiency of which -- which equipment they're using as well. So some of those costs do not get passed on to patients. So it would depend on -- on the case, Hearing Officer.

We'd have to identify beyond just the facility fee, which would be universal, universal on this. It would come down to individual case.

THE HEARING OFFICER: Okay. I want to turn our attention to financial feasibility now. We have already asked some questions about that, but these will be more pointed and more specific.

So with respect to the organizational structure that you've decided upon, you indicated in the application that you had considered a few different joint venture partnership options; one included an ASC management company. Why did you decline to go that route?

Was it simply that you didn't want to provide an equity stake in the center, or were there other factors?

THE WITNESS (Capone): So there's -- there's two factors to it. One is that, that we -- we chose not to provide an equity stake, and then the second is Trinity Health itself is building that function. They've hired an ASC leader who's building the management component as we speak.

And we'll be -- this will be one of the first sites that she will be overseeing and helping us manage. So -- and that was -- that happened after

the CON was -- was filed.

THE HEARING OFFICER: Okay. And what benefits does that offer over having an ASC management company involved?

THE WITNESS (Capone): The only benefit would be the ownership stake at this point in time, because we haven't really costed out that if, you know, is there a significant difference in the management costs?

It's really just the ownership stake at this point. So having Trinity own 50 -- 51 percent versus having to have a management company own a certain percentage of it. And it's something our physicians were also interested as well.

THE HEARING OFFICER: Okay. On pages 43 and 44 of the application, there's a number of physicians who are identified by specialties. They aren't identified by names.

Can you just talk a little bit more about why those were listed there and how they were identified to be listed?

THE WITNESS (Capone): Well, that question asks, provide the number of physicians and their specialties that will utilize the new outpatient surgical facility. So we went ahead and -- and

listed the breakout there of -- of physicians by type, you know, attempting to answer that, that question. And we kept their names blinded for confidentiality at this point.

THE HEARING OFFICER: Okay. And those are essentially the ones that you expect most of them will want to have a membership interest at this new surgical facility?

THE WITNESS (Capone): That that's correct.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): This makes up almost the whole list, yeah. It ebbs and flows. It changes as you can imagine, so.

THE HEARING OFFICER: So the name of the new facility will be Enfield Surgery Center. Correct?

THE WITNESS (Capone): That's -- that's the proposed name, yes, the final name.

THE HEARING OFFICER: Okay. So I noticed in the operating agreement that it says Trinity's name will not be associated with the facility unless it gives authority to do that.

I was just curious if there's a reason why Trinity doesn't want to have its name specifically within the surgery center name, or maybe I'm misreading that. And I'm happy to pull that up if

it would be helpful.

THE WITNESS (Capone): Yeah, if you don't mind pulling up, that would be great so I can reference it.

THE HEARING OFFICER: Just give me one moment.

THE WITNESS (Capone): It's page 13 of the operating agreement.

THE HEARING OFFICER: Yeah. It's that section here.

THE WITNESS (Capone): Yeah, that is -- that's standard language for our joint ventures from Trinity Health. So in this case, if they wanted to use Trinity Health in the name of the surgery center, it would have to be through prior written consent.

THE HEARING OFFICER: Okay. So we talked a little bit about voting rights earlier and how those will line up with the membership interests. I know that it will be 102 membership units for Trinity and 98 for the physician members. And then the governing board will be made up of six individuals, two representing Trinity and four representing the physicians.

Do the voting rights line up directly with the membership units?

THE WITNESS (Capone): There are reserve powers listed in the -- in the governing agreements such as impacting our not-for-profit status or our -- our

Catholic ERDs, among some of the things there, Hearing Officer.

THE HEARING OFFICER: I recall seeing that, okay.

THE WITNESS (Capone): Yeah.

THE HEARING OFFICER: Generally speaking though, if -- for all other cases, other than the ones that you just identified or that are specifically identified in other parts of the operating agreement, if the two Trinity members were to vote for an action and then the four physician owners were to vote against it, the Trinity votes would overtake the physician members. Is that correct?

THE WITNESS (Capone): I -- I believe it's -- it's subject to the topics at hand. There are --

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): Yeah, I'd have to look at the reserve powers again.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): The intent is that we run this as a physician-led organization. But the -- the reserve powers were critical for us because of those things that we wanted to preserve that I mentioned before.

THE HEARING OFFICER: Okay. So Trinity Health of New England has three hospitals. Do you expect that

this will cause any sort of shortages at the other hospitals by people wanting to move or perform all of their services at this new surgery center, versus Lighthouse or one of the other hospitals?

THE WITNESS (Capone): We don't anticipate having that effect right now because those cases are -- are being done at Johnson for the -- for the most part.

It would -- it would just be speculation that, you know, for me to say that Lighthouse would be impacted per se. I -- I wouldn't know.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): And again, as you know, employees and staff can move freely if they wanted to leave that organization and -- and go work at the Enfield Surgery Center at their own -- at their own wish. They can do that.

If surgeons want to bring cases there, again you know it's driven by the surgeon and the patient agreeing to do cases there. So we're not -- it's hard to speculate whether or not there's going to be an impact.

THE HEARING OFFICER: And I may need the analysts to help me out with this, but somewhere in the application, I recall reading, it said outreach to

certain positions -- or excuse me, outreach had been done to surgeons who expressed interest in working at JMH, but chose not to. I was wondering if any reasons had been provided by those surgeons for why they didn't want to work at JMH.

THE WITNESS (Capone): Sure, so some of those is because of the layout of the facility. They couldn't do cases because they couldn't fit their towers in, or they were facility-based -- or hospital-based, excuse me, and there was a facility fee and they were getting denials. And so they chose to bring their cases that they were doing at Johnson elsewhere.

And some of the other items that they brought up is just the efficiency of the center. It's -- ir's dated now. It's built in the '80s. It doesn't have all the technology that they see in other -- or that they need to do cases, or they've become accustomed to new, newer technology. So those are the reasons they gave that they stopped doing cases at the Johnson Surgery Center.

THE HEARING OFFICER: Okay. I think that's all the questions I have on those organizational sorts of issues.

Keeping with financial feasibility and costs

and that sort of area of questioning, now I wanted to talk a little bit about construction and the progress that has been made on the facility. Ms. Bitsoli said earlier and in her pre-filed testimony that it's nearing completion.

I was wondering first, when did construction actually begin?

THE WITNESS (Roose): (Unintelligible.)

THE WITNESS (Capone): Go ahead, Dr. Roose. I'm sorry.

THE WITNESS (Roose): No, are you aware of the date when it began?

THE WITNESS (Capone): I -- I don't recall the exact date that we -- we started. I know Debbie does.

THE WITNESS (Bitsoli): I don't know the exact date, Claudio.

THE HEARING OFFICER: Do you know what year it was? Maybe we could try to narrow it down a little bit. I know that the plan sort of was concocted in 2018 as part of that services plan -- or I can't recall what it was called, facility plan.

THE WITNESS (Capone): Yeah, I'll have to give you that information in the late file because there's several phases. We started with the cancer center. I remember that starting a couple of years ago, two years ago or so. That's when the

cancer center started.

That's part of the, what we call the Enfield campus revitalization plan. And that was completed in -- in August of last year. That was -- that was that piece of the project. The ASCMOB started months after that. I just don't have the exact date of when that started.

THE HEARING OFFICER: Okay. So we can take that as a late file.

One more question on that, though. Do you happen to know whether it was before or after you filed the CON application?

THE WITNESS (Capone): It was before.

THE HEARING OFFICER: Okay. So how far along is the facility at this point? Ms. Bitsoli said earlier, it's projected to be done this month. Is that still the case? And if so, when?

THE WITNESS (Bitsoli): It is still a case. We expect to get the certificate of occupancy next week.

THE HEARING OFFICER: Okay. So it sounds like it's already done. You just have that one last administrative component to bring about?

THE WITNESS (Bitsoli): That's right.

THE HEARING OFFICER: And is the project currently on target with its projected capital expenditures?

Or now that it's essentially done, is it on target?

THE WITNESS (Capone): The -- the ASC?

THE HEARING OFFICER: Yes.

THE WITNESS (Capone): So the ASC, I'd have to cross-reference with the 17 million that's in there, but it has -- there have been some inflationary overruns because of the cost of construction going up. I'd have to double check that 17 million if it captured that increase, because that happened about a year ago, a little over a year ago is when inflation started impacting the cost of the -- of the ASC.

And so just that you're aware, it's a little complicated because it's three projects all in one, and the CON was filed for the ASC, the cancer center, the MOB, the imaging center, and ASC. So you have, you know, multiple projects all rolled up into one construction budget. So I'll have to peel that out for you.

THE HEARING OFFICER: Okay. I think we would like that as a late file as well.

So keeping with that topic, a large part of the financing for this facility was supposed to come from those physicians who were going to have

membership interests in the new ASC. Since those haven't -- since those, they haven't been contractually obligated and they haven't put in there their money into the project yet, how has that been funded, that component of it?

THE WITNESS (Capone): Through Trinity Health.

THE HEARING OFFICER: Okay. And how will the reimbursement work? The physicians will just pay, instead of paying the money into the LLC, the Enfield Surgery Center, they'll pay it directly into Trinity, sort of to repay Trinity?

THE WITNESS (Capone): They'll pay the LLC. The LLC will repay Trinity.

THE HEARING OFFICER: Okay. Will there be any sort of -- I don't know why there would be, but will there be any sort of interests or fees that will be put onto that? Okay.

THE WITNESS (Capone): There's none.

THE HEARING OFFICER: If the application is not approved, what would be your intentions with respect to the building that has been completed?

THE WITNESS (Capone): It would -- it would operate as the current Johnson Surgery Center, as the HOPD.

THE HEARING OFFICER: Okay. So you would still -- it would still be the HOPD. It's just that

everything would be moved over to the new entity, the new facility?

THE WITNESS (Capone): The facility, right.

THE HEARING OFFICER: And what would happen to the old facility?

THE WITNESS (Capone): That needs to be torn down.

THE HEARING OFFICER: Okay. So you're not planning to repurpose it. It's just going to be torn down and?

THE WITNESS (Capone): It's -- it's past its useful life at this point, so we're going to look to -- it needed to be renovated, so rather than renovating, we'll tear it down and it will -- it will serve as a parking adjacent to the building, making it much easier for patients to get in.

THE HEARING OFFICER: Okay. So we wanted to talk more about the funding -- actually, let's take another five minute break or so.

THE WITNESS (Capone): Okay.

THE HEARING OFFICER: Let's come back at 11:20.

And again -- well, let me just say for anybody attending from the public, sign up for public comment is happening right now. So if you do want to make a statement, you can provide your name in the Zoom chat, and then we will allot you

some time at twelve o'clock to make whatever statement you have. We're also accepting written public comment through CONcomment@CT.gov.

And a reminder to everybody who's here is that anything you say or do will probably be visible on camera, even though we will not be recording. So just keep that in mind.

Thank you. We'll see you back at 11:20.

(Pause: 11:14 a.m. to 11:23 a.m.)

THE HEARING OFFICER: Okay. I think we've gotten everybody back. Sorry, it's a few minutes after 11:20.

Welcome back. This is the matter. Docket Number 32692. It's Johnson Memorial Hospital's application to establish a new ASC Enfield surgery center.

A reminder to the public again that public comment sign up is occurring right now. If you would like to make a statement at 12, you're free to do so as long as you sign up in the chat box. We're going to jump back into the technical portion of today's hearing for right now. And these next set of questions are going to talk

about funding sources and things along those lines.

So the first question I have is, so the application lists a capital expenditure of 17.8 million. In response to the hearing issues, JMH stated that 7.2 million would be coming from Trinity Health and physician partners. So where is the remaining 10.6 million coming from?

THE WITNESS (Capone): It comes from Trinity Health corporate.

THE HEARING OFFICER: And you made mention of 10 million being tenant improvements under the lease.

Can you explain that a little bit more?

THE WITNESS (Capone): Those are the -- the fit out furnishings, equipment just to -- to run the site. So that's being added on to the lease. Like standard practice, you can either pay it up front or pay it over time. In this case, we -- we have it being paid over time.

THE HEARING OFFICER: Okay. There were some attachments that I sent over a few days ago to notice and request for compliance. Some of those were publications by Trinity regarding the $10 million donation from Prestley Blake, which was earmarked for the establishment of a new

ambulatory care center in Enfield.

Can you describe how that factors in here to this project and this proposal?

THE WITNESS (Capone): Mr. Blake's donation is for the for the -- for the core and shell. Some of it goes towards the core and shell, not the ASC. So it's not -- it's not it's not being used for this ASC.

The total project is a much larger cost than the 17 million. So he has -- his family has naming rights for the cancer center, which we've already used and naming rights on the facility that the ASC is going to be housed in. And so -- so his donations are going towards supporting that.

And on the first floor, he wants -- he wanted a memorial to -- he's the founder of Friendly's. So he wanted a memorial to the -- to the Friendly's business that he founded on the first floor, which is not in the ASC.

THE HEARING OFFICER: Okay. I'm just trying to understand this a little better. So your earlier projections said there would be a total investment of 7.7 million with 3.9 coming from Trinity Health and 3.8 coming from the physicians. And then you

just said the remaining, you know, 10 million or so was coming from Trinity.

Is that correct, Mr. Capone?

THE WITNESS (Capone): It's being paid up front by Trinity, but that's the -- I believe that's the tenant improvement that you're seeing spread out over time.

THE HEARING OFFICER: Okay. So that's why it was broken down in that way?

THE WITNESS (Capone): Correct.

THE HEARING OFFICER: Okay.

THE WITNESS (Capone): Yeah.

THE HEARING OFFICER: So the 3.9 is not considered tenant improvement. That's just an upfront payment?

THE WITNESS (Capone): That's -- that's the buy in to the existing -- when I say existing center, it's the new center. So it's the -- it's the value of the equipment that is coming over from Johnson. We're reusing equipment to save money.

So there's -- there's that equipment that's coming over, for example, to -- to the new center. And so there was a fair market valuation done, done in that equipment and the business itself. And so that that equates to the -- the dollar

amount that you see there.

THE HEARING OFFICER: Okay. Thank you.

So --

THE WITNESS (Capone): Sorry, I missed a part. The legal fees as well, and some of the consulting work is -- is a past due cost as well. I missed that. So that that makes up part of that, of that dollar amount.

THE HEARING OFFICER: I understand that lawyers have to get paid, so I appreciate that.

So when we took that five minute break, we looked at the HRS hospital reporting system financial report for 2023 and JMH listed over 23 million for the construction of the Enfield ambulatory surgery center.

Is that in line with what your expectations are with respect to the inflationary increases?

THE WITNESS (Capone): I'm -- I'm not familiar with that, what that $23 million is. I'm sorry. I'm not involved in HRS reporting. So I'm not sure what that entails.

THE WITNESS (Roose): And might I just clarify that ambulatory care center and ambulatory surgery center are not synonymous. They're not the same thing. So ambulatory care center represents a

broader array of services than the surgery center.

Just to make sure that that's clear, the ambulatory care center is inclusive of other services on that campus, which were part of the larger campaign that Claudio was referring to. So without having the submission in front of me to reference, if that was referencing a cost for more campus related renovations and capital investments, it was broader than just the surgery center.

THE HEARING OFFICER: Okay. We'll take a look at that and we'll try to identify or determine whether it applies more broadly to the ambulatory care center versus the surgery center itself.

THE WITNESS (Roose): Yeah.

THE HEARING OFFICER: So I think we'll have some more questions about that, but I'm going to move on right now. I've asked one of the analysts to take a look at it.

THE WITNESS (Roose): Okay.

THE HEARING OFFICER: I think this has sort of been addressed at a couple of points up until now, but I'll ask the question anyway.

Dr. Roose, in the OB termination docket, here you testified that, quote, the sustainability of

hospitals in the current health care environment is one that is being considered. Right now there are many hospitals, Johnson Memorial Hospital included, for which financial sustainability is a concern.

And then he went on to confirm that L and D wasn't the only cause of financial distress and that you could not comment on whether JMH was planning to terminate other services. So that's in, for this docket, Exhibit O, Bates pages 160 to 161.

So given your prior testimony, can you explain how the use of the monies for this project in which you will, JMH will only have a 51 percent interest is in the best interests of JMH long term?

THE WITNESS (Roose): Sure.

THE HEARING OFFICER: Or Mr. Capone or anyone else. It doesn't necessarily have to be you specifically.

THE WITNESS (Roose): The -- the Enfield campus is an incredibly important part of Johnson Memorial Hospital. And the success and the growth of services in Enfield connect very clearly to the performance and success of the hospital campus in Stafford Springs, as they are connected, as they

are related, and as they are part of the same entity.

So recognizing where health care has shifted from inpatient to outpatient and developing a state-of-the-art campus, which includes multiple services, including a state-of-the-art surgical center, with a opportunity for growth and to best meet community need, will continue to make Johnson Memorial Hospital stronger.

The proposal itself then thus is not expected to have any negative impact on the viability of the campus in Stafford, and the performance and the growth in Enfield will strengthen Johnson Memorial Hospital overall.

THE HEARING OFFICER: Okay. Thank you. We did pull up the HRS filing and it says the 23 million is dedicated specifically to construction of Enfield Ambulatory Surgery Center. So --

THE WITNESS (Roose): We may have to take that under advisement and provide comment in a late file to ensure that that was accurately designated, but.

THE HEARING OFFICER: Okay.

THE WITNESS (Roose): Yeah.

THE HEARING OFFICER: So those are -- I believe that's an audited financial statement. So we can -- we

took administrative notice of that, but we can supply you with a copy as well.

THE WITNESS (Roose): Uh-huh.

THE HEARING OFFICER: Actually, let's take a five minute break and I will see if I can pull that up. That way you can have that available and try to make some sense of it. So let's come back at 11:40.

(Pause: 11:35 a.m. to 11:40 a.m.)

THE HEARING OFFICER: Okay. I think we have everybody. Welcome back. This is Docket Number 32692. It's a hearing regarding Johnson Memorial Hospital's proposed establishment of a new ASC in Enfield.

Again, public comment sign up is going on right now. It will continue until 12. Currently, we don't have anyone signed up.

I went off the record a moment ago to try to figure out whether any questions could be asked regarding the 23 million in the HRS filing. I think the better approach will be to make that report 100 from the hospital resource, or hospital reporting system part of the record and give JMH

an opportunity to respond to it and explain the price increases or the expenditure increases that have occurred rather than try to ask pointed questions about it right now.

So we will send -- Attorney DeBassio, I will send that to you after the hearing by e-mail and we will also make it part of the hearing record as well. Does that work for you?

MR. DeBASSIO: Yes, that works for us. And I think that's the right approach given that there is some confusion about where that number came from, and sort of unwrapping it in a public hearing like this is just going to probably lend itself to more confusion.

THE HEARING OFFICER: Yeah, I don't -- I'm not interested in conjecture. I'm just interested in actual verifiable information. So with that, I don't have any more questions. The analysts also do not have any other questions. So we're going to break until noon.

Actually, Attorney DeBassio, did you want an opportunity to respond to any of the testimony that was given or any of the questions that were asked?

MR. DeBASSIO: No, not at this point. I'd just like an

opportunity to make a brief closing statement before we go to -- before we take a break and go to public comment at noon.

THE HEARING OFFICER: Okay.

MR. DeBASSIO: I believe that's the way the agenda is structured.

THE HEARING OFFICER: Yeah, that's the way the agenda is.

MR. DeBASSIO: I'm happy to hold that off until after public comment if that pleases the Hearing Officer.

THE HEARING OFFICER: I think that would be a better use of our time. I want to go through the late files with the analysts and make sure we have those solidified, and we will run through those after public comment, too. And then we can do your closing statement.

MR. DeBASSIO: That's absolutely fine. I just wanted to be clear based on the agenda. I wasn't waving that right.

THE HEARING OFFICER: I appreciate that. Thank you.

Just a reminder to the Witnesses that you are expected to remain with us until after public comment, assuming there is any public comment. So I will see everybody back here at twelve.

MR. DeBASSIO: Can I just ask a quick technical question? I apologize. I didn't mean to interrupt you.

If we're coming back on at twelve, if we all log off, can we use the same link to log back on at twelve? Or should we just leave this link open with the cameras off and muted?

THE HEARING OFFICER: You can log off and log back on using the same link.

MR. DeBASSIO: Okay. Thank you.

THE HEARING OFFICER: Thank you.

(Pause: 11:45 a.m. to 12:01 p.m.)

THE HEARING OFFICER: Okay. We're all back. You can start recording.

Welcome back. For those just joining us, this is the second portion of today's hearing concerning a CON application filed by Johnson Memorial Hospital. It's Docket Number 23-32692-CON. We had the technical portion this morning.

The public hearing, or public comment sign up started at eleven and ended at noon. We have not had anyone sign up. So there will not be any

public comment made at today's hearing. However, for anyone watching or for anyone who watches this after the fact, you're free to submit written public comment up to seven days from today's date to CONcomment@CT.gov.

So now I'm just going to go through the late files, and then we will take a closing statement from Attorney DeBassio. The Witnesses are free to leave or they can stick around if they'd like. It's entirely up to them, but we will have no further questions of you unless your attorney has some additional questions for you.

So DeBassio, can they be relieved or?

MR. DeBASSIO: Yes, they can. I have no additional questions.

THE HEARING OFFICER: Okay -- actually, maybe I shouldn't have said that. We may need them for the late files just to provide some additional clarification.

So the first one I have is the meeting minutes relative to the decision to terminate Johnson Surgery Center and establish the new facility.

(Late-Filed Exhibit Number 1, marked for identification and noted in index.)

THE HEARING OFFICER: The second one, and again, I will put this all in an order so that you have everything itemized. The second one is five years of projected utilization for oral surgery, along with an explanation of the projections.

(Late-Filed Exhibit Number 2, marked for identification and noted in index.)

THE HEARING OFFICER: Five years of projected payer mix for oral surgery. That's Number 3.

(Late-Filed Exhibit Number 3, marked for identification and noted in index.)

THE HEARING OFFICER: Number 4 is analysis and explanation of whether using the SG2 10.2 percent volume increase will be financially feasible.

(Late-Filed Exhibit Number 4, marked for identification and noted in index.)

THE HEARING OFFICER: Number 5 is professional publications and/or support from Trinity's other facilities that physician ownership incentivizes lower costs and better quality outcomes.

(Late-Filed Exhibit Number 5, marked for identification and noted in index.)

THE HEARING OFFICER: Number 6 is date on which construction of the new surgery center began.

(Late-Filed Exhibit Number 6, marked for identification and noted in index.)

THE HEARING OFFICER: Number 7 is updated breakdown of costs to include inflation.

(Late-Filed Exhibit Number 7, marked for identification and noted in index.)

THE HEARING OFFICER: Number 8 is a reconciliation of the capital expenditure in HRS report 100. That's the 23 million versus the proposed capital expenditure listed in the application, which was the 10 million. And that's the construction cost

specifically.

(Late-Filed Exhibit Number 8, marked for identification and noted in index.)

THE HEARING OFFICER: And then in reference to Connecticut General Statutes 19a-508c, this will probably be something more appropriate for Attorney DeBassio to respond to, but whether the existing facility is considered a hospital-based facility under that statute and any determination by CMS as to whether the existing facility is considered part of JMH's hospital campus as that is defined under the statute.

(Late-Filed Exhibit Number 9, marked for identification and noted in index.)

THE HEARING OFFICER: So those are the late files as I have them listed here. Attorney DeBassio, is that consistent with your own records?

MR. DeBASSIO: In consideration of everybody's time here, I have numerous pages of notes. Would it be more appropriate to get your written order and then if I believe one of them was not discussed, I

can object at that point?
THE HEARING OFFICER: Sure.
MR. DeBASSIO: Rather than have everybody sit here and watch me read through pages and pages of notes?
THE HEARING OFFICER: Yeah, that's fine.
MR. DeBASSIO: I can't say -- as I read through your list, that seems to be the whole realm of everything that we talked about in terms of late files. But without going through my notes particularly, I can't say definitively that that's what I have in my notes.
THE HEARING OFFICER: I understand. Thank you.
MR. DeBASSIO: And just in terms of housekeeping -- and you may be getting to this, and again if that's so, I apologize for curtailing it. I believe we agreed that that HRS report that you cited, is that going to become part of the record as Exhibit Q?
THE HEARING OFFICER: I don't know what letter would be assigned to it, but it will become part of the record.
MR. DeBASSIO: But the next sequential?
THE HEARING OFFICER: Yeah.
MR. DeBASSIO: Whatever letter it gets assigned, it's the next in the sequence?

THE HEARING OFFICER: Yes.

MR. DeBASSIO: Yes.

THE HEARING OFFICER: And also, I mentioned this at the start of the hearing, but I know that you filed the motion to seal or the motion for protective order. I haven't opened it yet, so I don't know how you framed it. So I'll need to rule on that, and that will be forthcoming.

MR. DeBASSIO: And we so discussed, and we understand that OHS may call us back for either executive session or if you deny the motion to brief hearing, if there are going to be any questions on those documents as well.

THE HEARING OFFICER: Okay. So that is all I have at this time.

Attorney DeBassio, you are free to make a closing statement if you would like.

MR. DeBASSIO: Thank you. Just briefly, we were here today for the Certificate of Need application for the termination of the hospital license at Johnson Surgical Center and concurrently for the establishment of an outpatient surgical center.

Johnson Memorial Hospital is seeking approval to convert its four operating room licensed surgery center located at 148 Hazard Avenue,

Enfield, Connecticut, from a hospital-based outpatient department to a freestanding outpatient surgical facility located adjacent to the existing site.

Technically, there are no services being terminated in the market, just a replacement of a hospital outpatient department surgery center with an ambulatory surgery center that will provide additional services. JMH is requesting approval to restructure the ownership of this ambulatory surgery center to a joint venture known as the Enfield Surgery Center. Trinity Health of New England will own a 51 percent majority ownership, and physicians will hold the remaining 49 percent membership interest.

The current Johnson Surgery Center is outdated and is outliving its useful lifespan. Therefore, a replacement ambulatory surgery center is being built and is placed directly adjacent to the existing site. The replacement ambulatory surgery center will be licensed for the same four operating rooms and two procedure rooms. At the start of business, three operating rooms will be operational with a fourth coming online as the demand increases.

This new state-of-the-art ambulatory surgery center on the Enfield campus will better meet the needs of the community, improving access to low-cost, high-value surgical care.

This initiative will benefit the community in the following ways. It will increase value and access for our patients. It will complement the industry trend of low acuity inpatient surgical cases shifting to outpatient settings. It will provide expanded surgical care in a modern, efficient surgery center and it will complement the industry trend of joint ventures between physicians and hospitals improving physician alignment and engagement.

I want to thank OHS and its analysts for their time and attention and I want to thank the representatives of Johnson Memorial for their testimony and their time today, and we would respectfully submit that this certificate of need should be approved as it benefits all of the stakeholders in Johnson Memorial's primary service area. Thank you.

THE HEARING OFFICER: Thank you, counsel.

It was brought to my attention that there is one more housekeeping matter that we need to

address. When would you like the late files to be submitted? Or when do you think you'll be able to submit them? And that that may be up to your clients.

If you'd like to take a few minutes to discuss, we can go off the record and then come back.

MR. DeBASSIO: Why don't we say three weeks and we can move for an extension of time if that's not enough time? I know my clients don't want to overly delay the whole application process.

THE HEARING OFFICER: Yeah.

MR. DeBASSIO: But I don't want to put them on the spot in terms of meeting a deadline they can't make.

THE HEARING OFFICER: I'm fine with three weeks. So I'll say three weeks, and if you get it filed sooner then you get it filed sooner.

MR. DeBASSIO: Well, then obviously we'll do our best to get it filed as soon as we can.

THE HEARING OFFICER: If you do need an extension that's also fine as well. I don't want to foreclose that as an option.

MR. DeBASSIO: No, and I appreciate that. I just know that my Witnesses working at the hospital, their attention is pulled in many directions with many

urgent matters that they have to address.

So this is certainly at the top of their list, but I know that the day-to-day business of their operations is also very time consuming.

THE HEARING OFFICER: Okay. Well thank you all for attending. Thank you, Mr. Capone. Thank you, Dr. Roose and Ms. Bitsoli. Thank you as well to Attorney DeBassio, and thank you to everyone else who was in attendance today.

A reminder that written public comment can be submitted up to seven days from now at CONcomment@CT.gov.

This hearing is hereby adjourned, but the record will remain open until closed by OHS after receipt and review of the late files. So thank you, everyone, and have a good day.

(End: 12:12 p.m.)

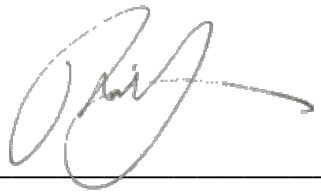
STATE OF CONNECTICUT

I, ROBERT G. DIXON, a Certified Verbatim Reporter within and for the State of Connecticut, do hereby certify that I took the above 111 pages of proceedings in the STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC HEALTH, OFFICE OF HEALTH STRATEGY, APPLICATION & PUBLIC HEARING In Re: JOHNSON MEMORIAL HOSPITAL, Docket No. 23-32692-CON; CERTIFICATE OF NEED APPLICATION, PROPOSAL TO ESTABLISH A FREESTANDING OUTPATIENT SURGICAL FACILITY ADJACENT TO ITS CURRENT SURGERY CENTER AT 148 HAZARD AVENUE, ENFIELD, CONNECTICUT, 06082, WHICH WILL BE TERMINATED FROM THE HOSPITAL LICENSE, held before: DANIEL CSUKA, ESQ., THE HEARING OFFICER, on May 22, 2024, (via teleconference).

I further certify that the within testimony was taken by me stenographically and reduced to typewritten form under my direction by means of computer assisted transcription; and I further certify that said deposition is a true record of the testimony given in these proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

WITNESS my hand and seal the 6th day of June, 2024.



Robert G. Dixon, N.P., CVR-M No. 857

My Commission Expires 6/30/2025

INDEX

WITNESSES	PAGE
Deborah Bitsoli	
Dr. Robert Roose	
Claudio Capone	15

CON EXHIBITS

LETTER		PAGE
A	JMH ASC CON Packet.pdf	7
B	Public Notice Proof.pdf	7
C	Public Notice- JI.pdf	7
D	Completeness Letter #1.pdf	7
E	Response to CL#1.docx	7
F	Deemed Complete Letter.pdf	7
G	Notice of Hearing.pdf	7
H	Newspaper Hearing Notice.pdf	7
I	Prefiled Testimony and Issue Responses.pdf	7
J	Newspaper Publication.pdf	7
K	Response to Public Hearing Issues 1.docx	7
L	Operating Agreement Enfield ASC).pdf	7
M	JMH Surgery Hearing Prefile draft # 1.docx	7
N	JMH Appearance re ASC 5.1.24.pdf	7
O	Notice and Request for Compliance.pdf	7
P	Response to Request for Compliance.pdf	7
Q	Hearing Agenda.pdf	7
R	Pre-Hearing Table of Record.pdf	7
S	Applicant's Motion to Seal.pdf	8
T	Affidavit in Support of Motion to Seal.pdf	8

CON Exhibits available on CON portal.

LATE FILED EXHIBITS

NUMBER		PAGE
1	Meeting minutes to terminate JSC	103
2	5 Years utilization for oral surgery	103
3	5 Years payer mix for oral surgery	103
4	SG2 10.2% increase feasibity	103
5	Physician ownership lowers costs/outcomes	104
6	Date construction new surgery center began	104
7	Updated costs breakdown with inflation	104
8	Cap-ex reconciliation in HRS report 100	105
9	19a-508c if JMH is hospital-based facility	105