



Office of Health Care Access Certificate of Need Application

Decision

Applicants: Sharon Hospital, Inc. and Essent Healthcare of Connecticut, Inc.

Docket Number: 01-533

Project Title: Purchase of Sharon Hospital by Essent Healthcare of Connecticut, Inc.

Statutory Reference: Sections 19a-638 and 19a-639, Connecticut General Statutes

Filing Date: February 27, 2002

Decision Date: March 27, 2002

Default Date: May 28, 2002

Staff: Susan Cole, Kimberly Martone, Laura Jaworski

Project Description: Sharon Hospital, Inc. and Essent Healthcare of Connecticut, Inc. (“Applicants”) propose the transfer of ownership of Sharon Hospital (“Hospital”) to Essent Healthcare of Connecticut, Inc. (“Essent”) at a total capital expenditure of \$16,390,000.

Nature of Proceedings: On February 27, 2002, the Office of Health Care Access (“OHCA”) received the Applicants’ Certificate of Need (“CON”) application seeking authorization to transfer the Hospital’s ownership to Essent at a total capital expenditure of \$16,390,000. The Applicants are health care facilities or institutions as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

A public hearing regarding the CON application was held on March 21, 2002. The Applicants were notified of the date, time, and place of the hearing and a notice to the public was published prior to the hearing in *American Republican* in Waterbury, *The*

Litchfield County Times, and *Northeast Minority News*. Commissioner Raymond J. Gorman served as presiding officer for this case. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedures Act (Chapter 54 of the Connecticut General Statutes) and Sections 19a-638 and 19a-639, C.G.S.

The Community Association to Save Sharon Hospital (“CASSH”) petitioned for party, or in the alternative, intervenor status. OHCA granted CASSH status as an informal participant. The Permanent Commission on the Status of Women (“PCSW”) petitioned for intervenor status. OHCA granted PCSW status as an intervenor with limited rights. The Connecticut Coalition for Choice (“the Coalition”) petitioned for intervenor status. OHCA granted the Coalition status as an informal participant.

OHCA’s authority to review, approve, modify or deny this proposal is established by Sections 19a-638 and 19a-639, C.G.S. The provisions of these sections, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were considered by OHCA in its review.

Findings of Fact

Clear Public Need

Contribution of the Proposal to the Quality and Accessibility of Health Care Delivery in the Region

Impact of the Proposal on the Interests of Consumers of Health Care Services and Payers for Such Services

1. Sharon Hospital is a licensed, full-service, acute care hospital located in Sharon, Connecticut. (*October 5, 2001, CON application, page 2*)
2. The Hospital is licensed for 78 general hospital beds and 16 bassinets, including 41 medical/surgical beds, 11 intensive care/critical care unit beds, 8 obstetric and gynecological beds, 6 pediatric beds, 16 newborn nursery beds and a 12-bed inpatient/partial hospitalization geriatric behavioral medicine unit. (*October 5, 2001, CON application, page 2*)
3. The Hospital’s services include a 24-hour emergency room, MRI, CT scan, nuclear medicine, mammography, oncology, cardiopulmonary services, physical therapy, imaging, ultrasound, laboratory, pediatrics, obstetric/gynecology, occupational therapy, respiratory therapy and outpatient surgery. (*October 5, 2001, CON application, page 2*)
4. Essent Healthcare of Connecticut, Inc. is a wholly owned subsidiary of Essent Healthcare, Inc. Essent Healthcare, Inc., a for-profit business entity in Nashville, Tennessee, is engaged in the business of owning and operating community hospitals and currently owns and operates Crossroads Regional Hospital in Wentzville,

Missouri and Merrimack Valley Hospital in Haverhill, Massachusetts. *(October 17, 2001, Final Decision, Docket Number 01-486-01, page 4)*

5. The Hospital's primary service area municipalities in Connecticut include Sharon, North Canaan, and Salisbury. The secondary service area municipalities in Connecticut include Kent, Canaan, Cornwall, Warren, Winchester/Winsted, Goshen, Torrington, and Harwinton. In New York, the Hospital's primary service area municipalities include Dover Plains/Wingdale, Amenia/Wassaic, Millerton/Northeast, Millbrook/Washington and Pine Plains. Secondary service area municipalities in New York include Stanfordville and Ancramdale/Copake. *(October 5, 2001, CON application, page 18)*
6. The Hospital is the only hospital in its primary service area; the next closest hospitals range 25 to 45 miles away. *(October 5, 2001, CON application, page 9)*
7. The Sharon region is geographically remote and is not served by public transportation. *(October 5, 2001, CON application, page 9)*
8. The Applicants' proposal is for the transfer of ownership of the Hospital to Essent. Essent proposes to enhance service offerings in the following areas:
 - (a) expansion and renovation of the obstetric unit,
 - (b) expansion and modernization of the emergency department, and
 - (c) overhaul of mechanical systems.*(October 5, 2001, CON application, pages 2 and 7)*
9. Essent states it will not replace or terminate any of the services currently offered at the Hospital. As stated in OHCA's Revised Final Decision, Stipulation 5, signed on March 12, 2002, the Applicants agree that:

There will be no reduction in the size and/or qualifications of the clinical care work force at Sharon Hospital, nor a reduction in any services or service availability without the thorough review and prior approval of OHCA during the first five years of operation. This Stipulation does not relate to reductions in the business office, billing, physical plant and other non-clinical areas of hospital operations, so long as the reductions have no impact on the delivery of patient care.

(October 5, 2001, CON application, page 4 and December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 4)
10. Essent will invest \$8 million in the Hospital for renovations, clinical equipment acquisition and programs. Per OHCA's Revised Final Decision, Stipulation 2, a detailed business plan, and a facilities improvement plan for the entire \$8 million, will be submitted by Essent to OHCA for its review and prior approval. *(December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 3)*

11. As part of Essent's Stabilization Plan, Essent proposes to address critical operational issues during the 90 days following the change of ownership. Stabilization issues to be emphasized include:
 - (a) strict financial controls,
 - (b) the recruitment of experienced financial managers, and
 - (c) the commencement of education initiatives for all employees.

(October 5, 2001, CON application, Exhibit H, Tab 1, pages 82 and 83)
12. In the subsequent 21 months following the implementation of the Stabilization Plan, Essent proposes to address the following issues as part of its Strategic Plan:
 - (a) physician recruitment, especially in the areas of general surgery, cardiology, and gastroenterology,
 - (b) capital needs assessment,
 - (c) enhancement and expansion of services,
 - (d) quality and process improvement,
 - (e) partnership integration,
 - (f) the appropriateness and effectiveness of the Hospital's existing relationships with commercial payors,
 - (g) practice management,
 - (h) expense management, and
 - (i) physical plant.

(October 5, 2001, CON application, Exhibit H, Tab 1, pages 80, 85-87)
13. Essent proposes to implement the following productivity improvements:
 - (a) management and staffing, including the evaluation and enhancement of senior and mid-level Hospital management,
 - (b) physical plant, including retrofitting the Hospital's fire alarm and HVAC systems, and
 - (c) materials and information management, including centralized purchasing, inventory control and receiving functions.

(October 5, 2001, CON application, pages 14 and 15)
14. The Hospital's physicians currently make tertiary referrals to Hartford Hospital, Saint Francis Hospital and Medical Center ("SFHMC"), Albany Medical Center, Vassar Brothers Hospital, Yale-New Haven Hospital, UCONN-John Dempsey, and the Connecticut Children's Medical Center. Hospital physicians also make referrals to New York City hospitals for tertiary care. *(October 5, 2001, CON application, page 18)*
15. Essent will establish a tertiary care agreement with a hospital, health system or facility that provides the full range of health care services that are legally permissible and clinically available in Connecticut, and takes into consideration traditional referral patterns. This will be done as follows:
 - (a) The Applicants propose to enhance the Hospital's service offerings via a tertiary relationship with SFHMC. SFHMC will also provide certain physician recruitment services, and

(b) Essent has committed to continue the full range of reproductive health services currently available at the Hospital.

(December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 4 and October 5, 2001, CON application, pages 2 and 3)

16. Essent has submitted a revised tertiary support agreement with the University of Connecticut Health Center Finance Corporation (“UCHC”) for the provision of tertiary resources at the Hospital. The purpose of the UCHC relationship is to improve and enhance the availability, quality, and cost-effectiveness of health care services to the Hospital, including the provision of a full range of reproductive health care services and programs. *(December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 4 and March 19, 2002, Tertiary Support Agreement by and between Essent Healthcare of Connecticut, Inc., and University of Connecticut Health Center Finance Corporation For the Provision of Tertiary Resources at Sharon Hospital, pages 3 and 7)*
17. The Applicants are required to establish a community foundation to serve the unmet healthcare needs of the Sharon region. The foundation will be funded by the net proceeds of the sale and Sharon Hospital endowments. The Sharon Area Community Healthcare Foundation (“SACHF”) will use funds to support a broad range of preventive health and educational projects. *(October 5, 2001, CON application, page 9 and November 26, 2001, Attorney General’s Final Decision, Docket Number 01-486-01, page 23)*
18. Essent has stated it will continue the charitable and indigent care policies of the Hospital. Per OHCA’s Revised Final Decision, Stipulation 6, the Hospital, under Essent’s ownership, will agree to provide appropriate care to any person or patient presenting for such care regardless of the individual’s ability to pay, to the extent that those services are offered at the Hospital. *(October 5, 2001, CON application, page 10 and December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 4)*
19. Essent intends to assume all managed care contracts which are in effect on the closing date, and that are not so-called “risk” contracts. *(February 6, 2002, Completeness Question Responses, page 948)*
20. Joan Leavitt from the State of Connecticut Department of Public Health testified to the following:

- (a) A change of ownership inspection “has been scheduled for Monday and Tuesday of this, of next week [March 25, 26, 2002]...that process can be an announced inspection,” and
- (b) Essent must respond to the inspection either via a plan of correction or a consent order. In terms of the consent order, Essent “agree[s] beforehand to do anything that we, to repair anything that we find faulty and that would release them from the time frame it would take to do a plan of correction for each area that we cite.”

(Testimony of Joan Leavitt, Public Health Systems Manager, Division of Health Systems Regulations, State of Connecticut Department of Public Health, March 21, 2002)

21. Mike Browder, Executive Vice President and Chief Financial Officer of Essent Healthcare, Inc., testified that it is anticipated that a consent order will be signed. “We will contemplate and it seems reasonable under the circumstances that we will do that [sign the consent order].” *(Testimony of Mike Browder, Executive Vice President and Chief Financial Officer of Essent Healthcare, Inc., March 21, 2002)*
22. The State of Connecticut Office of the Attorney General indicated that the terms of the transaction did implicate the hospital conversion statutes, pursuant to 19a-486, C.G.S. The Attorney General’s Final Decision addressed the following issues:
- (a) prohibition against cross-collateralization of the Hospital’s assets,
 - (b) prohibition against debt financing of purchase price,
 - (c) restriction of future sale by Essent,
 - (d) profit-sharing with proposed conversion foundation,
 - (e) strengthening the advisory board,
 - (f) appointment of independent forensic accountant,
 - (g) changes to the Escrow Agreement,
 - (h) costs associated with Amenia Landfill,
 - (i) changes to the tertiary support agreement,
 - (j) changes to the Hospital’s gift analysis,
 - (k) sale of nursing home,
 - (l) financial accounts,
 - (m) Margaret H. Williams Fund, and
 - (n) Berkshire Taconic Community Foundation and SACHF.

(November 26, 2001, Attorney General’s Final Decision, Docket Number 01-486-01, pages 110-113, 115, 117-118, 120-122, 125-129)

Financial Feasibility of the Proposal

23. The purchase price of the proposed transaction is \$16,390,000. *(October 5, 2001, CON application, page 24)*
24. The purchase price paid by Essent for the assets and liabilities of Sharon Hospital, Inc. and the assets of the West Sharon Corporation and the Sharon Corporation will be in the form of a cash capital contribution to Sharon Hospital, Inc. and will not result in the issuance of any additional debt or issuance of any preferred stock with debt-like features by Sharon Hospital, Inc. to the purchaser, Essent, or any third party

as part of the transaction. *(December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, page 3)*

25. In terms of the Asset Purchase Agreement, Essent agrees to tender to the Hospital the following:

- (a) 1,000 shares of Class B Common Stock of Essent,
- (b) \$16,390,000, plus,
- (c) an amount equal to the adjusted working capital (however, if such amount is a negative number, then the amount shall be deducted from the purchase price), plus,
- (d) an amount equal to the invoices for capital expenditures, minus
- (e) an agreed upon value of the cost to Essent of assuming the Hospital's obligation to provide health insurance coverage to the Hospital's retirees prior to 1994 as of the closing of the proposed sale ("closing");
- (f) additionally, Essent shall assume the Assumed Liabilities at closing.

(February 6, 2002, Completeness Question Responses, pages 1250 and 1251)

26. Outstanding or retroactive Medicare or insurance settlements or payments will be addressed by the "adjusted working capital computation where parties take into account issues in terms of what asset belongs to whom as of the date of closing."

(Testimony of Attorney John F. Wolter, Updike, Kelly & Spellacy, P.C., March 21, 2002)

27. Essent will establish an escrow account ("Escrow Account") which will be funded at the time of closing with \$2.1 million in a federally insured bank or financial institution located and licensed to do business in Connecticut. There will be two components to the Escrow Account, structured as two separate funds:

- (a) the first fund will consist of the \$500,000 recommended by Essent to defray the costs associated with monitoring and compliance, including compliance audits, case record review, and on-site compliance inspections, and
- (b) the second fund will be for capital improvements, established at the time of closing with \$1.6 million.

(December 14, 2001, Revised Final Decision, Docket Number 01-486-01R, pages 3 and 4)

28. Essent will "not change hospital Medicare provider numbers" for both the Hospital and the inpatient exempt psychiatric unit. *(Testimony of Mike Browder, Executive Vice President and Chief Financial Officer of Essent Healthcare, Inc., March 21, 2002)*

29. For Fiscal Year 2003, the Applicants project an excess of revenues incremental to the transaction of \$9,057,606. For Fiscal Year 2004, the Applicants project an excess of revenues incremental to the transaction of \$11,607,585. *(February 6, 2002, Completeness Question Responses, page 1895)*

30. Essent anticipates March 31, 2002 as the effective date for the transaction. *(Prefiled Testimony, Joe Pinion, Executive Vice President and Chief Operating Officer, Essent Healthcare, Inc., March 14, 2002, page 2)*

Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines

The following findings are made pursuant to principles and guidelines set forth in Section 19a-637, C.G.S.:

31. There is no State Health Plan in existence at this time. *(October 5, 2001, CON application, page 5)*
32. The Applicants are currently participating in group purchasing, application of technology program, a pharmacy agreement, and a healthcare management services agreement to improve productivity and contain costs. *(October 5, 2001, CON Application, page 14)*
33. This proposal will not result in changes to the Hospital's teaching and research responsibilities. *(October 5, 2001, CON Application, page 16)*
34. The distinguishing characteristics of the Hospital's patient/physician mix include the following:
 - (a) higher than average elderly population,
 - (b) a program to exclusively treat patients from the Taconic Development Disability Service Organization, and
 - (c) 50% of Hospital admissions originating from the State of New York.*(October 5, 2001, CON Application, page 16)*
35. The Applicants have sufficient technical, financial and managerial competence to provide efficient and adequate service to the public. *(October 5, 2001, CON Application, pages 244 and 245, 248-250, and 252 and 253)*

Rationale

Essent Healthcare of Connecticut, Inc. is proposing to purchase Sharon Hospital, an acute care hospital located in Sharon, Connecticut whose primary and secondary service areas

are comprised of municipalities located in both Connecticut and New York. Essent Healthcare of Connecticut, Inc. is a wholly owned subsidiary of Essent Healthcare, Inc., an entity in Nashville, Tennessee engaged in the business of owning and operating community hospitals.

The proposed transfer of ownership will not result in a reduction in the size and/or qualifications of the Hospital's clinical care work force. The transfer of ownership will not replace or terminate any of the services currently offered at the Hospital; rather, the transfer will augment the Hospital's service offerings. Essent will invest \$8 million in the Hospital for renovations, clinical equipment acquisition, and programs. Specifically, Essent proposes to expand and renovate the Hospital's obstetric unit, expand and modernize the emergency department, and overhaul the Hospital's mechanical systems. In addition, Essent will establish tertiary care agreements to provide the full range of health care services that are legally permissible and clinically available in Connecticut, including reproductive health services. Essent also intends to implement productivity improvements in the areas of management and staffing, physical plant, and materials and information management. Per OHCA's Revised Final Decision, Docket Number 01-486-01R, stipulations have been established to insure the realization of these measures.

The total capital expenditure associated with the transfer of ownership is \$16,390,000. The purchase price paid by Essent will be in the form of a cash capital contribution to Sharon Hospital, Inc., and will not result in the issuance of any additional debt or the issuance of any preferred stock with debt-like features by Sharon Hospital, Inc. to Essent or any third party as part of the transaction. Essent will also establish an Escrow Agreement, funded at the time of closing with \$2.1 million. This account will have two separate funds. The first fund will consist of \$500,000, and will be used by Essent to defray the costs of monitoring and compliance. The second fund, established at the time of closing with \$1.6 million, will be allocated towards capital improvements.

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Sharon Hospital, Inc. and Essent Healthcare of Connecticut, Inc. for the transfer of ownership of Sharon Hospital to Essent Healthcare of Connecticut, Inc., at a total capital expenditure of \$16,390,000, is hereby GRANTED.

Order

Essent Healthcare of Connecticut, Inc.'s purchase of Sharon Hospital, an acute care hospital located in Sharon, Connecticut, at a total capital cost of \$16,390,000, is hereby authorized, subject to the following conditions:

1. This authorization shall expire on March 31, 2003. Should the Applicants' project not be completed by that date, the Applicants must seek further approval from OHCA to extend the project beyond that date.
2. Essent Healthcare of Connecticut, Inc. shall be the license holder and operator of Sharon Hospital.
3. Essent Healthcare of Connecticut, Inc. shall submit to OHCA amended payer contracts.
4. Essent Healthcare of Connecticut, Inc. shall notify OHCA if it chooses to seek a new Medicare provider number.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Office of Health Care Access

Date

RJG:lj
Decision/01533dec

Raymond J. Gorman
Commissioner