STATE OF CONNECTICUT

OFFICE OF HEALTH CARE ACCESS

M. JODI RELL
GOVERNOR

CRISTINE A. VOGEL
COMMISSIONER

March 31, 2009

IN THE MATTER OF:

Certified: 7005 0390 0001 3506 9419

An Application for a Certificate of Need filed pursuant to Section 19a-638, C.G.S. by

Notice of Final Decision
Office of Health Care Access
Docket Number: 08-31194-CON

Danbury Hospital

Proposal to Terminate Partial Hospitalization Program

To: Andrea Rynn
Director, Public and Government Relations
24 Hospital Avenue
Danbury, CT 06810

Dear Ms. Rynn:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter as provided by Section 19a-638, C.G.S. On March 31, 2009, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

By Order of the
Office of Health Care Access

Cristine A. Vogel
Commissioner

CAV:lkg

Office of Health Care Access
Certificate of Need Application

Final Decision

Hospital:	**Danbury Hospital**
Docket Number:	**08-31194-CON**
Project Title:	**Termination of Partial Hospitalization Program in Danbury**
Statutory Reference:	**Section 19a-638, Connecticut General Statutes**
Filing Date:	**December 3, 2008**
Decision Date:	**March 31, 2009**
Default Date:	**April 2, 2009 (30-day extension)**
Staff:	**Laurie K. Greci**

Project Description: Danbury Hospital ("Hospital") proposes to terminate its Partial Hospitalization Program in Danbury at no associated capital expenditure.

Nature of Proceedings: On December 3, 2008, the Office of Health Care Access ("OHCA") received the Hospital's Certificate of Need ("CON") application seeking authorization to terminate its partial hospitalization program in Danbury at no associated capital expenditure. The Hospital is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

A notice to the public concerning OHCA's receipt of the Hospital's Letter of Intent was published on July 10, 2008, in *The News-Times* (Danbury). OHCA received no responses from the public concerning the Hospital's proposal.

Pursuant to 19a-638, C.G.S., three individuals or an individual representing an entity with five or more people had until December 24, 2008, the twenty-first calendar day following the filing of the Hospital's CON Application, to request that OHCA hold a public hearing on the Hospital's proposal. OHCA received no hearing requests from the public.

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

After Consideration of the entire record the following facts are found and conclusions of law are reached:

Clear Public Need
Impact on the Hospital's Current Utilization Statistics
Contribution of the Proposal to the Quality and Accessibility of Health Care Delivery in the Region

1. It is found that Danbury Hospital ("Hospital") is an acute-care hospital located at 24 Hospital Avenue, Danbury, Connecticut. *(October 8, 2008, Initial CON Submission, page 18)*

2. It is found that the Hospital currently offers the following behavioral health services:
   - Inpatient psychiatric services;
   - Partial Hospitalization Program;
   - Intensive Outpatient Program Acute;
   - Intensive Outpatient Program Prolonged Mentally Ill;
   - Intensive Outpatient Program Dual Diagnosis; and
   - Outpatient Treatment Services.

   (October 8, 2008, Initial CON Submission, page 2)

3. It is found that the Hospital's Community Center for Behavioral Health ("Community Center") at 152 West Street, Danbury is licensed by the State of Connecticut Department of Public Health as a satellite location of the Hospital. The Community Center provides a Partial Hospital Program ("PHP") and three Intensive Outpatient Programs ("IOP") to adults 18 years of age and older. *(October 8, 2008, Initial CON Submission, page 5 and 18 and December 3, 2008, Completeness Response, page 97)*

4. It is found that the programs serve residents from the Hospital's primary service area including Danbury, Bethel, Brookfield, Newtown, New Fairfield, Redding, and Ridgefield. *(October 8, 2008, Initial CON Submission, page 5)*

5. The Hospital contends that the patient population for the PHP and the IOP is adults with psychiatric disorders, who have recently been discharged from inpatient hospitalization or whose symptoms have exacerbated and come to the PHP or the IOP to avoid an inpatient hospitalization. *(June 24, 2008, Letter of Intent, page 7)*

6. It is found that the PHP, as an alternative to hospitalization, allows patients to receive the same level of treatment as inpatient care without being hospitalized. The intent of the PHP was to improve access for patients to the same level of care that would be received as if they were hospitalized. *(October 8, 2008, Initial CON Submission, page 3)*

7. The Hospital contends that because the PHP is viewed as a variation on inpatient care, similar regulatory requirements must be met. Strict criteria are required to assure proper utilization, medical necessity, and documentation of care. *(October 8, 2008, Initial CON Submission, page 3)*

8. It is found that the PHP operates from 9:00 a.m. to 1:15 p.m. daily and consists of four group therapies and medication management. Program regulations require that patients participate a minimum of four days per week. *(October 8, 2008, Initial CON Submission, page 5)*

9. The Hospital contends that due to the regulatory requirements associated with the PHP, time is required for non-clinical activities, such as documentation, obtaining initial and continued authorization for treatment. *(October 8, 2008, Initial CON Submission, page 4)*

10. The Hospital reported the following patients and visits the PHP for the past four Fiscal Years ("FY") and first four months of FY 2009:

Table 1: PHP Utilization for FYs 2005 to 2009

	2005	2006	2007	2008	2009*
Patients	167	148	154	143	55
Visits	1281	1041	1082	912	379
ADC**	5.1	4.1	4.3	3.7	4.5

* Oct to Jan
**Average Daily Census
(February 11, 2009, E-mail of Supplemental Information)

11. It is found that the Hospital's reported patient volumes for the PHP that it administers demonstrate that there is a need for the PHP.

12. In a March 2, 2009, letter from Janice Verini, Department of Mental Health and Addiction Services ("DMHAS") Behavioral Health Clinical Director, she states "DMHAS has moved away from the PHP model in the past several years," but also states that since DMHAS does not fund the PHP, they "do not have data to support the program one way or the other." *(March 4, 2009, Letter to Joseph Shea, Danbury Hospital, from Janice Verini BSN, MHA, DMHAS Behavioral Health Clinical Director, as Attachment to E-mailed Letter from Frank Kelly, Danbury Hospital's CEO)*

13. The Hospital has provided evidence of administrative hassles associated with the PHP and suggested that the need for a particular type of service (PHP or IOP) has changed over time; however, it is found that there was a lack of evidence presented with respect to change in clinical practices in a PHP.

14. The Hospital contends that the IOP provides a similar level of treatment as the PHP, while being considered outpatient care rather than inpatient care. *(October 8, 2008, Initial CON Submission, page 3)*

15. It is found that the IOP operates from 9:00 a.m. to 12:15 p.m. daily and offers three group therapies and medication management. Patient participation is determined by agreement between the patient and the therapist, as there are no regulatory requirements for attendance. *(October 8, 2008, Initial CON Submission, page 5)*

16. The Hospital contends that clinicians are able to spend more time in direct patient care under an IOP than a PHP. *(October 8, 2008, Initial CON Submission, page 4)*

17. The Hospital contends that third-party payers prefer to authorize treatment for IOPs and approve longer lengths of stay in the IOP than in a PHP. *(October 8, 2008, Initial CON Submission, page 3)*

18. The Hospital reported the following patients and visits the IOP for the past four FYs and the first four months of FY 2009:

Table 2: IOP Utilization for FYs 2005 to 2009

	2005	2006	2007	2008	2009*
Patients	87	70	57	73	34
Visits	419	442	314	414	196
ADC**	1.7	1.8	1.3	1.6	2.3

* Oct to Jan
**Average Daily Census
(February 11, 2009, E-mail of Supplemental Information)

19. Ms. Verini stated in her letter that an IOP offers flexibility over PHPs for persons in recovery. *(March 4, 2009, Letter to Joseph Shea, Danbury Hospital, from Janice Verini BSN, MHA, DMHAS Behavioral Health Clinical Director, as Attachment to E-mailed Letter from Frank Kelly, Danbury Hospital's CEO)*

20. Although the Hospital provides evidence of the benefits of IOP, it is found that the applicant failed to present any evidence demonstrating the IOP and PHP are similar from a clinical perspective and differ only with respect to administrative and regulatory requirements.

21. It is found that the other existing provider of outpatient psychiatric services in the Hospital's service area is the Western Connecticut Mental Health Network – Danbury ("WCMHN") located at 78 Triangle Street, Danbury. WCMHN is the DMHAS agency in

the Danbury area that provides state-operated services as well as non-state-operated, but state-funded, services. WCMHN provides a number of services, such as outpatient services, behavioral health IOP, case management, community support programs, housing, and others. *(March 4, 2009, Letter to Joseph Shea, Danbury Hospital, from Janice Verini BSN, MHA, DMHAS Behavioral Health Clinical Director, as Attachment to E-mailed Letter from Frank Kelly, Danbury Hospital's CEO)*

22. It is found that WCMHN does not provide a PHP. *(March 2, 2009, Letter to Joseph Shea, Danbury Hospital, from Janice Verini BSN, MHA, DMHAS Behavioral Health Clinical Director, as Attachment to E-mailed Letter from Frank Kelly, Danbury Hospital's CEO)*

23. It is found that there is no other provider in the Danbury area that operates an existing Partial Hospitalization program. *(March 2, 2009, E-mailed Letter from Frank Kelly, CEO, page 2)*

24. It is found that a majority of referrals to the Hospital's PHP and IOP programs are referred from the Hospital's inpatient psychiatry unit. Referrals are also made by the Hospital ED, the Hospital's outpatient clinic, and community clinicians, including psychiatrists and other licensed therapists. *(October 8, 2008, Initial CON Submission, page 6)*

25. It is found that the Hospital has not provided evidence that demonstrates that patients in the Danbury area will not need to be referred to PHP services. Additionally, they failed to provide any evidence with respect to whether all patients needing PHP qualify for, or are appropriate for, the IOP level of treatment.

Impact of the Proposal on the Interests of Consumers of Health Care Services and Payers for Such Services
Financial Feasibility of the Proposal and its Impact on the Hospital's Rates and Financial Condition
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines

26. It is found that there are no capital expenditures associated with the proposal. *(October 8, 2008, Initial CON Submission, page 10)*

27. The Hospital projects the following incremental revenues and operating expenses with the proposal:

Table 3: Hospital's Incremental Revenues and Expenses with the Proposal

Description	FY 2009	FY 2010	FY 2011
Incremental Revenue from Operations	$21,000	$22,000	$23,000
Incremental Total Operating Expense (additional allowance for bad debt)	$1,000	$1,000	$1,000
Incremental Gain from Operations	**$20,000**	**$21,000**	**$22,000**

(December 3, 2008, Completeness Response, page 100)

28. It is found that the payer mix for the Hospital's Community Center for Behavioral Health, for FY 2008, actual, and FYs 2009, 2010, and 2011, projected and based on gross patient revenue, is presented in the table below.

Table 4: The Hospital's Actual and Projected Payer Mix

Payer	FY 2008 Actual Payer %	FYs 2009, 2010, and 2011 Projected Payer %
Medicare	29.6%	32.9%
Medicaid	17.7%	16.0%
TriCare	0.0%	0.0%
Total Government	47.3%	48.9%
Commercial Insurers	49.8%	48.5%
Self-Pay (Employee per Visit Co-pay)*	1.6%	1.5%
Workers Compensation	0.0%	0.0%
Total Non-Government	51.4%	50.0%
Uncompensated Care or Private Pay**	1.3%	1.1%
Total Payer Mix	**100%**	**100%**

* Many insurers require a co-pay from the patient for each visit.
** Includes uncompensated care, private pay, or uninsured.
(December 3, 2008, Completeness Response, pages 98 and 102)

29. It is found that there is no State Health Plan in existence at this time. *(October 8, 2008, Initial CON Submission, page 3)*

30. The Hospital stated that this proposal is consistent with the Hospital's long-range plan. *(October 8, 2008, Initial CON Submission, page 3)*

31. It is found that in the past year, the Hospital has undertaken energy conservation, group purchasing, reengineering, and the Lean Six Sigma Initiative, a business methodology, in order to improve productive and contain costs. *(October 8, 2008, Initial CON Submission, page 9)*

32. It is found that there are no distinguishing characteristics of the Hospital's patient/physician mix. *(October 8, 2008, Initial CON Submission, page 9)*

Rationale

The Office of Health Care Access ("OHCA") approaches community and regional need for the proposed service on a case by case basis. Certificate of Need ("CON") applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposed services.

Danbury Hospital ("Hospital") provides behavioral health services at its Community Center for Behavioral Health ("CCBH") located at 152 West Street, Danbury. The Hospital currently offers the following outpatient behavioral health services at the CCBH: Partial Hospital Program ("PHP"); Intensive Outpatient Program ("IOP") Acute; IOP for the Prolonged Mentally Ill; IOP for patients with a dual diagnosis (psychiatric and substance abuse); and outpatient treatment services. The Hospital provides these services to adults 18 years of age and older.

The Hospital proposes to terminate the PHP. The Hospital stated that the PHP program was developed as an alternative to hospitalization for the treatment of patients with acute mental illness. The patient population for the PHP is adults with psychiatric disorders, who have recently been discharged from inpatient hospitalization or whose symptoms have exacerbated and come to the PHP to avoid an inpatient hospitalization. The PHP allows patients to receive the same level of treatment as inpatient care without being hospitalized. (FINDING OF FACT 6.) PHP regulations require that patients participate in the program a minimum of four days per week. (FINDING OF FACT 8.) Due to the regulatory requirements associated with the PHP, time is required for non-clinical activities, such as documentation, obtaining initial and continued authorization for treatment. Conversely, patient participation in the IOP is determined by agreement between the patient and the therapist, as there are no regulatory requirements for attendance. Although the Hospital claims that the IOP provides a similar level of treatment to PHP, OHCA was unable to conclude that IOP provides a similar level of treatment due to the lack of evidence presented with respect to the clinical similarities between the programs.

The other existing provider of outpatient psychiatric services in the Hospital's service area is the Western Connecticut Mental Health Network ("WCMHN"). The WCMHN provides a number of state-operated programs and services through the Department of Mental Health and Addiction Services ("DMHAS"), including outpatient services, services for specific populations and outreach programs. The WCMHN also provides non-state-operated behavioral health services that are funded by DMHAS. These services include case management, outpatient services, an IOP, vocational services, and housing for defined populations. WCMHN does not provide a PHP nor does it provide funding to the Hospital's PHP. (FINDING OF FACT 22.) There is no other provider in the Danbury area that operates a PHP. (FINDING OF FACT 23.) Although DMHAS acknowledged its movement away from

PHP, no opinion was provided with respect to the clinical similarities between a PHP and IOP and whether patients utilizing a PHP could be easily transitioned from a PHP to an IOP.

The PHP provided services to 167, 148, 154, and 143 patients in Fiscal Years 2005, 2006, 2007, and 2008, respectively. (FINDING OF FACT 10.) Based upon the 55 patients who received treatment in the PHP during the first four months of FY 2009, it appears that the number of patients to be treated in the PHP during FY 2009 will be consistent with the number of patients treated in any of the four previous years. The IOP provided services to 87, 70, 57, and 73 patients in Fiscal Years 2005, 2006, 2007, and 2008, respectively. (FINDING OF FACT 18.) The Hospital contends that termination of the PHP is solely related to administrative/regulatory requirements and not diminished need for PHP (FINDING OF FACT 9, 11.) Notwithstanding, no evidence has been provided that supports the Hospital's assertion that PHP and IOP are the same from a clinical perspective. Moreover, the evidence demonstrates that there are no other providers of PHP in the Hospital's service area and the Hospital failed to provide evidence that supports its assertion that patients "needing" PHP can be clinically treated in an IOP. Accordingly, OHCA is unable to conclude that the patients needing PHP in the Danbury area would continue to have access to an appropriate level of care simply by transitioning them to the Hospital's IOP.

Order

Based on the foregoing Findings and Rationale, the Certificate of Need Application of Danbury Hospital to terminate its Partial Hospitalization Program in Danbury at no associated capital expenditure is hereby DENIED.

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

3-31-09
Date

Cristine A. Vogel
Commissioner