

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

July 11, 2014

IN THE MATTER OF:

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

Notice of Agreed Settlement
Office of Health Care Access
Docket Number: 13-31883-CON

Gaylord Hospital

**Termination of Gaylord Sleep Medicine
Services in Trumbull**


To:

Art Tedesco
Interim Chief Executive Officer
Gaylord Hospital
P.O. Box 400
Gaylord Farms Rd.
Wallingford, CT 06492

RE: Certificate of Need Application, Docket Number 13-31883-CON
Gaylord Hospital
Termination of Gaylord Sleep Medicine Services in Trumbull

Dear Mr. Tedesco:

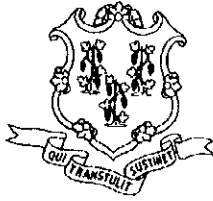
This letter will serve as notice of the approved Certificate of Need Application in the above-referenced matter. On July 11, 2014, the Agreed Settlement, attached hereto, was adopted and issued as an Order by the Department of Public Health, Office of Health Care Access.



Kimberly R. Martone
Director of Operations

Enclosure
KRM:lkg

An Equal Opportunity Provider
(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)
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**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Agreed Settlement

Applicant: Gaylord Hospital
Gaylord Farms Road, Wallingford, CT 06492

Docket Number: 13-31883-CON

Project Title: Termination of Gaylord Sleep Medicine Services in Trumbull, Connecticut

Project Description: Gaylord Hospital (“Hospital” or “Applicant”) seeks authorization to terminate Gaylord Sleep Medicine Services in Trumbull, Connecticut, with no associated capital expenditure.

Procedural History: The Applicant published notice of its intent to file the Certificate of Need (“CON”) application in the *New Haven Register* on November 20, 21 and 22, 2013. On December 30, 2013, the Office of Health Care Access (“OHCA”) received the CON application from the Applicant for the above-referenced project and deemed the application complete on March 10, 2014. OHCA received no responses from the public concerning the Applicant’s proposal and no hearing requests were received from the public pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a. Deputy Commissioner Davis considered the entire record in this matter.

To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

Findings of Fact and Conclusions of Law

1. The Applicant is a long term acute care hospital located at Gaylord Farms Road, Wallingford, Connecticut. Ex. A, p. 5.
2. The Hospital provides health care services for patients requiring care for spinal cord injury, traumatic brain injury, stroke, pulmonary disease and other medically complex illnesses and sleep medicine. It includes both inpatient and outpatient care. Ex. A, p. 5.
3. Gaylord Sleep Medicine-Trumbull (“Sleep Center”) is located at 101 Merritt Blvd., Trumbull, Connecticut and utilizes six beds in its sleep laboratory. Ex. A, p. 5.
4. On April 2, 2007, OHCA granted Gaylord Hospital approval (DN: 06-30788-CON) to terminate a sleep laboratory in Fairfield and to establish Gaylord Sleep Medicine-Trumbull, increasing bed capacity from three to six beds. Ex. A, p. 5.
5. The Hospital is now proposing the termination of all services at the Sleep Center. Ex. A, p. 5.
6. The Sleep Center provides physician consultation and patient evaluation, as well as continuous positive airway pressure (CPAP) therapy, and is equipped for day and overnight sleep testing. In addition, diagnostic, split-night and therapeutic polysomnography services are provided. Ex. A, p. 5.
7. Nearly three quarters (74%) of patient visits to the Sleep Center originated from six towns in FY 2013:

TABLE 1
GAYLORD SLEEP MEDICINE TRUMBULL
PATIENT VISITS (FY 2013*)

Town	Visits	Percent
Bridgeport	466	23%
Milford	379	18%
Stratford	225	11%
Trumbull	167	8%
Fairfield	143	7%
Shelton	143	7%
Top 6 Towns	1,523	74%
All Other	533	26%
Total	2,056	100%

*Gaylord Hospital fiscal year (October 1-September 30)
Ex. A, pp. 5, 7-8.

8. The following table shows the existing providers of sleep medicine services in the Applicant's service area:

TABLE 2
EXISTING SLEEP LAB FACILITIES IN THE APPLICANT'S SERVICE AREA

Service	Provider Name and Location
Sleep Laboratory	PriMed Physicians Fairfield County Sleep Center 501 Kings Highway, Fairfield
Sleep Laboratory	Bridgeport Hospital Grant Street, Bridgeport
Sleep Laboratory	Danbury Hospital Sleep Disorder Center Danbury, CT
Sleep Laboratory	Greenwich Hospital Sleep Center Greenwich, CT
Sleep Laboratory	Norwalk Hospital Sleep Disorder Center Norwalk, CT

Ex. A, p. 6.

9. The primary reasons for the Applicant's request to terminate services in Trumbull are diminished in-lab patient volume, changing models of sleep medicine service delivery and duplicative sleep services in the service area. Ex. C, p. 66.
10. Since the opening of the Sleep Center, sleep medicine visits have declined and it was determined that maintaining the program at the Trumbull location was not an efficient use of resources. Ex. C, p. 66.
11. The overall decline in sleep medicine visits at the Applicant's Trumbull location is illustrated in the table below:

TABLE 3
HOSPITAL'S HISTORICAL AND CURRENT VISITS

Visits Description	Fiscal Year			
	2011	2012	2013	2014* (annualized)
Sleep Medicine Study (full service study with physician interpretation)	726	642	453	343
Initial Consultation with Medical Staff	374	338	373	396
Follow-up visit to review study results and plan of care	633	643	535	530
PAP NAP **	---	4	10	3
Clinic***	591	661	604	586
Other****	35	87	81	101
Total	2,359	2,375	2,056	1,959

* October 1, 2013 – April 2014

** Day time visit of 3-4 hours to help patients learn to use marks and improve patient compliance.

*** CPAP set up; working with patients on compliance or mask issues.

****Includes in-home sleep studies; HST rental; psychology visits for insomnia management.

Ex. D, p. 81

12. Overnight sleep lab volume dropped from 726 in FY2011 to 453 in FY13, representing a nearly 38% decrease. Ex. C, p. 66, Ex. D, p. 81
13. The decision to terminate the Sleep Center was based on an evaluation of how the Hospital could best serve the needs of its patients within its core business: comprehensive health services for individuals with brain or spinal cord injuries, complex pulmonary conditions or complex medical illnesses. Ex. C, p. 66.
14. There is an increasing trend of delivering sleep medicine away from lab testing to home-based sleep testing (HST), thus reducing the need for freestanding sleep labs. Ex. C, p. 66.
15. According to the Journal of Clinical Sleep Medicine, HST is likely to play an increasingly larger role in the practice of sleep medicine in the next several years, in large part due to changes in insurance practices around HST devices used in the diagnosis of obstructive sleep apnea (OSA). As prior authorization programs run by utilization management companies have begun to proliferate, many patients have been shunted from sleep laboratories into home testing. Portable, home-based testing appears to be a cost-efficient diagnostic measure at a time when medical costs are being closely scrutinized. Additionally, HST may reach a larger number of patients when not limited to a physical location of a sleep laboratory. Ex. C, pp. 76-78.
16. The Applicant will implement external communications and outreach activities to help transition patients to alternative clinical services following the termination of the Sleep Center. Ex. A, p. 6, Ex. C, pp. 67-68.
17. The Applicant will notify patients seen within the last two years, in writing, about the availability of sleep medicine services at Yale-New Haven Hospital (adult and pediatric patients) and Connecticut Children's Medical Center (pediatric patients). The Applicant will also provide copies of medical records upon request and help patients transition to alternative providers of their choice. Ex. A, p. 6, Ex. C, p. 67a, 67b.
18. No capital expenditures/costs will be incurred from the termination of sleep medicine services at the Sleep Center. Ex. A, p. 11.
19. The decision to terminate the Sleep Center services was not dependent on reimbursement levels, but on declining volume and cost to continue the program. Ex. A, p. 12

20. The continued operation of sleep medicine services at the Sleep Center would result in continued and increasing losses in each of the next three fiscal years.

TABLE 4
APPLICANT'S GAIN / (LOSS) FROM OPERATIONS

	FY 2013* (Actual)	FY 2014	FY 2015	FY 2016
Revenue from Operations	749,946	738,358	738,358	738,358
Total Operating Expenses	751,261	766,399	778,286	790,434
Gain/(Loss) from Operations	(\$1,315)	(28,041)	(39,928)	(52,076)

*Gaylord Hospital fiscal year (October 1-September 30)

Assumptions: Gaylord Sleep Medicine Services in Trumbull recorded an operational loss in FY 2013 and projects continued losses in FY 2014-FY 2016 due to operating expenses in excess of revenues. If the proposal is approved, the number of FTEs will be reduced by 4.5, producing cost savings of \$476,595, \$486,127 and \$495,849, respectively. Other significant reductions will come from depreciation/amortization, lease expense, professional/contracted services and other operating expenses.

Ex. A, p. 12, Ex. C, p. 80.

21. The Applicant's historical and current payer mix is as follows:

TABLE 5
APPLICANT'S HISTORICAL AND CURRENT PAYER MIX

Payer	FY 2011		FY 2012		FY 2013		FY 2014*	
	Volume	%	Volume	%	Volume	%	Volume	%
Medicare*	486	21%	518	22%	370	18%	266	23%
Medicaid*	314	13%	395	17%	387	19%	278	24%
CHAMPUS & TriCare	7	<1%	---	0%	---	0%	3	<1%
Total Government	807	34%	913	38%	757	37%	547	48%
Commercial Insurers	1,547	66%	1,459	61%	1,296	63%	595	52%
Uninsured	5	<1%	3	<1%	3	<1%	1	<1%
Workers Compensation	---	0%	---	0	---	0%	---	0%
Total Non-Government	1,552	66%	1,462	62%	1,299	63%	596	52%
Total Payer Mix	2,359	100%	2,375	100%	2,056	100%	1,143	100%

*(October 1, 2013 – to April 2014)

Ex. D, p. 81

22. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations not yet adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1)).
23. This CON application is consistent with the overall goals of the Statewide Health Care Facilities and Service Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
24. The Applicant has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
25. The Applicant has demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4)).
26. The Applicant has satisfactorily demonstrated that quality and access to services in the region will be maintained for all relevant patient populations and that the proposal will reduce overall system costs by eliminating duplicative services and allowing for the greater use of a more cost-efficient diagnostic method with the potential to reach a broader population. (Conn. Gen. Stat. § 19a-639(a)(5))
27. The Applicant has shown that there would be no adverse change in the provision of health care services to the relevant populations and payer mix, including Medicaid patients and indigent persons. (Conn. Gen. Stat. § 19a-639(a)(6)).
28. The Applicant has satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7)).
29. The declining historical utilization of sleep medicine visits in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).
30. The Applicant has satisfactorily demonstrated that this proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9)).
31. The Applicant has demonstrated good cause for the reduction in access to services by Medicaid recipients or indigent persons. (Conn. Gen. Stat. § 19a-639(a)(10)).

Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in § 19a-639(a) of the Statutes. The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

The Hospital is a long term acute care hospital located at Gaylord Farms Road, Wallingford, Connecticut. *FF1* The Hospital, which began offering sleep medicine services in 2007, is proposing to terminate all sleep medicine services at Gaylord Sleep Medicine-Trumbull (“Sleep Center”), located at 101 Merritt Blvd., Trumbull, Connecticut. *FF3-4* The Sleep Center currently provides physician consultation and patient evaluation of sleep disorders. The Sleep Center is equipped for day and overnight sleep testing and performs diagnostic, split-night and therapeutic polysomnography, as well as continuous positive airway pressure (CPAP) therapy. *FF6*

The primary reasons for the Applicant’s request to terminate services at the Sleep Center are diminished in-lab patient volume, changing models of sleep medicine service delivery and duplicative sleep services in the service area. *FF9&10* Overall volume at the Sleep Center has declined almost 13% between FY 2011 and FY 2013 and overnight sleep studies have dropped by nearly 38% over the same time period. *FF11&12* The decline in volume is the result of the recent trend toward delivering sleep medicine testing in the home as opposed to lab-based testing. *FF14* According to the Journal of Clinical Sleep Medicine, home-based sleep testing (HST) is likely to play an increasingly larger role in the practice of sleep medicine in the next several years, in large part due to changes in insurance practices around HST devices use in the diagnosis of obstructive sleep apnea (OSA). As prior authorization programs run by utilization management companies have begun to proliferate, many patients have been shunted from sleep laboratories into home testing. Portable, home-based testing appears to be a cost-efficient diagnostic measure at a time when medical costs are being closely scrutinized. Additionally, HST may reach a larger number of patients when not limited to a physical location of a sleep laboratory. *FF15* The trend toward moving sleep medicine testing to the home evidences forward thinking in an effort to reduce the cost of providing this service thereby strengthening the financial stability of Connecticut’s health care system while maintaining access to this service for the patient population. In fact, this trend makes it easier for the patient to receive sleep medicine services by eliminating the need to travel to, and stay overnight at, the hospital.

In order to help patients transition following the closure of its program, the Hospital will implement external communications and outreach activities to ensure that patients have continued access to sleep medicine services. *FF16* All patients seen within the past two years will be notified in writing about the availability of alternative sleep medicine services including those at Yale-New Haven Hospital (adult and pediatric patients) and Connecticut Children’s Medical Center (pediatric patients). *FF17* The Applicant will provide copies of medical records and help patients transition to alternative providers of their choice. *FF17* Most importantly, there are five other sleep medicine service providers available to patients within the Applicant’s service area. *FF7&8* Based upon the foregoing, the Applicant has satisfactorily demonstrated that access to

sleep medicine services will be maintained and there will be no adverse impact on the quality of sleep medicine services for the relevant patient populations, including Medicaid patients.

The proposal to terminate the Sleep Center was based on an evaluation of how the Hospital could best serve the needs of its patients within its core business: comprehensive health services for individuals with brain or spinal cord injuries, complex pulmonary conditions or complex medical illnesses. *FF13* The decision to terminate services was not dependent on reimbursement levels, but rather was predicated on declining volume and program costs. *FF19* The Applicant experienced an operational loss in FY 2013 and projects that the continued operation of the Sleep Center would result in ongoing and increasing losses over the next three fiscal years. *FF20* No capital expenditures/costs will be incurred from the program's termination. *FF18*. The decision to focus on its core services and avoid future losses from the Sleep Center will ultimately benefit the population served by the Hospital. Therefore, the Applicant has demonstrated that its proposal is financially feasible by ultimately resulting in cost avoidance for the Hospital while providing a more focused health care delivery model for the patient.

One of the overarching goals of the Statewide Health Care Facilities and Services Plan is the use of health care facility resources in an efficient, cost-effective manner while maintaining or improving patients' access to quality health care services. This proposal will allow for sleep medicine services to be provided in a more cost-effective setting and eliminate the duplication of services in the Applicant's service area. It is also reflective of the changing model of sleep medicine service delivery that has the potential to reach a larger number of patients. Thus, the Applicant has sufficiently demonstrated a clear public need for this proposal.

Order

NOW, THEREFORE, the Department of Public Health, Office of Health Care Access ("OHCA") and Gaylord Hospital ("Hospital") hereby stipulate and agree to the terms of settlement with respect to the termination of services of Gaylord Sleep Medicine Services, 101 Merritt Blvd., Trumbull, Connecticut, as follows:

1. Gaylord Hospital's request to termination of service at Gaylord Sleep Medicine Services, at 101 Merritt Blvd., Trumbull, Connecticut, is **approved**.
2. Gaylord Hospital shall release a one-time notification to all current patients, and those seen within the past two years, of the Gaylord Sleep Medicine Services that clearly identifies all existing providers of sleep medicine services in the service area where patients can receive the same services. A copy of such notification shall be filed with OHCA within (10) days of the signing of this Agreed Settlement.
3. Gaylord Hospital shall assist former Gaylord Sleep Medicine Services patients in transitioning to alternative providers of their choice and provide copies of medical records upon request.
4. This Agreed Settlement is an order of OHCA with all rights and obligations attendant thereto, and OHCA may enforce this Agreed Settlement under the provisions of Conn. Gen. Stat. §§ 19a-642 and 19a-653 with all fees and costs of such enforcement being the responsibility of the Hospital.
5. OHCA and Gaylord Hospital agree that this Agreed Settlement represents a final agreement between OHCA and all parties with respect to this Application. The signing of this Agreed Settlement resolves all objections, claims, and disputes that may have been raised by the Applicant with regard to Docket Number: 13-31883-CON.
6. This Agreed Settlement shall be binding upon Gaylord Hospital and its successors and assigns.

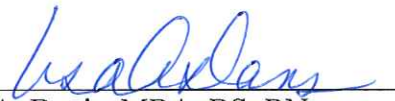
Signed by George M. Kyrnacou
(Print name) (Title)

7/8/14
Date


Duly Authorized Agent for
Gaylord Hospital

The above Agreed Settlement is hereby accepted and so ordered by the Department of Public Health Office of Health Care Access on July 11,, 2014.

7/11/14
Date:


Lisa A. Davis, MBA, BS, RN
Deputy Commissioner