



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

April 24, 2015

IN THE MATTER OF:

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: 14-31932-CON

**Lawrence + Memorial Hospital and
Associated Specialists of Southeastern
Connecticut, Inc.**

**Termination by Lawrence + Memorial
Hospital of Outpatient Behavioral
Medicine Counseling, Obstetrics Clinic,
HIV/AIDS Clinic and Joslin Diabetes
Center services**

To:

Ms. Shradda Patel
Director of Business Development and Planning
Lawrence + Memorial Hospital, Inc.
365 Montauk Avenue
New London, CT 06320

Dear Ms. Patel:

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 April 24, 2015, 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.

Kimberly R. Martone
Director of Operations

Enclosure
KRM:pf



**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Final Decision

Applicants: Lawrence+Memorial Hospital, Inc. and Associated Specialists of Southeastern Connecticut, Inc.
365 Montauk Avenue, New London, CT 06320

Docket Number: 14-31932-CON

Project Title: Termination by Lawrence+Memorial Hospital of Outpatient Behavioral Medicine Counseling, Obstetrics Clinic, HIV/AIDS Clinic and Joslin Diabetes Center services

Project Description: Lawrence + Memorial Hospital, Inc. (“L+M”) and Associated Specialists of Southeastern Connecticut, Inc. (“ASSECT”), (herein referred to as “Applicants”) seek authorization for the termination by L+M of outpatient behavioral medicine counseling, obstetrics clinic, HIV/AIDS clinic and Joslin diabetes center services.

Procedural History: The Applicants published notice of their intent to file a Certificate of Need (“CON”) application in *The Day* (New London) on June 18, 19 and 20, 2014. On August 1, 2014, the Office of Health Care Access (“OHCA”) received the initial CON application from the Hospital for the above-referenced project. OHCA deemed the application complete on March 12, 2015. OHCA received no responses from the public concerning the Applicants’ proposal and no hearing requests were received from the public per Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a. Deputy Commissioner Brancifort considered the entire record in this matter.

Findings of Fact and Conclusions of Law

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)*.

1. L+M is a 308-bed acute-care hospital located at 365 Montauk Avenue, New London, Connecticut and a health care facility or institution as defined by Conn. Gen. Stat. § 19a-630. Ex. A, p. 2
2. On January 1, 2008, Associated Specialists of Southeastern Connecticut, Inc. (“ASSECT”), an active, tax-exempt non- stock corporation, was established by the Hospital as a wholly owned entity. Both ASSECT and the Hospital are affiliates of Lawrence + Memorial Corporation. Ex. A, p. 2
3. The Hospital has historically offered numerous services at various locations within its primary service area including, but not limited to certain behavioral health counseling professional services, diabetes professional services through an association with the Joslin Diabetes Clinic at the Harvard Medical School in Boston, OB/GYN Clinic professional services, neonatology professional services and Infectious Disease professional services (collectively, the “Terminated/Established Professional Services”). Ex. A, p. 2
4. Prior to April 1, 2008, the Hospital billed and received reimbursement for the Terminated/Established Professional Services. On April 1, 2008, the Hospital terminated the Outpatient Behavioral Medicine Counseling, Obstetrics Clinic, HIV/Aids Clinic, and the Joslin Diabetes Center services. Concurrently, ASSECT established and began billing and receiving reimbursement for these same health care services. Ex. A, p. 3
5. Only the physician/professional components of the Terminated/Established Professional Services were moved to ASSECT. Ex. A, p. 4
6. The move of the Terminated/Established Professional Services from the Hospital to ASSECT allowed ASSECT to track and capture Medicaid reimbursements for professional services that were not previously available to the Hospital. Ex. A, p. 10-11, 60
7. Because ASSECT was now being reimbursed for professional services, the change made it more cost effective to provide services to Medicaid patients. Ex. A, p. 11
8. All services provided by the Hospital continued to be provided by ASSECT. No immediate change to the location of services, patient base, population served or hours of operation were made as a direct result of the billing entity change from the Hospital to ASSECT. The same physicians and professionals continued to provide the same health care services. Ex. A, p. 3
9. Subsequent to the reestablishment of services by ASSECT, the Obstetrics Clinic was relocated from the Hospital’s main campus to 470 Bank Street, New London. In addition, outpatient behavioral medicine counseling services were also moved off campus to new

locations in New London, Niantic, Pawcatuck, and Ledyard. L+M response to OHCA inquiry dated January 17, 2013, p. 3

10. Following the relocation, ASSECT provided outpatient behavioral medicine counseling (individual and group therapy) at the new locations. In addition, the OB Clinic extended its hours of operation and patients were given access to providers via telephone. L+M response to OHCA inquiry dated January 17, 2013, p. 3

11. L+M's service area towns include: East Lyme, Groton, Ledyard, Lyme, Montville, New London, North Stonington, Old Lyme, Stonington and Waterford. Ex. B, pp. 71-73

12. The Terminated/Established services, along with the location and hours of operation of the service are shown in the table below:

TABLE 1
 TERMINATED/ESTABLISHED SERVICES

Terminated/Established Professional Service	Location	Hours of Operation
Behavioral Health Professional Services	Main Campus	24/7
Joslin Diabetes Clinic - Main Campus	Main Campus	24/7
Joslin Diabetes Clinic - Mystic	Mystic	Monday-Friday, 9am-5pm.
Joslin Diabetes Clinic - Old Saybrook	Old Saybrook	Monday-Friday, 9am-5pm.
OB/GYN Clinic	Main Campus	Monday-Friday, 9am-5pm.
Neonatology Professional Services	Main Campus	24/7
Infectious Disease professional Services	Main Campus	24/7
Physician Assistant Surgical Services	Main Campus	24/7

Ex. A, p. 3

13. The Applicants' historical volumes for fiscal years ("FY") 2007-2012 is shown in the table below:

TABLE 3
APPLICANTS' HISTORICAL VISITS BY FISCAL YEAR*

Service	L+M	L+M/ ASSECT	ASSECT			
	FY 2007	FY 2008**	FY 2009	FY 2010	FY 2011	FY 2012
Behavioral Medicine Visits	16,651	28,504	18,546	20,123	21,460	24,034
Diabetes Visits-Total***	27,684	30,689	8,363	21,302	19,796	18,490
Diabetes Visits-Main Campus***			4,917	12,485	11,336	10,952
Diabetes Visits-Mystic***			2,672	6,887	6,248	6,061
Diabetes Visits-Old Saybrook***			774	1,930	2,212	1,477
OB Clinic Visits Total	5,126	4,894	1,759	1,787	1,831	1,857
Neonatology Visits	****	****	2,875	3,337	4,539	4,130
Infectious Disease Visits	7,140	10,325	4,573	6,516	7,761	8,110
P/A Surgical Procedures	3,744	5,174	3,522	3,136	3,113	4,598

*The fiscal year is from October 1 to September 30

**FY 2008 includes seven (7) months of Hospital billed services (October 1-April 30) and five (5) months of ASSECT billed services (May 1-September 30)

***FY 2009 represents only six months of data (04/01/09-09/30/09)

NOTE: Certain increases in volume from FY 2007 to FY 2008 were due to L+M using a different third party vendor that calculated utilization differently than the Hospital's vendors from other years, resulting in increased utilization figures for those years.

Ex. A, p. 7; Ex. B, pp. 74-75; Ex. C, p. 86

14. Diabetes volume at the individual locations and by provider shifted because ASSECT added diabetes service locations and relocated providers to new locations within the service area to address community needs and eliminate the financial burden of keeping some locations open. Ex. B. p. 75

15. OB Clinic visit volume dropped significantly in FY 2009 as a result of improved reimbursement rates for government programs and payers. Following these changes in reimbursement, women in the community were more easily able to obtain treatment with individual providers, resulting in significantly less volume at the OB Clinic. L+M response to OHCA inquiry dated March 11, 2013, p. 2

16. There is no capital expenditure associated with this proposal. Ex. A, p. 9

17. ASSECT incurred incremental losses from FY 2008 to FY 2011 as a result of the proposal.

TABLE 4
 ASSECT INCREMENTAL REVENUE AND EXPENSES ASSOCIATED WITH THE PROPOSAL

	FY 2008 ¹	FY 2009	FY 2010	FY 2011
Revenue from Operations	\$5,328,924	\$3,911,729	\$7,768,853	\$6,495,770
Total Operating Expenses	\$7,636,025	\$13,004,230	\$16,747,092	\$16,406,983
Gain/(Loss) from Operations	(\$2,307,101)	(\$9,092,501)	(\$8,978,239)	(\$9,911,213)

The fiscal year is from October 1 to September 30

¹ASSECT began billing for the Terminated/Established Professional Services on April 1, 2008 (represents 6 months of the fiscal year)

Ex. A. p. 65

18. As a result of the proposal, the Hospital reported increasing gains from operations from FY 2007 to FY 2011.

TABLE 5
 HOSPITAL HISTORICAL REVENUE AND EXPENSES ASSOCIATED WITH THE PROPOSAL

	FY 2007	FY 2008 ¹	FY 2009	FY 2010	FY 2011
Revenue from Operations	\$262,470,539	\$272,243,623	\$288,946,322	\$316,652,813	\$329,937,702
Total Operating Expenses	\$258,243,727	\$265,230,570	\$273,416,544	\$294,705,877	\$307,331,285
Gain/(Loss) from Operations	\$4,226,812	\$7,013,053	\$15,529,778	\$21,946,936	\$22,606,418

The fiscal year is from October 1 to September 30

¹ASSECT began billing for the Terminated/Established Professional Services on April 1, 2008 (represents 6 months of the fiscal year)

19. The Applicants' payer mix before and after the transfer for each service is as follows:

TABLE 6
 APPLICANTS' PAYER MIX, PRE- AND POST-TRANSFER

Service	Medicare		Medicaid		Champus & TriCare		Commercial		Uninsured		Workers Comp	
	FY 07	FY 09	FY 07	FY 09	FY 07	FY 09	FY 07	FY 09	FY 07	FY 09	FY 07	FY 09
Behavioral Medicine Visits	25.9%	30.9%	25.0%	21.2%	4.2%	4.3%	42.6%	40.0%	1.7%	3.5%	0.7%	0.1%
Diabetes Visits	32.2%	33.5%	6.7%	8.1%	4.1%	1.4%	55.1%	55.0%	1.8%	2.0%	0.0%	0.0%
OB Clinic Visits	0.8%	0.0%	61.0%	88.0%	0.0%	0.0%	4.8%	11.0%	33.3%	1.0%	0.0%	0.0%
Neonatology Discharges	0.0%	0.5%	34.4%	33.4%	16.1%	26.6%	46.6%	33.1%	2.8%	6.4%	0.0%	0.0%
Infectious Disease Visits	40.7%	46.6%	13.8%	18.9%	2.5%	2.7%	38.3%	28.2%	3.2%	3.0%	1.4%	0.4%
PA Surgical Procedures	28.8%	35.6%	12.3%	13.1%	7.0%	4.5%	48.0%	42.4%	2.1%	3.3%	1.9%	1.1%

The fiscal year is from October 1 to September 30. Ex. B, pp. 76-79

20. After the transfer, ASSECT continued to accept all the same payers, including Medicaid recipients and indigent persons. Ex. A, p. 5, 10
21. Charity care continued to be available through the Charity Care Policy adopted by ASSECT upon its formation. Ex. A, p. 5
22. The proposal is cost effective because it allowed the Hospital and ASSECT to capture lost revenue streams and address decreasing provider reimbursement rates while continuing to provide coordinated and integrated care to patients in the Hospital service area. Ex. A, p. 12
23. 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))
24. 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))
25. The Applicants have established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
26. The Applicants have demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
27. The Applicants have satisfactorily demonstrated that access to services in the region is maintained for the relevant patient populations. (Conn. Gen. Stat. § 19a-639(a)(5))
28. The Applicants have shown that there is 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))
29. The Applicants have satisfactorily identified the population affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))
30. The Applicants' historical provision of care in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
31. The Applicants have 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))
32. The Applicants have demonstrated that access to services by Medicaid recipients or indigent persons will be maintained. (Conn. Gen. Stat. § 19a-639(a)(10))

33. The Applicants have satisfactorily demonstrated that the proposal would not result in a negative impact on the diversity of health care providers in the area. (Conn. Gen. Stat. § 19a-639(a)(11))
34. The Applicants have satisfactorily demonstrated that its proposal would not result in any consolidation. (Conn. Gen. Stat. § 19a-639(a)(12))

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 Conn. Gen. Stat. § 19a-639(a). The Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

Lawrence+Memorial Hospital, (“L+M” or “Hospital”) a 308-bed acute-care hospital in New London, Connecticut, has historically offered numerous professional services at various locations within its primary service area including behavioral health counseling, diabetes, OB/GYN Clinic, neonatology and infectious disease services (collectively, the “Terminated/Established Professional Services”). *FF1,3*

On January 1, 2008, the Hospital established Associated Specialists of Southeastern Connecticut, Inc. (“ASSECT”), an active, tax-exempt non-stock corporation, as a wholly owned entity. Both ASSECT and the Hospital are affiliates of Lawrence + Memorial Corporation. *FF2* Prior to April 1, 2008, the Hospital billed and received reimbursement for the Terminated/Established Professional Services. On April 1, 2008, the Hospital terminated the Outpatient Behavioral Medicine Counseling, Obstetrics Clinic, HIV/Aids Clinic, and the Joslin Diabetes Center services. Concurrently, ASSECT established and began billing and receiving reimbursement for these same health care services. *FF4*

Only the physician/professional components of the Terminated/Established Professional Services were moved to ASSECT. *FF5* All services provided by the Hospital continued to be provided by ASSECT following the move. No immediate change to the location of services, patient base, population served or hours of operation were made as a result of the billing entity change from the Hospital to ASSECT. The same physicians and professionals continued to provide the Terminated/Established Professional Services, providing continuity of care for patients. *FF8*

Subsequent to the transfer, the Obstetrics Clinic was relocated from the Hospital’s main campus to 470 Bank Street, New London. In addition, outpatient behavioral medicine counseling services were also moved off campus to new locations in New London, Niantic, Pawcatuck, and Ledyard. *FF9* Following the relocation, ASSECT provided outpatient behavioral medicine counseling (individual and group therapy) at the new locations. In addition, the OB Clinic extended its hours of operation and patients were given access to providers via telephone. *FF10*

After the transfer, ASSECT continued to accept all the same payers, including Medicaid recipients and indigent persons. *FF20* Charity care continued to be available through the Charity Care Policy adopted by ASSECT upon its formation. *FF25* As there was no reduction in the types of services offered, number of locations or hours of operation, all patients were able to access the same services following the Terminated/Established Professional Services. *FF8, FF19* In general, patient volumes and payer mix remained constant. *FF13, FF19* Therefore, OCHA concludes that access was maintained.

The effect of the Terminated/Established Professional Services was cost effective, as it allowed the Hospital and ASSECT to capture lost revenue streams and address decreasing provider reimbursement rates, while continuing to provide coordinated and integrated care to area patients. *FF6, FF22* Following the billing entity change, the Hospital experienced increased gains from operations. *FF18* Thus, OHCA finds the proposal financially feasible.

The Applicants have satisfactorily demonstrated that access has been maintained as a result of this proposal and that the quality of care will be maintained in a cost-effective manner, which is consistent with the goals of the Statewide Health Care Facilities and Services Plan.

Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Lawrence + Memorial Hospital, Inc. ("L+M") and Associated Specialists of Southeastern Connecticut, Inc. ("ASSECT"), for the termination by L+M of outpatient behavioral medicine counseling, obstetrics clinic, HIV/AIDS clinic and Joslin diabetes center services is hereby **APPROVED**.

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

By Order of the
Department of Public Health
Office of Health Care Access

April 24, 2015
Date

Janet M. Brancifort
Janet M. Brancifort, MPH
Deputy Commissioner