



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

Final Decision

Applicant: Yale-New Haven Hospital
20 York Street, New Haven, CT 06510

Docket Number: 15-32011-CON

Project Title: Termination of Services at Yale-New Haven Hospital
Urgent Care at Foxon in East Haven, CT

Project Description: Yale-New Haven Hospital (“Hospital” or “Applicant”) seeks authorization to terminate its urgent care services provided at Yale-New Haven Hospital Urgent Care at Foxon located at 317 Foxon Road in East Haven with no associated capital expenditure.

Procedural History: The Hospital published notice of its intent to file a Certificate of Need (“CON”) application in the *New Haven Register* (New Haven) on June 6, 7 and 8, 2015. On July 6, 2015, the Office of Health Care Access (“OHCA”) received the CON application from the Hospital for the above-referenced project. OHCA deemed the application complete on August 5, 2015.

On September 10, 2015, the Hospital was notified of the date, time, and place of the public hearing. On September 11, 2015, a notice to the public announcing the hearing was published in the *New Haven Register*. Thereafter, pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e), a public hearing regarding the CON application was held on September 28, 2015.

Commissioner Jewel Mullen designated Attorney Kevin T. Hansted as the hearing officer in this matter. The hearing was conducted in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Conn. Gen. Stat.) and Conn. Gen. Stat. § 19a-639a(e). The public hearing record was closed on October 16, 2015. Deputy Commissioner Brancifort considered the entire record in this matter.

Findings of Fact and Conclusions of Law

1. Yale-New Haven Hospital (“Hospital” or “Applicant”) is a 1,541 bed (including bassinets) non-profit, acute care teaching hospital with two integrated campuses located in New Haven, Connecticut. The Hospital is a corporate member of Yale-New Haven Health Services Corporation (“YNHHS”). Ex. B, pp. 14, 41, 71
2. The Hospital has operated Yale-New Haven Hospital Urgent Care at Foxon (“Foxon Center”), located at 317 Foxon Road in East Haven, since May 1, 2011. The Foxon Center offers urgent care services on an episodic, walk-in basis for non-life threatening, low acuity conditions such as sore throat, cough, sinusitis and upper respiratory infection. Ex. B, pp. 13-15, 38
3. The Hospital proposes to terminate its urgent care services at the Foxon Center. Ex. B, p. 13
4. The proposal is the result of the Hospital’s assessment of its outpatient program locations to determine duplicative offerings in contiguous communities and to identify excess capacity that leads to inefficiencies and increased costs. The Foxon Center was identified as an underperforming site in an area that has become saturated with urgent care and walk-in clinics. Ex. B, p. 13
5. Table 1 illustrates that more than 75 percent of the patients who received services at the Foxon Center in fiscal year (“FY”) 2014 were from the towns of New Haven, East Haven and North Branford.

TABLE 1
FOXON CENTER’S SERVICE AREA TOWNS

Town	Percentage Utilization by Town
New Haven	40.35%
East Haven	31.52%
North Branford	6.54%

Ex. B, pp. 14, 33

6. There are 13 urgent care centers, 6 walk-in clinics (which include two that are specific to orthopedic services) and 1 community health center primary care site, not affiliated with YNHHS and located within 11 miles of the Foxon Center, as illustrated by Table 2 below. These sites offer similar services to the Foxon Center.

TABLE 2
LOCATION OF EXISTING PROVIDERS

Service	Count	Program Name	Town	Distance from the Foxon Center in Miles
Urgent Care	1	Cornell Scott Hill Health Center Urgent Care*	New Haven	6.5
	2	Cornell Scott Hill Health Center Urgent Care*	New Haven	5.8
	3	Cornell Scott Hill Health Center Urgent Care*	New Haven	4.5
	4	ASAP Urgent Care	North Haven	6.5
	5	ASAP Urgent Care	Hamden	8.0
	6	203 - Urgent Care	North Haven	4.3
	7	203 - Urgent Care	Orange	10.4
	8	203 - Urgent Care	West Haven	8.7
	9	203 - Urgent Care**	Hamden	7.2
	10	Stony Creek Urgent Care	Branford	6.1
	11	Stony Creek Urgent Care	Orange	10.9
	12	Express Care Urgent Care	Hamden	7.2
	13	Concentra Urgent Care	New Haven	4.0
Walk-in Care	1	OrthoNow Walk-in Center	Hamden	9.6
	2	OrthoNow Walk-in Center	Branford	4.6
	3	New Haven Walk-in Medical Center	New Haven	3.4
	4	CVS Minute Clinic	North Haven	6.9
	5	CVS Minute Clinic	Hamden	9.5
	6	CVS Minute Clinic	Guilford	9.3
Primary Care	1	Fair Haven Community Health Center*	New Haven	4.0

Notes: * Sites are operated by Federally Qualified Health Centers.

** Opened in the summer of 2015.

Ex. H, p.12

7. Nearly half of urgent care and walk-in sites in the area served by the Foxon Center commenced operation after the Foxon Center's start of operations in May of 2011. Ex. B, p. 16, Testimony of Christopher O'Connor, Executive Vice President and Chief Operating Officer, pp. 6-7
8. The Hospital provides emergent care and fast track services within its Emergency Departments ("ED") on its York Street and Chapel Street campuses in New Haven and at its Shoreline Medical Center in Guilford. The distance between the York Street ED, Chapel Street ED and the Shoreline Medical Center from the Foxon Center are 6.4 miles, 7.4 miles and 10.3 mile, respectively. Ex. B, p. 15; Ex. H, p.11

9. YNHHS's affiliated medical foundation, Northeast Medical Group (NEMG), is a non-profit multi-specialty medical group that provides professional services at the Foxon Center, as well as other YNHHS affiliated sites throughout the greater New Haven area and the region. Ex. B, pp. 13-14
10. NEMG offers walk-in services at clinics it operates in North Haven and West Haven, 7 miles and 10.5 miles from the Foxon Center, respectively. Both clinics are accessible via public transportation. Ex. B, pp. 15, 22
11. NEMG offers similar low acuity services by appointment at several of its primary care offices in the immediate area of the Foxon Center with over 35 NEMG primary care physicians. Ex. B, pp. 15-16
12. NEMG's North Haven walk-in clinic has the capacity to accommodate nearly all of the Foxon Center's urgent care visits. As a result of this proposed termination, the days and hours of the North Haven and West Haven walk-in clinics may be expanded based on patient demand. Ex. B, p. 16
13. Two other Urgent Care providers have confirmed they have the capacity and ability to accommodate Foxon Center patients: ASAP Urgent Care and 203 - Urgent Care. Ex. H, pp.19-22
14. Table 3 shows the Foxon Center's historical volumes for FYs 2012 through 2015 and the percentage change between years. The table demonstrates that, while the Foxon Center did experience continuing increases in volume, the percentage of volume growth has significantly slowed each year.

TABLE 3
FOXON CENTER'S HISTORICAL UTILIZATION
FISCAL YEARS 2012-2015

Service	Actual Volume*						
	FY 2012	FY 2013	% change FY12-13	FY 2014	% change FY13-14	FY 2015**	% change FY14-15
Visits	6,968	8,284	18.9%	9,361	13.0%	10,042	7.3%

Notes: * The Center is open 362 days a year.

** Annualized, October 2014-May 2015

Ex. B, pp. 16, 31

15. The Applicant indicates that the leveling off of volume is due to the proliferation of urgent care centers that have opened up within a ten mile radius of the Foxon Center. Testimony of Deborah Borisjuk, Project Manager of the Foxon Center, p.18
16. Table 4 illustrates that the Foxon Center's revenue increases are not keeping pace with its expense increases, resulting in increasing operating losses over the last three fiscal years, 2012 through 2014.

TABLE 4
FOXON CENTER'S ACTUAL REVENUES AND EXPENSES
FISCAL YEARS 2012-2014

Description	FY 2012	FY 2013	% change FY12-13	FY 2014	% change FY13-14
Revenue from Operations	\$329,300	\$354,700	7.7%	\$391,200	10.3%
Total Operating Expenses	\$806,700	\$922,200	14.3%	\$1,198,500	30.0%
Gain/(Loss) from Operations	(\$477,400)	(\$567,500)	Increasing Loss of 18.9%	(\$807,300)	Increasing Loss of 42.2%

Ex. M, p. 2

17. The Hospital projects overall gains in operations in each of the first three full fiscal years, FY 2016 through FY 2018, following the proposed termination.

TABLE 5
HOSPITAL'S PROJECTED REVENUES AND EXPENSES
FISCAL YEARS 2016-2018*

Description	FY 2016	FY 2017	FY 2018
Revenue from Operations	\$2,464,876	\$2,514,901	\$2,564,876
Total Operating Expenses	\$2,375,792	\$2,424,005	\$2,472,172
Gain/(Loss) from Operations	\$89,084	\$90,895	\$92,703

Ex. M, p. 3

*in thousands

18. The Foxon Center's current payer mix for FY 2014 and projected payer mix for FY2015 are as follows:

TABLE 6
FOXON CENTER'S CURRENT & PROJECTED PAYER MIX
FISCAL YEARS 2014 & 2015

Payer	FY 2014*		FY 2015*	
	Visits	%	Visits	%
Medicare**	1,357	14.5%	1,344	13.4%
Medicaid**	3,458	36.9%	3,690	39.4%
CHAMPUS & TriCare	32	0.3%	46	0.5%
Total Government	4,847	51.87%	5,350	53.3%
Commercial Insurers	4,009	42.8%	4,386	43.7%
Uninsured	503	5.4%	292	2.9%
Workers Compensation	2	0.02%	14	0.01%
Total Non-Government	4,514	48.2%	4,692	46.7%
Total Payer Mix	9,361	100%	10,042	100%

Notes: * Numbers and percentages may reflect rounding

**Includes managed care activity

Ex. B, p. 32

19. There is no capital expenditure associated with termination of urgent care services at the Foxon Center. Ex. B, pp. 23, 30
20. This proposal will not negatively impact care for Medicaid recipients and indigent persons. YNHHS and NEMG provide services for any patient in the region, regardless of their ability to pay and all but three of the non-YNHHS sites in the area (i.e. Concentra Urgent Care in New Haven and the OrthoNow Walk-in Centers in Hamden & Branford) accept Medicaid patients. Ex. B, pp. 15, 22, Ex. H, p. 14
21. The cost effectiveness of care in the region will be improved by ensuring that patients receive these low acuity services in the least intensive, yet clinically appropriate setting and by reducing duplicative service. Ex. B, p. 21
22. Foxon Center patients will be notified about the closure of the Center and provided information on the existing alternative sites both within the YNHHS ambulatory network, including emergency department locations, walk-in clinics and appointment-based primary care settings operated by NEMG, as well as other non-YNHHS urgent care and walk-in sites in the service area. Ex. B, pp. 16-17
23. Center patients choosing to stay within the YNHHS network will have their records available via the network's electronic medical record system which will insure continuity of care. Ex. B, p. 17, Testimony of Amit Rastogi, interim Chief Executive Officer of NEMG, p.12
24. 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))
25. The CON application is consistent with the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
26. The Hospital has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
27. The Hospital has satisfactorily demonstrated that its proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
28. The Hospital has satisfactorily demonstrated that access to services, cost effectiveness and the quality of health care delivery will be maintained. (Conn. Gen. Stat. § 19a-639(a)(5))
29. The Hospital has shown that there will 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))
30. The Hospital has satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))

31. The Applicant has sufficiently demonstrated that there are other providers in the area being utilized by the public and that can continue to be utilized by the public. (Conn. Gen. Stat. § 19a-639(a)(8))
32. The Hospital has satisfactorily demonstrated that the proposal will not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))
33. The Hospital has satisfactorily demonstrated that access to services for Medicaid recipients and indigent persons will be maintained. (Conn. Gen. Stat. § 19a-639(a)(10))
34. The Hospital has satisfactorily demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the geographic region. (Conn. Gen. Stat. § 19a-639(a)(11))
35. The Hospital has satisfactorily demonstrated that its proposal will not result in any consolidation that would affect health care costs or accessibility to care. (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 Hospital bears the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

Yale-New Haven Hospital (“Hospital” or “Applicant”) is a non-profit acute care teaching hospital located in New Haven, Connecticut and is a corporate member of Yale-New Haven Health Services Corporation (“YNHHS”). *FF1* Since May 1, 2011, the Hospital has operated Yale-New Haven Hospital Urgent Care at Foxon (“Foxon Center”) in East Haven. *FF2* The Foxon Center offers urgent care services on an episodic, walk-in basis for non-life threatening, low-acuity conditions. *FF2* Professional services are provided by the Northeast Medical Group (“NEMG”), YNHHS’s affiliated medical foundation. *FF9* The Foxon Center has primarily served the towns of East Haven, New Haven, and North Branford. *FF5*

The Hospital proposes to terminate its urgent care services at the Foxon Center. *FF3* The proposal is the result of the Hospital’s assessment of its outpatient services to determine duplicative offering in contiguous communities. The rate of volume increases at the Foxon Center has been steadily declining each year since FY 2012 and the Center has realized a loss from operations for each year since FY 2012. *FF14, 16* The Foxon Center was identified as an underperforming outpatient services site in a market that has become saturated with urgent care and walk-in clinics providers. *FF4*

Access to services will be maintained by the proposal, as alternative urgent care and walk-in providers and sites are available for patient choice. Within the YNHHS network, the Hospital provides emergent care and fast track services within its two Emergency Departments in New Haven and one in Guilford, 6, 7.4 and 10.3 miles from the Foxon Center, respectively and NEMG operates walk-in clinics in North Haven and West Haven, 7 and 10.5 miles from the Foxon Center, respectively. *FF8, 10* NEMG’s North Haven walk-in clinic currently has the capacity to accommodate nearly all of the Foxon Center urgent care visits. *FF12* In addition, NEMG offers appointment-based visits at several of its primary care offices located within the immediate area of the Foxon Center. *FF10* Further, there are 13 urgent care centers, 6 walk-in clinics and 1 community health center primary care site, not affiliated with YNHHS and offering similar services to the Foxon Center. All are located within 11 miles from the Foxon site. *FF6* Two urgent care providers, ASAP Urgent Care and 203 - Urgent Care, indicated that they also have the capacity and the ability to accommodate urgent care patients that may have previously utilized the Foxon Center. *FF13* Therefore, the Hospital has satisfactorily demonstrated that the closing of Yale-New Haven Hospital Urgent Care at Foxon will not result in a reduction in the access to urgent care services available to patients in this area.

The Hospital’s proposal will not negatively impact care for Medicaid recipients and indigent persons as the majority of the providers that offer this level of care in the area, including those both within and outside of YNHHS, accept Medicaid patients. *FF20*

There is no capital expenditure associated with terminating the Foxon Center. *FF19* The Hospital projects overall gains from operations in each of the first three years following the proposed termination. *FF17* Therefore, the Hospital has demonstrated that the proposal is financially feasible.

Access to urgent care services for residents of this area in need of episodic, walk-in services for non-life threatening low acuity conditions will continue despite the proposed closing of Yale-New Haven Urgent Care at Foxon. Further, the majority of urgent care and walk-in care sites remaining in the area provide services to Medicaid and indigent patients. The Hospital has demonstrated that the proposal is consistent with the Statewide Health Care Facilities and Services Plan by reducing unnecessary duplication of services.

Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Yale-New Haven Hospital for the termination of urgent care services at Yale-New Haven Hospital Urgent Care at Foxon Road in East Haven 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

November 18, 2015
Date

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