

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Raul Pino, M.D., M.P.H.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

Final Decision

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

Docket Number: 15-32041-CON

Project Title: Termination of Outpatient Rehabilitation Services at Yale-New Haven Hospital's Location in Branford, Connecticut

Project Description: Yale-New Haven Hospital ("Hospital" or "Applicant") seeks authorization to terminate its outpatient rehabilitation services located at 84 North Main Street in Branford at no 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 September 9, 10 and 11, 2015. On November 17, 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 February 17, 2016.

On March 8, 2016, OHCA issued an Order to consolidate this CON application with the Hospital's CON application under Docket Number 15-32040-CON, the termination of the Hospital's occupational medicine and wellness services in Branford and East Haven.

On March 18, 2016, the Hospital was notified of the date, time, and place of the consolidated public hearing. On March 21, 2016, 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 April 7, 2016.



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Attorney Kevin T. Hansted was designated 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 April 19, 2016. 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. A, p. 16
2. The Hospital currently provides outpatient rehabilitation services at the following off-campus locations: 84 North Main Street, Branford; 175 Sherman Avenue, New Haven; 800 Howard Avenue, New Haven; 1 Long Wharf Drive, New Haven; 2080 Whitney Avenue, Hamden; 1445 Boston Post Road, Guilford; 48 Wellington Road, Milford; and 633 Middlesex Turnpike, Old Saybrook. All these locations are operated as outpatient departments under the Hospital’s acute care hospital license. Ex. A, pp. 16, 42
3. The Hospital proposes to terminate outpatient rehabilitation services in Branford and consolidate patients from this location to the Hospital’s outpatient rehabilitation locations in New Haven, Hamden and Guilford. Ex. A, p. 16
4. The Branford location operates Monday through Friday from 7:00 a.m. to 5:00 p.m. and provides outpatient rehabilitation services to both occupational medicine patients, referred from the Hospital’s occupational health sites, including those in East Haven and Branford, and non-occupational medicine patients. Outpatient rehabilitation services include: physical therapy, physical demand screenings, work conditioning and functional capacity evaluations. Ex. A, pp. 16, 17, 24, 39; Ex. J, Prefiled Testimony of Amit Rastogi, M.D. Interim Chief Executive Officer of Northeast Medical Group, p. 111
5. Approximately 40 percent of Branford’s rehabilitation visits involve the Hospital’s occupational medicine patients and the remaining 60 percent of patients are referred by community physicians and Hospital-based clinics for rehabilitation services. Ex. A, pp. 17, 23
6. The proposal to terminate the Branford outpatient rehabilitation location is the result of the Hospital’s assessment of all of its outpatient rehabilitation locations, which identified potential duplicative program offerings in contiguous communities that may lead to inefficiency and increased costs. The Hospital determined that there is duplication of services among its outpatient rehabilitation locations and available capacity at all locations. In addition, the Hospital is terminating its occupational health services at this same Branford location, and the occupational health program is a source of patients for the outpatient rehabilitation program at Branford. Ex. A, pp. 15-19, 43; CON application under Docket Number 15-32040-CON

7. The Hospital will continue to offer outpatient rehabilitation services at its alternate locations, which will have the capacity to absorb any displaced patients from the Branford location. As a result of this proposed termination, the days and hours of the New Haven and Hamden locations may be expanded based on patient demand. Table 1 lists the current hours of operation, Fiscal Year (“FY”) 2014 visits by location and distance in miles from Branford.

TABLE 1
ALTERNATIVE HOSPITAL OUTPATIENT REHABILITATION SERVICE LOCATIONS

Hospital Locations	Address	Days/Hours of Operation	Visits in FY 2014	Distance from Branford in Miles
New Haven	175 Sherman Ave	Monday – Friday 7:00 a.m. to 5:30 p.m.	12,000	8.1
New Haven	800 Howard Ave	Monday –Friday 7:00 a.m. to 4:30 p.m.	9,000	7.0
Guilford	1 Long Wharf Drive	Monday –Thursday 7:30 a.m. to 7:00 p.m. and Friday 7:30 a.m. to 4:00 p.m.	5,000	7.4
Hamden	2080 Whitney Avenue	Monday, Tuesday, Thursday 7:00 a.m. to 5:30 p.m.	3,000	11.9
Milford	48 Wellington Road	Monday - Friday 7:30 a.m. to 5:00 p.m.	3,000	17.9
Old Saybrook	633 Middlesex Turnpike	Monday - Friday 7:30 a.m. to 5:00 p.m.	N/A (New Site)	25.7

Ex. A, pp. 15, 39

8. The alternative Hospital rehabilitation locations offer additional services and amenities as well as access to specialty physicians and specialty therapists not available in Branford. For example, the Guilford location has orthopedics on-site and certified hand therapists on staff and the Long Wharf services are co-located with Yale-New Haven Spine Clinic and psychiatry physicians on that location. Mr. John Tarutis, Executive Director Physical Medicine and Rehabilitation at Yale-New Haven Hospital indicated at the public hearing that co-location of rehabilitation and physician services allows for ease of referral and consultation. Table 2 presents service and physical space differences by location.

TABLE 2
INVENTORY OF SERVICES AT HOSPITAL'S ALTERNATIVE LOCATIONS

Hospital Locations ^a	Available Physician Services	Available Rehabilitation Services ^b	Specialty Rehabilitation Services	Available Diagnostic Services	Physical Space
84 North Main Street, Branford	Occupational Medicine, Cardiology	PT, OT	ITB trial, work conditioning, industrial rehab, physical demand screen, vestibular rehab ^d	Lab ^d	Treatment rooms; Gym with capabilities for occupational health patients
800 Howard Avenue, New Haven	Orthopedics, Cardiology, ENT ^c , Vascular	PT, OT, ST	Shoulder, head, neck, balance, gait, concussion, trauma, post-surgical	Radiology Lab	Gym and treatment rooms
175 Sherman Avenue, New Haven	Occupational Medicine	PT, OT	ITB trial, work conditioning, industrial rehab, functional capacity evaluation, physical demand screen, certified hand therapist, lymphedema	Lab	Treatment rooms; larger gym with specific capabilities for occupational health patients; OT hand treatment area; Specialization in functional testing and treatment
1445 Boston Post Road, Guilford	Orthopedics, Physiatry	PT, OT	Orthopedics, lymphedema, head, neck, shoulder, hand specialists, women's health, post-surgical, balance, gait	Radiology Lab	Gym and treatment rooms (gym space newer than at other facilities)
1 Long Wharf Drive, New Haven	Orthopedics, Spine, Physiatry, Pain Management	PT, OT	Spine, neurological trauma	Radiology Lab	Gym and treatment rooms; larger gym with capabilities for occupational health patients
2080 Whitney Avenue, Hamden	Occupational Medicine	PT, OT	ITB trial, work conditioning, industrial rehab, physical demand screen, certified hand therapist	Lab	Gym and treatment rooms; capabilities for occupational health patients
633 Middlesex Turnpike, Old Saybrook	Orthopedics, Oncology, Heart, Vascular, Rheumatology, Urology	PT, OT	Head, neck, orthopedics, back, upper & lower extremity, women's health	Radiology Lab	Gym and treatment rooms; (newest gym space of all facilities)
48 Wellington Road, Milford	Orthopedics, Spine	PT, OT	Hand, shoulder, head and neck, balance, gait, concussion, women's health	Radiology Lab	Gym and treatment rooms; larger gym and OT treatment area

April 14, 2016, 15-32041 Public Hearing, Late File; Testimony of Mr. John Tarutis, Executive Director Physical Medicine and Rehabilitation at Yale-New Haven Hospital, 15-32041-CON Public Hearing Transcript pp. 32, 33

^aThe Hospital's pediatric rehabilitation location at 1 Long Wharf in New Haven is not included in the table as it only treats pediatric patients.

^bPT denotes Physical Therapy, OT denotes Occupational therapy, ST denotes Speech Therapy

^cENT denotes Ear, Nose and Throat

^dLab denotes Laboratory

9. A significant amount of capacity exists at the Long Wharf location in New Haven where rehabilitative services are provided in connection with the Hospital's spine center at the same location. The Long Wharf location and the Sherman Avenue location in New Haven are more accessible than Branford for patients who reside in New Haven many of whom are Medicaid beneficiaries. Ex. D, p. 102
10. There are 23 alternative provider locations not affiliated with the Hospital, as shown in Table 3 below. These providers of outpatient rehabilitation services will be available to accommodate any who choose not to use the remaining Hospital locations for their services.

TABLE 3
INVENTORY OF ALTERNATIVE NON-HOSPITAL SERVICE LOCATIONS

Facility Name	Town	Street Address	Distance in Miles from Branford location
Connecticut Orthopaedic Specialists (STAR)	Branford	84 North Main Street	0.0
Amity Physical Therapy	Branford	103 North Main Street	0.8
Center for Orthopaedics	Branford	1224 Main Street	1.1
Pro Physical Therapy	Branford	469 West Main Street	1.3
Branford Rehabilitation Center	Branford	226 East Main Street	1.8
Therapy Works	East Haven	32 Main Street	2.5
Omni Physical and Aquatic Therapy	East Haven	205 Main Street	3.4
Physical Therapy Services of Guilford	Branford	500 East Main Street	3.7
Physical Therapy and Sports Medicine Centers	Branford	6 Business Park Drive	3.8
Anatomical Arts Physical Therapy	North Branford	635 Foxon Road	4.1
Temple Physical Therapy	East Haven	444 Foxon Road	5.7
Physical Therapy and Sports Medicine Centers	New Haven	46 Prince Street	6.4
Temple Physical Therapy	New Haven	230 George Street	7.1
Pro Physical Therapy	New Haven	199 Whitney Avenue	7.3
Physical Therapy and Sports Medicine Centers	Guilford	385 Church Street	8.2
Connecticut Orthopaedic Specialists (STAR)	Guilford	450 Boston Post Road	9.3
Integrative Physical Therapy	Guilford	37 Soundview Road	9.4
Physical Therapy Specialists	Guilford	705 Boston Post Road	9.7
Rehab Concepts	Guilford	753 Boston Post Road	10.0
Pro Physical Therapy	Hamden	2200 Whitney Avenue	12.1
Amity Physical Therapy	Hamden	2285 Whitney Avenue	14.0
Connecticut Orthopaedic Specialists (STAR)	Hamden	2416 Whitney Avenue	15.0
Physical Therapy and Sports Medicine Centers	Westbrook	5 Pequot Park Road	18.7

Ex. A, p. 40; Testimony of Amit Rastogi, M.D. Interim Chief Executive Officer of Northeast Medical Group, Public Hearing Transcript, p. 29

11. Table 4 illustrates that approximately 74 percent of the patients who received services at the Branford location in FY 2015 were from the towns of Branford, New Haven, East Haven, and Guilford. The towns of New Haven and Guilford have alternate Hospital outpatient rehabilitation locations.

**TABLE 4
 SERVICE AREA TOWNS**

Town	FY 2015 Visits Utilization by Town	FY 2015 Percentage Utilization by Town
Branford	1826	30.52%
East Haven	1280	21.39%
New Haven	895	14.96%
Guilford	434	7.25%
North Branford	425	7.10%
West Haven	225	3.76%
Hamden	97	1.62%
Other	802	13.40%
Total / %	5984	100.00%

Ex. D, p. 101

12. In FY 2015, 895 rehabilitation visits at the Branford location were by New Haven residents. Of these 895 visits, 491 were non-occupational health rehabilitation visits and 350 or 71.28% were Medicaid beneficiaries. These patients will benefit from the ability to access care at locations closer to their homes. Ex. J, Prefiled Testimony of Mr. John Tarutis, Executive Director Physical Medicine and Rehabilitation at Yale-New Haven, p. 120

13. Table 5 shows the service's actual outpatient rehabilitation volumes for FYs 2012 through 2015.

**TABLE 5
 BRANFORD LOCATION'S ACTUAL UTILIZATION
 FISCAL YEARS 2012-2015**

Outpatient Rehabilitation Visits	Actual Volume*			
	FY 2012	FY 2013	FY 2014	FY 2015
Occupational Visits	2,528	2,221	2,077	2,126
Non-Occupational Visits	3,987	2,894	3,196	3,858
Total	6,515	5,115	5,273	5,984

Ex. D, p. 99

14. The Hospital indicated that the increase in visits to the Branford location during FY 2015 was due in part to the Hospital scheduling many of its own YNNHS employee visits to the Branford location for employee physicals. Testimony of Ms. Jodie Boldrighini, Director of Occupational and Employee Population Health, Solutions, Yale-New Haven Hospital, Public Hearing Transcript, p. 24

15. On average, the Branford location sees less than two rehabilitation patients per hour and total volume has decreased since FY 2012 (above Table 5 show that visits in FY2015 of 5,984 are well below the levels achieved in FY 2012). Ex. A, p. 43; Ex. D, p. 99; Ex. J, Prefiled Testimony of Amit Rastogi, M.D. Interim Chief Executive Officer of Northeast Medical Group, p. 113
16. The proposal will not adversely impact access to care for Medicaid recipients and indigent persons. All the Hospital's outpatient rehabilitation locations accept Medicaid and provide services to all patients regardless of payer status. Ex. A, p. 45, Testimony of Amit Rastogi, M.D. Interim Chief Executive Officer of Northeast Medical Group, Public Hearing Transcript, p. 28
17. Non-occupational medicine based rehabilitation patients will be notified individually by letter from the Hospital. Notifications will be provided at least 30 days prior to closing the Branford location. The Hospital intends to notify community referring physicians of the closure. Ex. A, p. 46
18. Table 6 indicates the Branford location's revenue is not keeping pace with its respective expenses for FYs 2013 through 2015, resulting in operating losses in the last three years for the location.

TABLE 6
BRANFORD LOCATION'S ACTUAL REVENUES AND EXPENSES
FISCAL YEARS 2013-2015

Description	FY 2013	FY 2014	% change FY13-14	FY 2015	% change FY14-15
Revenue from Operations	\$530,400	\$529,700	(0.1%)	\$629,500	18.8%
Total Operating Expenses	\$643,500	\$719,600	11.8%	\$801,000	11.3%
Gain/(Loss) from Operations	(\$113,100)	(\$189,900)	Decreasing Loss of (67.9%)	(\$171,500)	Decreasing Loss of 9.7%

Ex. D, p. 108

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

TABLE 7
THE HOSPITAL'S PROJECTED REVENUES AND EXPENSES
FISCAL YEARS 2016-2018

(Amounts below are reported in the Thousands)

Description	FY 2016	FY 2017	FY 2018
Revenue from Operations	\$2,465,109	\$2,515,141	\$2,565,122
Total Operating Expenses	\$2,375,893	\$2,424,130	\$2,472,281
Gain/(Loss) from Operations	\$89,215	\$91,030	\$92,840

Ex. D, p. 105

20. The payer mix for FY 2015 and first two months of FY 2016 for the location is shown in Table 8 below.

TABLE 8
HISTORICAL PAYER MIX

PAYER	FY 2015		FY 2016 (Two Months)	
	Discharges	%	Discharges	%
Medicare	610	10.19%	86	9.81%
Medicaid	2,670	44.62%	460	52.45%
CHAMPUS & TriCare	58	0.97%	4	0.46%
Total Government	3,338	55.78%	550	62.72%
Commercial Insured	513	8.57%	88	10.03%
Workers Compensation	2,126	35.53%	239	27.25%
Total Non-Government	2,646	44.22%	327	37.28%
Total Payer Mix	5,984	100.0%	877	100.0%

Ex. D, p. 100

21. There are no capital expenditures associated with termination of outpatient rehabilitation services at the Branford location. Ex. A, pp. 28, 35
22. The outpatient rehabilitation staff at the Branford location will be redeployed to the New Haven, Hamden and Guilford locations once it has been closed. Ex. A, p. 17
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. The CON application is consistent with the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
25. The Hospital has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
26. The Hospital has satisfactorily demonstrated that its proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
27. 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))
28. 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))
29. The Hospital has satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))

30. The Hospital has sufficiently demonstrated that there are other providers in the area being utilized by the public and that these providers can continue to be utilized by the public. (Conn. Gen. Stat. § 19a-639(a)(8))
31. 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))
32. The Hospital has satisfactorily demonstrated that access to services for Medicaid recipients and indigent persons will be unaffected by the proposal. (Conn. Gen. Stat. § 19a-639(a)(10))
33. 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))
34. 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 (“Applicant” or “Hospital”) 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* The Hospital currently provides outpatient rehabilitation services at the following locations: 84 North Main Street, Branford; 175 Sherman Avenue, New Haven; 800 Howard Avenue, Suite 154, New Haven; 1 Long Wharf Drive, New Haven; 2080 Whitney Avenue, Hamden; 1445 Boston Post Road, Guilford; 48 Wellington Road, Suite 103, Milford; and 633 Middlesex Turnpike, Old Saybrook. All these locations are operated as outpatient departments of the Hospital. *FF2* Outpatient rehabilitation services include: physical therapy, physical demand screenings, work conditioning and functional capacity evaluations. *FF4*

The Hospital proposes to terminate its outpatient rehabilitation services in Branford and consolidate patients from that location to the Hospital’s outpatient rehabilitation locations in New Haven, Hamden and Guilford. *FF3* The proposal is the result of the Hospital’s assessment of its outpatient rehabilitation locations, which identified potential service improvement opportunities and cost savings. The Hospital determined that there is duplication of services among its outpatient rehabilitation services locations and available capacity at all of its outpatient rehabilitation locations, which resulted in its proposal to close the Branford location. *FF6*

Access to services will be maintained by the proposal, as alternative providers and locations are available for patient choice. Within the Hospital network, the Hospital will continue to provide outpatient rehabilitation services within its existing service locations, including its locations in New Haven and Hamden. These locations each have the capacity to absorb any displaced patients from the East Haven and Branford service locations. If need arises, the days and hours of the alternative hospital service locations may be expanded based on patient demand. *FF7* Further, there are 23 providers not affiliated with the Hospital and offering similar services to the Branford service location. Five are located in the town of Branford. *FF10* Therefore, the Hospital has satisfactorily demonstrated that the closing of its outpatient rehabilitation location Branford will not result in a reduction in the access to occupational health care services available to employers and patients in this area.

There is no capital expenditure associated with terminating the Branford service location. *FF21* The Hospital experienced a loss from operations for each year since FY 2012. *FF18* The Hospital projects overall gains from operations in each of the first three years following the proposed termination. *FF19* Therefore, the Hospital has demonstrated that the proposal is financially feasible.

The Hospital's proposal will not negatively impact care for Medicaid recipients and indigent persons as all of the Hospital's alternative outpatient rehabilitation locations accept Medicaid patients. *FF16*

Based upon the foregoing, the Hospital has satisfactorily demonstrated that access to outpatient rehabilitation for patients of the Branford area in need of such services will be maintained despite the proposed closure of the Hospital's Branford service locations. Further, the majority of other non-Hospital outpatient rehabilitation locations in the area will be available to offer their services to area 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 its outpatient rehabilitation services at 84 North Main Street in Branford 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

June 14, 2016
Date

Janet M. Brancifort
Janet M. Brancifort, MPH, RRT