



Office of Health Care Access Certificate of Need Application

Final Decision

Hospital: Waterbury Hospital

Docket Number: 08-31211-CON

Project Title: Establish a 2-Bed Sleep Laboratory in Southbury

Statutory Reference: Section 19a-638, Connecticut General Statutes

Filing Date: November 26, 2008

Hearing Date: January 30, 2009

Intervenors: Danbury Hospital,
Saint Mary's Hospital

Presiding Officer: Cristine A. Vogel

Decision Date: February 19, 2009

Default Date: February 24, 2009

Staff: Paolo Fiducia
Sharon Malinowski

Project Description: Waterbury Hospital (“Hospital”) proposes to establish and operate a two-bed sleep lab at the Crowne Plaza Hotel, 1284 Strongtown Road, Southbury, Connecticut, at an estimated total capital cost of \$68,808.

Nature of Proceedings: On November 26, 2008, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application of Waterbury Hospital seeking authorization to establish and operate a two-bed sleep lab at the Crowne Plaza Hotel, 1284 Strongtown Road, Southbury, Connecticut, at an estimated total capital cost of \$68,808. 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 August 27, 2008 in the *The Republican American*. OHCA received two hearing requests from the public concerning the Hospital's proposal.

On December 17, 2008, OHCA received letters from Danbury Hospital and Saint Mary's Hospital requesting that a public hearing be held in this matter.

On January 23, 2009, OHCA received a request for Intervenor status with full procedural rights from Danbury Hospital and Saint Mary's Hospital. On January 29, 2009, OHCA granted Intervenor status with full rights of cross examination to Danbury Hospital and Saint Mary' Hospital.

On January 12, 2009, OHCA issued an Order of Consolidation, pursuant to Sections 19a-638 and 19a-643-21 of the Regulations of Connecticut State Agencies. The Order of Consolidation allows the Certificate of Need ("CON") applications contained in Docket Number: 08-31211-CON for Waterbury Hospital ("Hospital") and Docket Number: 08-31229-CON for Danbury Hospital, to be consolidated for the purposes of conducting a batched public hearing.

Pursuant to Section 19a-638, C.G.S., a public hearing regarding the CON application was held on January 30, 2009. On January 12, 2009, the Applicant was notified of the date, time, and place of the hearing. On January 12, 2009, a notice to the public announcing the hearing was published in the *The News Times*. Commissioner Cristine A. Vogel served as Presiding Officer. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-638, C.G.S.

OHCA's authority to review and approve, modify or deny the CON application is established by Section 19a-639, 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.

Findings of Fact

Clear Public Need

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

1. Waterbury Hospital ("Hospital") is an acute care general hospital with a main campus located at 64 Robbins Street in Waterbury, Connecticut. (*July 25, 2008, Certificate of Need Determination Form, page 2*)

2. The Hospital proposes to establish and operate the “Southbury Sleep Lab” a 2-bed sleep laboratory at the Crowne Plaza Hotel, 1284 Strongtown Road, Southbury, Connecticut, at an estimated capital cost of \$68,080. *(October 24, 2008, Initial Certificate of Need Application, page 5)*
3. The Hospital’s current Regional Sleep Lab (“Middlebury facility”) is a 6-bed facility located in Middlebury, 2.2 miles from the hospital campus and close to the Waterbury and Watertown town lines. The Middlebury facility is accredited by the American Academy of Sleep Medicine. *(October 24, 2008, Initial Certificate of Need Application, page 5)*
4. The Middlebury facility follows the standards of the American Academy of Sleep Medicine which certified that the Middlebury facility was granted laboratory accreditation status in 2003. As per five year reaccreditation requirements, the Middlebury facility recently successfully completed a five year evaluation and maintains accredited status through 2013. *(October 24, 2008, Initial Certificate of Need Application, page 20)*
5. The proposed facility will offer diagnostic and therapeutic nocturnal polysomnography, positive airway pressure desensitization, treatment of narcolepsy, hypersomnia, circadian rhythm disorders, insomnia and pre-operative sleep testing. *(October 24, 2008, Initial Certificate of Need Application, page 5)*
6. Mr. Tobin, President and CEO of Waterbury Hospital testified to the following:
 - Expanding an existing service that has outgrown its present facility;
 - To better serve an existing physician referral network and an existing population at a very reasonable cost;
 - Majority of Waterbury Hospital patients come from Waterbury and the western side of Waterbury;
 - This project is not just about Southbury, its about the western side of Waterbury Hospital service area; and
 - It’s a very profitable service.*(January 30, 2009, Public Hearing, Mr. Tobin)*
7. The Hospital states that the need for this project is based on an increasing volume of sleep disorder studies at the Middlebury facility. The Hospital also states that number of sleep studies has increased 90% from 2005 to 2008. *(November 26, 2008, Supplemental Information Submitted, page 471 and October 24, 2008, Initial Certificate of Need Application, page 10)*
8. The Hospital states that the Southbury Sleep Lab will serve as an overflow site for the current Middlebury site as the growth year to year has been in the double digits and the Middlebury site will soon reach its capacity. *(October 24, 2008, Initial Certificate of Need Application Submission, page 11)*

9. The Hospital states that the physicians that refer to the Middlebury facility most often represent the area of cardiology, endocrinology, internal medicine, neurology, and pulmonary medicine. The Hospital anticipates that the same physicians that currently refer to the Middlebury facility will refer to the proposed Southbury facility. *(October 24, 2008, Initial Certificate of Need Application Submission, page 17)*
10. The Hospital states that the effects of Obstructive Sleep Apnea (“OSA”) and its causal relationship to various medical conditions are becoming increasingly recognized. Identifying patients at risk prior to surgery and determining their postoperative management can reduce the risk of cardio respiratory events. In addition, given the epidemics of obesity, hypertension and cardiovascular disease, the prevalence of OSA will increase. *(October 24, 2008, Initial Certificate of Need Application, page 14)*
11. The following table shows the actual number of sleep studies performed at the Middlebury facility for the last 3 FYs:

Table 1: Middlebury Facility Sleep Center Utilization

	FY 2006	FY 2007	FY 2008
# of Sleep Beds	4	6	6
# of Nights Open	6.35(a)	6	6
Actual Studies	1,084	1,281	1,439

(a) Part of the year open 6 nights per week

(October 24, 2008, Initial Certificate of Need Submission, page 16)

12. Dr. Jay Kenkare, Director of the Middlebury facility testified to the following regarding the Crowne Plaza Hotel:
- It serves the western portion of Waterbury Hospital primary service area;
 - The surrounding towns are growing;
 - Hotel space is significantly less expensive than hospital space;
 - It offers a more familiar and less intimidating setting to patients; and
 - Has the benefit of an in-place infrastructure that provides a noise-free and comfortable patient environment which is necessary to perform a quality sleep study.
- (January 30, 2009, Public Hearing, Dr. Kenkare)*
13. Dr. Jay Kenkare also testified that the growth of sleep studies is fueled by an increasing awareness from the medical community and the general public of the importance of the diagnosis and treatment of sleep disorders. By allowing for a 2 bed expansion to the town of Southbury, Waterbury Hospital would be able to continue to grow successful service, meet the needs of the community, and positively impact Waterbury Hospital’s financial bottom line without jeopardizing the financial situation of the surrounding sleep providers. *(January 30, 2009, Public Hearing, Dr. Kenkare)*

14. The Hospital states that the proposed Southbury Sleep Lab will be overseen by the Middlebury facility's medical director and Waterbury Hospital's director of outpatient services. All the billing would be performed by Waterbury Hospital. *(October 24, 2008, Supplemental Information Submitted, page 101)*
15. The Hospital states that in fiscal year 2009, the Southbury Sleep Lab expects to provide services 3 nights per week from 7:00 pm to 7:00 am. In fiscal year 2010, the site expects to provide services 4 nights per week from 7:00 pm to 7:00 am and in fiscal year 2011 the site will advance services to six nights per week from 7:00 pm to 7:00 am. *(October 24, 2008, Initial Certificate of Need Application Submission, page 14)*
16. The following table shows the projected number of sleep studies for the Middlebury facility Sleep Center for the next 3 FYs:

Table 2: Projected Number of Sleep Studies for the Middlebury Facility

	FY 2009	FY 2010	FY 2011
# of Sleep Beds	4	6	6
# of Nights Open	6	6	6
Projected Studies	1,518	1,530	1,530

Note: The Applicant states that the Middlebury facility capacity is capped at 1,530 studies due to the cancellation rate.

The Cumulative Annual Growth Rate ("CAGR") of the existing Middlebury facility in the period 2006 to 2008 was 15.2%.

Assumed future 12% growth per year on the total program volume.

Total program is defined as the Middlebury facility and the proposed Southbury Sleep Lab. (October 24, 2008, Initial Certificate of Need Application Submission, page 16)

17. The following table shows the projected number of sleep studies for the proposed Southbury Sleep Center for the next 3 FYs:

Table 3: Projected Number of Sleep Studies for the Southbury Facility

	FY 2009	FY 2010	FY 2011
# of Sleep Beds	2	2	2
# of Nights Open	3	4	6
Projected Studies	94	275	492

(a) Southbury site projected to see patients beginning March 2009 – or 7 months of fiscal year 2009. Total projected volume for both Middlebury facility and Southbury Sleep Lab in FY 2009 = 1,612. *10% of Total Program volume in 2009, 12% in 2010 and 15% in 2011 is projected to come from the PSA towns of Southbury, Woodbury and Oxford. (October 24, 2008, Initial Certificate of Need Application Submission, page 16)*

18. The Hospital testified that they have negotiated an agreement with the hotel that they have the ability to withdraw from the lease single sided with 120 day notice. *(January 30, 2009, Public Hearing)*
19. The Hospital also testified that for the first quarter of FY 2009 they have performed 36 sleep studies from the towns of Southbury, Woodbury and Oxford which reflect a 44% increase over the first quarter of FY 2008 (25 sleep studies). *(January 30, 2009, Public Hearing)*

20. The following table shows the existing sleep laboratory providers in the Hospital total service area:

Table 4: Existing sleep lab facilities in the Hospital total service area

Provider Name and Location	Number of Beds
Saint Mary's Hospital, Waterbury	4 beds
Saint Mary's Hospital, Wolcott	2 beds

(October 24, 2008, Initial Certificate of Need Application Submission, pages 15-16)

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

21. The proposal includes the following cost components:

Table 5: Total Proposed Capital Expenditure

Component	Cost
Medical Equipment (Purchase)	\$51,289
Non-Medical Equipment (Purchase)*	\$10,699
Other (Non-Construction)	
Specify: low voltage wiring, signage	\$6,820
Total Capital Expenditure	\$68,808

*Provide an itemized list of all non-medical equipment.

(October 24, 2008, Initial Certificate of Need Application Submission, pag27)

22. The proposed capital expenditure of \$68,808 for the CON proposal will be financed entirely through Hospital equity. *(October 24, 2008, Initial Certificate of Need Application Submission, page30)*
23. The Waterbury Hospital's payer mix for the CON proposal is as follows:

Table 6: Three-Year Projected Payer Mix with the CON Proposal

Sleep Lab Services (Based on Cases)	Current Payer Mix	FY 2009 Payer Mix	FY 2010 Payer Mix	FY 2011 Payer Mix
Medicare	21%	21%	21%	21%
Medicaid (includes other medical assistance)	12%	12%	12%	12%
TRICARE	0.0%	0.0%	0.0%	0.0%
Total Government	33%	33%	33%	33%
Commercial Insurers*	67%	67%	67%	67%
Uninsured	0%	0%	0%	0%
Workers Compensation	0%	0%	0%	0%
Total Non-Government	67%	67%	67%	67%
Total Payer Mix	100%	100%	100%	100%

(October 24, 2008, Initial Certificate of Need Application Submission, page 32)

24. The Waterbury Hospital's projected three-year incremental revenue from operations, total operating expense and losses/gains from operations associated with the Southbury Lab are presented in the table below:

Table 7: Waterbury Hospital's Incremental Financial Projections

Description	FY 2009	FY 2010	FY 2011
Incremental Revenue from Operations	\$120,3715	\$364,997	\$652,022
Incremental Total Operating Expense	\$119,998	\$229,579	\$272,226
Incremental Gain from Operations	\$373	\$135,419	\$379,796

(September 15, 2008, Certificate of Need, page 461)

25. There is no State Health Plan in existence at this time. *(October 24, 2008, Initial CON Application, page 7)*
26. The proposal is consistent with the Hospital's long-range plan. *(October 24, 2008, Initial CON Application, page 8)*
27. The Hospital has improved productivity and contained costs through energy conservation, group purchasing, reengineering and application of technology. *(October 24, 2008, Initial CON Application, page 23)*
28. This proposal will not result in changes to the Hospital's teaching and research responsibilities. *(October 24, 2008, Initial CON Application, page 25)*
29. The proposal will not result in changes to the Hospital's patient / physician mix. *(October 24, 2008, Initial CON Application, page 25)*
30. The Hospital has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(October 24, 2008, Initial CON Application, Appendix "5 D")*
31. The Hospital's rates are sufficient to cover the proposed capital expenditure and operating costs. *(October 24, 2008, Initial CON Application, page 461)*

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 complexity 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.

Waterbury Hospital (“Hospital”) is an acute care general hospital located at 64 Robbins Street, Waterbury, Connecticut. The Hospital proposes to establish the Southbury Sleep Lab, a two-bed sleep facility at the Crowne Plaza Hotel, 1284 Strongtown Road, Southbury, Connecticut. The Hospital currently operates a six-bed sleep lab located in Middlebury, 2.2 miles from the Hospital campus six days per week. The Middlebury facility follows the standards of the American Academy of Sleep Medicine (“AASM”). In 2003, the Middlebury facility was granted laboratory accreditation. Recently it successfully completed a five year evaluation and maintains accredited status through 2013. The Hospital has been providing sleep studies since February 1996.

The total number of sleep studies performed at the Middlebury facility were 759, 1,084, 1,281 and 1,439 for FY 2005, FY 2006, FY 2007 and FY 2008, respectively. This steady increase in procedures is associated with an increasing awareness from the medical community and the general public of the importance of the diagnosis and treatment of sleep disorders. The Hospital demonstrated that demand for such services continues to exist in the area and that the Middlebury facility will not be able to accommodate the projected growth. In response to this demand, the Hospital presented evidence in support of a two-bed expansion of their existing services with a location in Southbury. The Hospital does not anticipate any change in the existing physician referral pattern and stated that the Southbury location will be an alternate location for patients.

The total capital cost for the CON proposal is \$68,808. The project will be financed entirely through Hospital equity. The Hospital projects an incremental gain from operations related to the proposal of \$373 for FY 2009, \$135,419 for FY 2010 and \$379,796 for FY 2011. Since the proposed Southbury Sleep Lab will be located in a hotel setting, the Hospital is presented with a low financial risk and in the event the projected volumes are not fully realized, the Hospital can withdraw from the agreement while maintaining access to patient care at the Middlebury facility. OHCA finds that the CON proposal will improve access to sleep medicine services and has demonstrated financial feasibility.

Order

Based on the foregoing Findings and Rationale, the Certificate of Need application of Waterbury Hospital to establish and operate the Southbury Sleep Lab a two-bed sleep laboratory at the Crowne Plaza Hotel, 1284 Strongtown Road, Southbury, Connecticut, with an associated capital expenditure of \$68,808, is hereby GRANTED, subject to the following conditions:

1. This authorization shall expire on February 19, 2010. Should the Hospital's proposal not be completed by that date, the Hospital must seek further approval from OHCA to complete the project beyond that date.
2. The Hospital shall notify OHCA in writing of the commencement date of the proposed service by no later than one month after the commencement date.
3. If the Hospital proposes to change the ownership, services offered or location of the Southbury Sleep Lab, a CON Determination shall be filed with OHCA.
4. If the Hospital proposes to increase the number of sleep lab rooms over the 2 that are authorized at the Southbury Sleep Lab, a CON Determination shall be filed with OHCA.
5. If the Hospital can no longer support the use of the two-bed sleep lab located at the Crowne Plaza in Southbury, it must notify OHCA immediately and file a CON Determination.

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

Signed by Commissioner Vogel on February 19, 2009

Date

Cristine A. Vogel
Commissioner

CAV:pf