



AGREED SETTLEMENT

Applicant(s): Meditox Care, LLC d/b/a Elevate Health and Wellness
179 Post Road West
Westport, CT 06880

Docket Number: 20-32341-CON

Project Title: Establishment of a New Health Care Facility (Facility for the Care or the Treatment of Substance Abusive or Dependent persons and Psychiatric Outpatient Clinic for Adults)

I. Project Description

Meditox Care, LLC d/b/a Elevate Health and Wellness (“EHW” or the “Applicant”) seeks authorization to establish a new health care facility to provide psychiatric and substance abuse outpatient (“OP”) services for adults aged eighteen and over (18+) who present with mental health, substance use, and co-occurring disorders in Westport, Connecticut (the “Proposal”).

II. Procedural History

The Applicant published notice of its intent to file a Certificate of Need (“CON”) application in the *Connecticut Post* (Bridgeport) on November 2, 3 and 4, 2020. On November 11, 2020, the Health Systems Planning Unit (“HSP”) of the Office of Health Strategy (“OHS”) received the CON application from the Applicant for the above-referenced project and deemed the application complete on February 5, 2021. OHS received no hearing requests from the public per Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e), nor did OHS conduct a hearing pursuant to Conn. Gen. Stat. § 19a-639a(f)(2). Executive Director Victoria Veltri considered the entire record in this matter.

III. Provisions of Law

The Proposal constitutes an establishment of a new health care facility pursuant to Conn. Gen. Stat. § 19-638(a)(1). OHS considered the factors set forth in Conn. Gen. Stat. § 19a-639(a) in rendering its decision.

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. 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, 728-29 (2013).

IV. Findings of Fact and Conclusions of Law

A. Introduction and Background

1. EHW is a for-profit entity proposing to establish a new psychiatric and substance abuse OP treatment facility for adults (18+) who present with mental illness (“MI”), substance use disorders (“SUD”), and co-occurring disorders (“COD”). Ex. A, p. 8
2. EHW’s new treatment facility will be located at 179 Post Road West, Westport, Connecticut 06880. Ex. A, p. 6
3. EHW has operated a private medical practice in Westport, CT since 2016, providing medication management, medication assisted treatment (“MAT”),¹ and therapeutic services to adults with MIs and SUDs. Ex. A, pp. 8-9
4. The Applicant plans to offer an Intensive Outpatient Program (“IOP”) as well as weekly Relapse Prevention Groups (“RPG”) for adults at the proposed facility. Ex. A, p. 9
5. EHW plans to seek the following licensure from the Connecticut Department of Public Health (“DPH”) for the proposed services:
 - Private freestanding psychiatric outpatient clinic; and
 - Private freestanding facility for the care or treatment of substance abusive or dependent persons.Ex. A, p. 11
6. EHW’s proposed service area includes Westport and twenty-one (21) adjacent municipalities,² all of which are in Fairfield County, CT. Ex. A, p. 11
7. The Applicant chose the Westport location because it is centrally located in Fairfield County and is also the current location of their private medical practice. Ex. A, pp. 15, 27

B. Demonstration of Need

8. While the Applicant will accept patients from across CT, the Primary Service Area (“PSA”)³ of EHW is Fairfield County, which had an approximate population of 943,000⁴ and an average

¹ In this case, MAT includes Suboxone (buprenorphine-naloxone) treatment, Vivitrol (naltrexone) injections, and Sublocade (buprenorphine) injections.

² The service area includes Bethel, Bridgeport, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Shelton, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.

³ The Statewide Health Care Facilities and Services Plan (2012) (the “Plan”) defines a PSA as the “geographic area (by town), for the service location in the application, consisting of the lowest number of contiguous zip codes from which the applicant draws at least 75% of its patients for this service at such location.” Office of Health Care Access – Connecticut Department of Public Health. October 2012. “Statewide Health Care Facilities and Services Plan.” Accessed online https://portal.ct.gov/-/media/OHS/ohca/Publications/2012/OHCA_StatewideFacilitiesandservicespdf.pdf.

⁴ US Census Bureau statistics

annual SUD prevalence of 8.4% and Serious Mental Illness (“SMI”) prevalence of 4.1% from 2017-2019.^{5, 6}

OHS TABLE 1
PREVALENCE OF MENTAL ILLNESSES AND SUBSTANCE USE DISORDERS IN THE SERVICE AREA

Service Area: Fairfield County	Service Area Population	Prevalence
Serious Mental Illness	943,000	4.1% or 38,663
Substance Use Disorder	943,000	8.4% or 79,212
Total	943,000	117,875*

*This total does not account for co-occurring disorders as this data is not available for service area.
Exhibit A, p. 15

9. According to data from the National Survey on Drug Use and Health (“NSDUH”),⁷ in the United States, an estimated 38.6 million adults (15.4% of the total population) had a SUD in 2020 and 3.8 million (1.5% of the total population) received SUD treatment in the same year.⁸
10. Mental health data from the NSDUH indicated that in 2020, 52.8 million adults (21.0% of the total population) experienced a MI and 14.2 million adults (5.6%) experienced a SMI in the United States.⁹
11. According to the Connecticut Department of Mental Health and Addiction Services (“DMHAS”) SFY2019 Statistical Report,¹⁰ there were 7,202 active clients receiving OP mental health treatment (13% of total active clients in CT) and 4,753 admissions for OP mental health services in DMHAS Region 1¹¹ (12% of total admissions in CT) during the reported timeframe. Ex. A, p. 19
12. The DMHAS SFY2019 Statistical Report also indicates that there were 7,355 active clients receiving OP SUD services (14% of total active SUD clients in CT) and 4,696 admissions for OP SUD services in Region 1 (14% of total admissions in CT) during the reported timeframe. Ex. A, p. 18

⁵ SAMHSA Center for Behavioral Health Statistics and Quality. 2019 Behavioral Health Barometer: Connecticut, Volume 6. Accessed online https://www.samhsa.gov/data/sites/default/files/reports/rpt32823/Connecticut-BH-Barometer_Volume6.pdf.

⁶ The 2019 Behavioral Health Barometer defines SMI as: “adults aged 18 or older who currently or at any time in the past year have had a diagnosable mental, behavioral, or emotional disorder (excluding developmental and substance use disorders) of sufficient duration to meet diagnostic criteria specified in the DSM-IV and has resulted in serious functional impairment, which substantially interferes with or limits one or more major life activities.”

⁷ SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2019 and Quarters 1 and 4, 2020.

⁸ Section 5: Substance Use Disorder and Treatment Tables 5.5A-B and 5.12A-B, 2020 NSDUH Detailed Tables accessed online November 2021 at <https://www.samhsa.gov/data/release/2020-national-survey-drug-use-and-health-nsduh-releases>.

⁹ Section 8: Adult Mental Health Tables 8.1A-B and 8.5A-B, 2020 NSDUH Detailed Tables accessed online November 2021 at <https://www.samhsa.gov/data/release/2020-national-survey-drug-use-and-health-nsduh-releases>.

¹⁰ Connecticut Department of Mental Health and Addiction Services. *Annual Statistical Report SFY2019*. Published January 2020 (Updated June 2020). Accessed online at <https://portal.ct.gov/-/media/DMHAS/EQMI/AnnualReports/-Annual-Report-SFY2019.pdf>.

¹¹ DMHAS Region 1 includes the PSA towns of Bridgeport, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, Norwalk, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton. Ex. A, p. 177

13. The following table shows historical utilization data for EHW by type of service:

**OHS TABLE 2
HISTORICAL UTILIZATION BY SERVICE**

Service	Actual Volume of Outpatient Visits (Last 3 Completed FYs)			CFY Volume*
	FY <u>17</u>	FY <u>18</u>	FY <u>19</u>	FY <u>20</u>
Outpatient Program (medication management & psychotherapy)	177	530	1,727	2,806
Total	177	530	1,727	2,806

*Months include January 1 – October 31

Ex. A, p. 32

14. At the time that EHW submitted its application, volumes were expected to increase over the next three (3) years due to unmet need in the service area and the expansion of services offered through hiring of two (2) additional full-time staff (a licensed clinician and an advanced practice registered nurse) to provide psychiatric evaluations, medication management, and individual therapy.

**OHS TABLE 3
PROJECTED UTILIZATION BY SERVICE**

Service Level (e.g., IOP)	Projected Volume – Outpatient Visits		
	FY <u>21</u>	FY <u>22</u>	FY <u>23</u>
Outpatient Program (medication management & psychotherapy)*	3,703	4,147	4,645
Intensive Outpatient Program	576	864	1,152
Unduplicated Client Visits Total	4,121	5,011	5,797

Ex. A, p. 32

15. According to the Statewide Health Care Facilities and Services Plan (the “Plan”) (2014 Supplement), one strategy to improve access to and the quality of mental health and substance abuse services is the establishment of crisis centers or OP behavioral health walk-in centers.
Ex. A, p. 14

[This Section Intentionally Left Blank]

16. The following table shows the projected referrals by service and source for FY2021-2023 based on historical referral data from the Applicant's existing Westport practice:

**OHS TABLE 4
PROJECTED REFERRAL BY SERVICE AND REFERRAL SOURCE FOR FY2021-2023
PROJECTED VOLUME: OUTPATIENT VISITS**

	Referral Sources					
	Through Insurance Network	Clinicians	Self/Family	Hospitals	Residential Treatment Facilities	Sober Houses
Outpatient Program (medication management & psychotherapy)	40%	30%	25%	<5%	<5%	<5%
Intensive Outpatient Program	40%	10%	0%	0%	25%	25%

Ex. D, p. 6

The Applicant has satisfactorily demonstrated that the Proposal aligns with the Plan, as required by Conn. Gen. Stat. § 19a-639(a)(2), since substance abuse and mental health care have been identified as priority needs in most Connecticut towns and the Applicant is able to meet the demand for services. Moreover, the high prevalence of substance use and mental health disorders demonstrates "clear public need" for the proposed program in conformance with Subsection (a)(3).

C. Access

17. The Applicant's hours of operation will be 10:00 a.m. to 7:00 p.m., Monday through Saturday. Ex. A, p. 10
18. EHW's proposed location is accessible via regional rail service (Metro-North Railroad), public transit (Norwalk Transit), and major highways (Interstate 95, Merritt Parkway, Routes 1 and 7). Ex. A, p. 15
19. The Applicant has been a Medicaid provider since early 2017, and if this application is granted, anticipates applying for Medicaid certification of the new facility. Ex. A, pp. 9, 14

[This Section Intentionally Left Blank]

20. The Applicant anticipates a growing percentage of Medicaid patients from 64% (based on current patient census) to 73% by FY23. EHW's overall projected payer mix is demonstrated in the table below:

**OHS TABLE 5
APPLICANT'S CURRENT AND PROJECTED PAYER MIX FOR OUTPATIENT VISTS**

Payer	Projected											
	Partial FY 20*			FY 21			FY 22			FY 23		
	Clients	%	Dis./ Visit Vol.	Clients	%	Dis./ Visit Vol.	Clients	%	Dis./ Visit Vol.	Clients	%	Dis./ Visit Vol.
Medicare	0	0	0	0	0	0	0	0	0	0	0	0
Medicaid	303	64	45	352	67	53	672	70	114	1,022	73	173
TRICARE	0	0	0	0	0	0	0	0	0	0	0	0
Total Government	303	64	45	352	67	53	672	70	114	1,022	73	173
Commercial Insurers: In Network	166	35	26	168	32	26	278	29	48	364	26	64
Commercial Insurers: Out of Network	0	0	0	0	0	0	0	0	0	0	0	0
Uninsured	0	0	0	0	0	0	0	0	0	0	0	0
Self-pay	5	1	0	5	1	0	5	1	0	14	1	0
Workers Compensation	0	0	0	0	0	0	0	0	0	0	0	0
Total Non-Government	171	36	26	173	33	26	288	30	48	378	27	64
Total Payer Mix	474	100	71	525	100	79	960	100	162	1,400	100	237

*Months included: January-October

Ex. A, p. 323

The Applicant has demonstrated that the Proposal will improve accessibility of health care delivery in the region, and as such, Conn. Gen. Stat. § 19a-639(a)(5) is satisfied. The Applicant has also identified the patient population to be served by the Proposal pursuant to Subsection (a)(7). Subsections (a)(10) and (a)(12) are not applicable as the Proposal does not reduce access to services by Medicaid or indigent patients and will not result in any consolidation.

D. Quality

21. A review of the Applicant's DPH licensing inspection reports indicated that EHW's private medical practice had no violations at the time of both SUD and Psychiatric OP inspections.

22. EHW aims to engage patients within 48-72 hours from time of referral and provides 24/7 access to a collaborative treatment team via cell phone and text to mitigate relapse and crises.

Ex. A, p. 26

23. The Applicant plans to ensure service quality through the following:
- implementation of regular treatment team meetings (on a weekly basis at a minimum) to augmenting treatment plans and goals;
 - coordination with the client's other treatment providers; and
 - ensuring access to health information for the team and the client's primary care physician.

Ex. A, p. 27

24. EHW complements MAT services with on-site individual therapy, and intends to offer RPG services as well as access to an IOP program when clinically necessary. Ex. A, pp. 26-27

Based on the Applicant passing DPH inspections with no violations at their existing private practice in Westport, the use of performance measures to monitor and help improve outcomes and the provision of evidence-based MAT and IOP services, the Applicant has satisfactorily demonstrated that the Proposal will improve the quality of health care delivery in the region in accordance with Conn. Gen. Stat. § 19a-639(a)(5).

E. Financial Soundness

25. The total capital expenditure for the Proposal is approximately \$78,000.

**OHS TABLE 6
TOTAL Proposal CAPITAL EXPENDITURE**

Category	Cost
Equipment (specify the type)	40,000
Land/Building	
Construction/Renovation	25,000
Other (insurance, licensing fees)	13,000
Total Capital Expenditure	78,000

Ex. A, p. 30

26. Financing for both the capital expenditure and startup costs will be funded with cash provided by Meditox Care, LLC. Ex. A, p. 30

27. The Applicant projects incremental gains in profit during the first year of operation due to an increasing daily census.

**OHS TABLE 7
ARP REVENUES AND EXPENSES WITH THE CON**

Description	FY 2021	FY 2022	FY 2023
Revenue from Operations	\$797,300	\$1,024,750	\$1,070,000
Total Operating Expenses*	\$558,441	\$744,998	\$786,998
Gain/(Loss) from Operations	\$238,859	\$279,752	\$283,002

*Primary operating expenses include salaries and wages, lease expense, and supplies and drugs.

Ex. A, p. 161

Since the Applicant's proposal is fully funded and projects incremental gains, the Applicant has demonstrated that the proposal is financially feasible in accordance with Conn. Gen. Stat. § 19a-639(a)(4).

F. Cost to Consumers

28. EHW will allocate \$3,000 per year towards charity care in FY2021-2023. Ex. D, p. 2
29. The Applicant can and will continue to apply a sliding fee scale when evaluating if a reduction in fee-for-service can be offered to a patient, but most patients are enrolled in Medicaid and therefore do not have any out-of-pocket expenses or need for applying for a sliding fee scale. Ex. A, p. 28; Ex. D, p. 2
30. The Applicant projects a payer mix consisting of 64-73% Medicaid patients for the first three (3) years following approval of the Proposal, which is based on the current payer mix of 64% Medicaid patients at their Westport private practice. Ex. A, p. 33
31. The average cost¹² of encounter for commercially insured patients through FY 2024, based on reimbursement averages at EHW's Westport practice as of January 2021, will be \$125.00 for OP and \$350 for IOP.¹³ Ex. D, p. 4
32. The average cost¹⁴ of encounter for self-pay patients through FY 2024 will be \$150.00 for OP and \$250 for IOP. Ex. D, p. 4

Since the Applicant has been a Medicaid provider since early 2017 and will continue to serve low-income adults and ensure access for the Medicaid and indigent populations, the Applicant's Proposal satisfies Conn. Gen. Stat. §§ 19a-639(a)(5) and (a)(6).

[This Section Intentionally Left Blank]

¹² The Applicant defines "cost" as "the total dollar amount paid by the insurer plus client out-of-pocket costs (e.g., deductibles, co-pays)." Ex. D, p. 4

¹³ Applicant based IOP costs on current average reimbursement by commercial insurers for this service and are unable to predict future reimbursement rates.

¹⁴ The Applicant defines "cost" as "the total dollar amount paid by the insurer plus client out-of-pocket costs (e.g., deductibles, co-pays)." Ex. D, p. 4

G. Existing Providers

33. There are agencies in the area that provide OP mental health services, OP MAT services, IOP treatment, and who serve the adult Medicaid population, but no one single agency provides all services to the Medicaid population.

**OHS TABLE 8
SERVICES AND SERVICE LOCATIONS OF EXISTING PROVIDERS**

Facility's Provider Name, Street Address and Town	Program or Service	Population Served
Turnbridge Westport 162 Kings Hwy North Westport, CT 06880	- Outpatient and MAT: No - IOP: yes, clients with substance use disorders - Accepts Medicaid: No	Adults: Westport and surrounding towns
Positive Directions located at 90 Post Rd W, Westport, CT 06880	- Outpatient therapy: Yes, MAT: Limited - IOP: No - Accepts Medicaid: Yes	Adults: Westport and surrounding towns
The Waynik Group 160 Hawley Ln. Trumbull, CT 06611	- Outpatient and MAT: Yes - IOP: No - Accepts Medicaid: No	Adults: Fairfield and Trumbull
High Focus 17 High Street Norwalk, CT 06851	- IOP for teens with co-occurring disorders	Adolescents: Fairfield County
Saint Vincent Med Center 47 Long Lots Rd Westport, CT 06880	- Inpatient facility for co-occurring disorders	Adults and Adolescents

Ex. A, p. 15

As there are no providers in the area that currently offer all of the services proposed by the Applicant to both Medicaid and commercially insured patients, the new program will not result in any unnecessary duplication of services or negatively impact the diversity of provider options available to consumers. As such, Conn. Gen. Stat. §§ 19a-639(a)(8), (a)(9) and (a)(11) are satisfied.

V. Conclusion

Based upon the foregoing, the Applicant has met its burden in satisfying Conn. Gen. Stat. §§ 19a-639(a)(2)-(9) and (a)(11). Due to the nature of the proposal type – the establishment of a new health care facility – there will be no reduction in access for Medicaid patients or consolidation, so Conn. Gen. Stat. §§ 19a-639(a)(10) and (12)) are not germane to the application. Lastly, OHS currently has no policies or regulations in place, therefore Conn. Gen. Stat. § 19a-639(a)(1) cannot be applied.

Order

Based upon the foregoing Findings of Fact and Discussion, Meditox Care, LLC d/b/a Elevate Health and Wellness's request to establish a private freestanding facility for the care or treatment of substance abusive or dependent persons, which will also serve as a psychiatric outpatient clinic for adults, is hereby **APPROVED** under Conn. Gen. Stat. § 19a-639(a) subject to the enumerated conditions (the "Conditions") set forth below.

All references to days in these Conditions shall mean calendar days and OHS shall mean the Office of Health Strategy or its successor.

1. The Applicant shall obtain the following DPH licenses prior to commencement of operations:
 - a. Psychiatric Outpatient Clinic for Adults ("POCA");
 - b. Private Freestanding Mental Health Day Treatment ("MHDT"); and
 - c. Private Freestanding Facilities for the Care or Treatment of Substance Abusive Persons ("SA").
2. The Applicant shall provide notification to OHS of the date of commencement of operations and shall provide a copy of the facility license(s) it has obtained from DPH. Such notification and filing shall be provided within thirty (30) days of commencement of operations.
3. The Applicant agrees to maintain quality in accordance with DPH regulations and clinical guidelines, and within thirty (30) days of commencement of operations shall provide the contact information for the individual(s) responsible for submitting compliance documents and responding to compliance inquiries.
4. The Applicant, upon receiving appropriate DPH licensure, shall immediately apply to the Connecticut Department of Social Services ("DSS") to be credentialed as a Medicaid provider for the proposed service and will comply with the requirements of participation.
5. The Applicant shall provide documentation to OHS evidencing approval or denial of its enrollment application within thirty (30) days of the commencement of operations. If approved, the Applicant shall identify in this same filing the date upon which any initial Medicaid provider enrollment is scheduled to expire.
6. If the Applicant's enrollment application to become a Medicaid provider is initially denied, the Applicant will reapply annually to DSS for a period of three (3) years. The Applicant shall provide evidence of acceptance or denial as a Medicaid provider to OHS within thirty (30) days of any future DSS decision.
7. If not credentialed to become a Medicaid provider, for any period not credentialed, the Applicant shall negotiate single case agreements with DSS to provide services to Medicaid clients prior to any such clients undergoing treatment.

8. OHS and the OHS agree that this settlement represents a final agreement between OHS with respect to OHS Docket No. 20-32341-CON. The execution of this agreed settlement resolves all objections, claims, and disputes, which may have been raised by the Applicant about OHS Docket Number 20-32341-CON.
9. OHS may enforce this settlement under the provisions of Conn. Gen. Stat. §§ 19a-642; 19a-653, and all other remedies available at law, with all fees and costs of such enforcement to be paid solely by the Applicant.
10. This settlement shall be binding upon the Applicant and its successors and assigns.

All of the foregoing constitutes the final Order of the Office of Health Strategy in this matter.

By Order of the
Office of Health Strategy

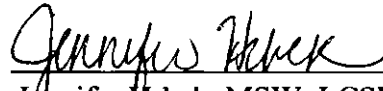
December 20, 2021

Date

Victoria Veltri, JD, LLM
Executive Director

December 20, 2021

Date



Jennifer Hrbek, MSW, LCSW
Duly Authorized Agent for
Meditox Care, LLC d/b/a
Elevate Health and Wellness