

**STATE OF CONNECTICUT
OFFICE OF HEALTH STRATEGY
HEALTH SYSTEMS PLANNING UNIT**

IN RE: TERMINATION OF INPATIENT	:	DOCKET NO. 22-32517-CON
OBSTETRICS SERVICES AT	:	
WINDHAM HOSPITAL	:	
HEARING ON CIVIL PENALTY	:	
	:	
	:	
	:	
	:	May 16, 2022

PREFILED TESTIMONY OF STEVEN W. LAZARUS.

OPERATIONS MANAGER, OFFICE OF HEALTH STRATEGY

Hello. My name is Steve Lazarus, and I am the Operations Manager at the Office of Health Strategy – which we call OHS for short. I have worked at OHS, or its predecessor organization, OHCA, the Office of Health Care Access for more than 26 years. I have worked in many capacities, starting as a Health Care Analyst, Associate Health Care Analyst, Principal Health Care Analyst, and Operations Manager, presently reporting to Kimberly Martone, Deputy Director/Chief of Staff. We are a small state agency, and we are used to wearing many hats. Since the retirement of Brian Carney on March 31, 2022, I have been the acting supervisor of the Certificate of Need (or CON) program.

The CON unit is comprised of 5 healthcare/planning analysts who are assigned to work on CON applications submitted through the portal from health care providers such as hospitals and other facilities. I manage the analysts' caseloads and ensure that they review the applications thoroughly and send completeness letters to clarify issues.

I also oversee OHS' electronic portals (including the CON Portal) and coordinate the

various unit/section administrators of the portals. The CON Portal is a computer platform where documents to be submitted to OHS may be uploaded into our system. Once uploaded, the documents are saved to a searchable database which are viewable to the public. In addition, I act as liaison with our internal IT personnel to identify and resolve any maintenance or improvement issues related to the portals.

Over the years, the Executive Director has asked me to run policy workgroups to consider topical issues facing the health care community. Currently I am co-chairing a work group on Physician Group Practice. We are mainly focused on the topic of horizontal and vertical integration, and the impact of those integrations on physician groups. I have also led or been a part of work groups to review and update standards in the statewide healthcare facilities plan for health care imaging equipment (MRIs, PET, CTs), and evolving cardiac care criteria.

Today I am going to give testimony about the how the CON unit functioned during the time when this matter occurred.

The first time I heard that Windham Hospital wanted to terminate its inpatient obstetric services was when the Hospital filed a CON application and supplemental forms on September 3, 2021 (Exhibit A). A small group of people at OHS (including myself) receive an email every time any document is uploaded to the CON Portal. Once alerted, the CON supervisor generally does an initial quick review of the document to see how it should be handled. If it is a new CON application, it must be given a docket number and assigned to an analyst. Based on the documents I reviewed before today's hearing, I believe the underlying CON application at issue was assigned Docket No. 20-32394-CON. The "20" is for the year the matter was filed "2020", and the CON indicates that it was a standard Certificate of Need – as opposed to a DTR – Determination; or a CONW, a Waiver; or a MDF a Modification. This CON was originally

assigned to Healthcare Analyst Lindsey M. Donston, who is no longer with OHS.

Lindsey would have reviewed the CON application and drafted the completeness letters and any other correspondence. Completeness letters are sent to applicants to ask them to expand upon areas of the application that might not be thorough enough or to explore areas of particular importance. Under state law a completeness letter must be sent within 30 days of the application's filing. Apparently before a completeness letter was even sent in this case, OHS received information that triggered an earlier inquiry regarding Docket No. 20-32394 because OHS sent a letter dated Sept. 18, 2020 (Exhibit B) to Barbara Durdy, Director of Strategic Planning for Hartford HealthCare who is listed as the contact person on the CON application for Windham Hospital, the Applicant.

The September Inquiry letter (Exhibit B) stated that OHS was in receipt of information alleging Windham Hospital pre-emptively discontinued obstetrical services without CON authorization and laid out a series of questions. The questions addressed the detailed definition of the term "diversion status;" the reason the decision was made to divert obstetrical services; the timing when such a decision was made; and whether were patients informed of the decision, among other things.

On October 2, 2020, Barbara Durdy responded to the September Inquiry Letter (Exhibit C) on behalf of Hartford HealthCare in pertinent part that,

"Windham Hospital ... has used the terms 'diversion' and 'temporary interruption' interchangeably to describe its interruption of obstetric services as a result of the Hospital's inability to provide sufficient physician and nursing coverage to safely provide the service.... Intermittently during FY2020, it was necessary for the Hospital to temporarily interrupt labor and delivery services due to insufficient clinical resources to safely care for patients. ... Each time the Hospital implemented an interruption of labor and delivery services, the Hospital notified the local EMS dispatch (CMED). The local dispatch was advised to bypass the Hospital and bring patients in need of labor and delivery services to either Backus Hospital or to an alternate facility based on patient

preference. ... In addition, ... each time it was necessary for the Hospital to temporarily interrupt labor and delivery services, all active obstetric patients received written notification regarding the service interruption including instructions for transportation.”

She continued in the letter to indicate that Windham Hospital temporarily interrupted OB delivery services three times during the period January 1, 2020, through May 2020 as follows:

- February 15 – February 24, 2020
- March 20 – April 1, 2020
- April 10 – April 19, 2020

The Hospital’s sole physician providing obstetrical services at the Hospital took paid time off for vacation in June and the Hospital was not able to provide call coverage for this leave.

Simultaneously the Hospital was losing nursing staff to retirement and resignation, so they implemented another planned disruption in June 2020. It appears that this was approximately the same time that the Board of Directors of Hartford HealthCare held the meeting (Exhibit E) where they unanimously voted to approve closure of Windham Hospital’s obstetrics department.

As you will see from Completeness Letter #1 (Exhibit F) OHS focused on the Hospital’s efforts to recruit staff, the proposed transportation plan, the cessation in 2015 of the only OB-GYN practice providing services, and the explanation of “diversion status” for inpatient obstetrics. In response to CL#1 (Exhibit G), Windham Hospital provided a “Dear Patient” letter (Exhibit H) indicating that “birthing services will be provided at Backus Hospital’s Birthing Center in Norwich starting July 1, 2020.” Which means that was when Windham Hospital officially decided it could no longer piece together the coverage needed to run an inpatient OB unit and actually terminated services. The letter continued,

“Backus Hospital obstetricians will provide care for our patients and will be delivering

babies at Backus Hospital. The Women's Health Services office at Windham Hospital and Dr. Eugene Rozenshteyn will continue to provide prenatal care. ... If you would prefer to deliver your baby at a hospital other than Backus, Dr. Rozenshteyn will work with you to help make arrangements for your delivery and transportation if needed."

The letter gave more information regarding who to call about delivering babies at alternate hospitals but what it did not say directly is that women could no longer give birth at Windham Hospital. Even though they did not state it directly, it was implicit that inpatient obstetric services at Windham Hospital had been terminated.

The issue gave rise to a Public Hearing which was held via Zoom on November 10, 2021. Before the Public Hearing I helped coordinate the logistics with Leslie Greer, Consumer Information Officer, and I also assisted with scheduling and drafting notices for Hearing Officer Joanne Yandow. After the Public Hearing a series of late filed documents were submitted, and the record was closed on March 17, 2022.

On February 14, 2022, OHS imposed a Civil Penalty of \$65,000 on Windham Hospital (Exhibit K) for failure to seek a CON for termination of services under C.G.S. Sec. 19a-638(a)(5). On March 7, 2022, HHC requested a hearing (Exhibit L) pursuant to C.G.S. Sec. 19a-653(c) on behalf of Windham Hospital to contest imposition of the civil penalty.

Thank you for the opportunity to present my testimony this morning. I am happy to answer any questions you may have.

By: /s/ Steven W. Lazarus
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Office of Health Strategy

Date: 05/15/2022