



## Agreed Settlement

**Applicant(s):**      **Bridgeport Hospital**                      **Yale New Haven Health Services Corp.**  
                                 **267 Grant Street**                                      **789 Howard Avenue**  
                                 **Bridgeport, CT 06610**                                      **New Haven, CT 06519**

**Milford Hospital**                                      **Milford Health and Medical, Inc.**  
                                 **300 Seaside Avenue**                                      **300 Seaside Avenue**  
                                 **Milford, CT 06460**                                      **Milford, CT 06460**

**Docket Number:**    **18-32270-CON**

**Project Title:**        **Transfer of ownership of Milford Hospital to Bridgeport Hospital**

### **I. Project Description**

Bridgeport Hospital (“BH”), Yale New Haven Health Systems Corporation (“YNHHS”), Milford Health and Medical, Inc. (“Milford Health”) and Milford Hospital (“MH”), herein collectively referred to as (“Applicants”) seek authorization to transfer substantially all of Milford Health’s assets, including MH, to BH.

### **II. Procedural History:**

The Applicants published notice of their intent to file a Certificate of Need (“CON”) application in the *New Haven Register* and the *Connecticut Post* on September 29, 30, and October 1, 2018. On November 16, 2018, the Health Systems Planning Unit of the Office of Health Strategy (“OHS”) received the CON application for the above-referenced project from the Applicants. Subsequently, the application was deemed complete on February 28, 2019.

Executive Director Victoria Veltri designated Attorney Micheala Mitchell as the hearing officer in this matter and the Applicants were notified of the date, time, and place of the public hearing. On March 12, 2019, a notice to the public announcing the hearing was published in both the *New Haven Register* and the *Connecticut Post*.

Thereafter, pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(f)(2), a public hearing regarding the CON application was held on March 26, 2019. 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(f)(2) and the Hearing Officer heard testimony from witnesses for the Applicants. The public hearing record was closed on April, 8, 2019. Executive Director Victoria Veltri considered the entire record in this matter.

### **III. Provisions of Law**

The proposal constitutes a transfer of ownership of a health care facility pursuant to Conn. Gen. Stat. § 19-638(a)(2). OHS considered the factors set forth in Conn. Gen. Stat. § 19a-639(a) in rendering its decision.

### **IV. Findings of Fact and Conclusions of Law**

#### **A. Introduction and Background**

1. BH is a 383-bed acute care teaching hospital located in Bridgeport, Connecticut, and a member of YNHHS. Ex. A, pp. 18-23
2. YNHHS is a 2,563-bed health system that includes Yale-New Haven Hospital, Bridgeport Hospital, Greenwich Hospital, Lawrence and Memorial Hospital, Westerly Hospital and Northeast Medical Group. Ex. A, p. 236
3. MH is a 106-bed acute care community hospital located in Milford, Connecticut and a member of Milford Health. Ex. A, p. 21
4. Over the past five years, MH's inpatient discharges have declined by over twenty-nine percent (29%) and within the last twelve months, its days cash on hand has dropped below nine days. Ex. A, p. 20
5. Due to the declining patient volume (i.e., average daily census of only 24), MH currently staffs only 30 of its 106 licensed beds. Ex. A, pp. 20, 31
6. During this same time period, Milford Health has recorded combined operating losses of more than \$41 million dollars and its current debt now exceeds \$78 million. Ex. A, p. 20
7. In an attempt to find alternative sources of revenue, Milford Health entered into an agreement ("Master Agreement") with YNHHS in 2014, allowing Yale-New Haven Hospital to lease space from MH to operate a 24-bed inpatient rehabilitation unit ("IRU"). Ex. A, p. 19
8. In addition to leasing space for the IRU, Milford Health borrowed \$8 million from YNHHS to support its ongoing operations. Ex. A, p. 19
9. In accordance with the Master Agreement, YNHHS was granted the right of first refusal in the event Milford Health were to consider integrating with a health system or change ownership control of the health system. Ex. A, p. 19
10. In September 2017, Milford Health's deteriorating financial condition resulted in a default of certain financial covenants in the Master Agreement and loan. Ex. A, p. 19

11. In order stabilize its ongoing operations and maintain continued access to MH services, Milford Health's Board approached YNHHS to begin negotiations of an asset purchase agreement. BH was identified as the preferred partner hospital for the acquisition of Milford Health. Ex. A, pp. 19-20
12. As a result, YNHHS and BH propose to acquire substantially all of the assets held by Milford Health, including MH, Milford Hospital Foundation, Inc., and the Torry Corporation (a real estate holding company). Milford Health will remain a legacy corporation for a limited period of time post-closing<sup>1</sup>. Ex. A, p. 21; Ex. C, pp. 2-3
13. Following the change in ownership, MH will operate under the BH license as a satellite campus and be known as the Milford Campus of Bridgeport Hospital ("MCBH"). Ex. A, p. 21

## **B. Access**

14. MH primarily provides healthcare services to patients residing in Milford, Connecticut (approximately fifty-six per cent (56%) of inpatient discharges in FY 2017) and the surrounding towns<sup>2</sup>. Ex. A, pp. 25, 44; Office of Health Strategy, Hospital Inpatient Discharge Database
15. Although patient volumes have declined over the past several years, MH had 2,374 inpatient discharges and 55,317 outpatient visits in FY 2018. Ex. A, p. 39
16. However, as a result of its financial challenges, Milford Health has:
  - a. Struggled to retain and recruit physicians;
  - b. Been unable to update/replace its aging medical equipment;
  - c. Lacked the capital to make necessary physical plant/infrastructure improvements; and
  - d. Limited and/or reduced its clinical offerings at MH.  
Ex. J, p. 4
17. Following adoption of the proposal, there are no plans to terminate or further reduce any clinical services currently offered. Instead, the Applicants intend to enhance clinical services in the following areas:
  - a. Emergency medicine services staffed 24/7 by qualified emergency medicine physicians with ready access to specialty care;
  - b. Interventional radiology services for the performance of procedures, including but not limited to, breast biopsies and advanced line placement;
  - c. Cardiovascular imaging program, including echocardiogram and nuclear imaging;
  - d. Tele-neurology consult program to enhance emergency services;
  - e. Recruitment of more primary care and specialty physicians, including orthopedic surgeons, based upon identified need;

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<sup>1</sup> This is in order to wind down its affairs and those of the residual affiliates excluded from the asset purchase agreement.

<sup>2</sup> Milford Hospital's primary service area towns include: Milford, Orange, West Haven and Stratford Connecticut.

- f. GI/Endoscopy services;
  - g. Access to oncological consultative services;
  - h. Enhanced services at the ambulatory wound care center; and
  - i. The development of an “age friendly” campus at MCBH.  
Ex. A, pp. 31-32, 61
18. The Applicants do not anticipate any significant changes to the payer mix composition following the transfer of ownership. Medicaid patients accounted for approximately thirty-three percent (33%) of discharges in FY 17 (i.e., combined volume for BH and MH) and will remain a significant portion of the BH/MCBH payer mix. Ex. A, pp. 38, 42

With respect to subsection Conn. Gen. Stat. § 19a-639(a)(5), this transaction will help maintain ongoing access to inpatient and outpatient healthcare services (including emergency care) for the residents of Milford and the surrounding communities. Thus, the Applicants have satisfactorily demonstrated that the proposal will maintain accessibility of health care delivery in the region. Subsection (a)(10) is not applicable as the proposal does not reduce access to services by Medicaid or indigent patients.

### **C. Quality**

19. The Applicants will incorporate MCBH into BH’s Quality Assessment & Performance Improvement (“QAPI”) program post-closing. The QAPI program will focus on the reduction of unanticipated events, readmissions within 30 days of discharge and other quality-related measures. Ex. J, p. 7
20. The Applicants will also target reductions in adverse events at MCBH through Performance Improvement (PI) teams. PI teams at BH have successfully reduced post-operative pneumonia and sepsis mortality rates. Ex. J, p. 7
21. BH has reduced its serious safety event (SSE) rate by approximately eighty percent (80%) through the implementation of a formal safety program. This will be an immediate priority at MCBH post-closing. Ex. J, p. 7
22. MCBH will participate in the Connecticut Hospital Association’s high reliability organization (HRO) program, which focuses on systematic improvement in patient safety - MH was not able to fully implement this program on its own. Ex. J, p. 7
23. Implementation of an Electronic Health Record (“EHR”) on a shared Epic platform at MCBH will provide a uniform medical record to help manage and coordinate patient care across the YNHHS sites. Ex. A, pp. 28, 34
24. YNHHS affiliated hospitals are clinically and operationally integrated, (including all being on the same EHR platform), and employ many of the same standards of care, policies and protocols of care. Ex. A, pp. 32-33

25. Further, MCBH’s aging equipment will be updated post-closing with new high-quality diagnostic imaging and medical equipment (e.g., CT, MRI, X-ray and ultrasound). Ex. A, pp. 20, 29

The Applicants have asserted that they will implement certain quality initiatives post-closing at MCBH that have been successful at BH and YNHHS. In order to ensure that the proposal will improve the quality of healthcare delivery in the region in accordance with Conn. Gen. Stat. § 19a-639(a)(5), the Applicants must comply with the Conditions set forth in the attached Order. Subsection (a)(2) is not applicable as the Statewide Health Care Facilities and Services Plan does not address the transfers of ownership of hospitals.

**D. Financial Feasibility**

26. YNHHS and BH propose to acquire substantially all of the assets of Milford Health for \$66.1 million dollars<sup>3</sup>. In addition, YNHHS has committed to invest a minimum of \$50 million dollars towards infrastructure and clinical service improvements in support of establishing MCBH. Ex. A, p. 18
27. YNHHS and BH’s capital commitment of \$50M includes \$20 million dollars over five years to support clinical programs and services and approximately \$30M to support physical plant and infrastructure maintenance (including technology infrastructure and security), development and renovations. Ex. A, p. 22
28. There is no financing required for the transaction - funding will be provided by BH and YNHHS through current operating funds. Ex. A, p. 22
29. MCBH will benefit from cost savings (projected to reach nearly \$5M per year) as a result of centralized business functions, supply chain efficiencies, scalable process efficiencies, clinical standardization, capital allocation and a more cost-effective allocation of fixed overhead resulting from an increased patient census. Ex. C, p. 5
30. MH reported operating losses of approximately \$2.7M for FY 2018. Without an additional working capital infusion, MH will likely face bankruptcy and potential closure. Ex. C, p 56; Ex. J, p. 5
31. Despite initial incremental losses of \$4.6M and \$6.2M in FYs 2019-2020 as a result of the acquisition, BH projects overall operating gains through FY 2022 (see table below).

**Financial Projections for BH/MCHB Combined (with the proposal)**

Description	FY 2019 <sup>1</sup>	FY 2020	FY 2021	FY 2022
Operating Revenue	\$623,421,358	\$680,425,721	\$708,174,611	\$728,449,655
Operating Expenses	\$593,389,369	\$675,077,264	\$690,569,607	\$705,643,186
Operating Gains	\$30,031,989	\$5,348,457	\$17,605,004	\$22,806,469

<sup>3</sup> The total amount could increase to a maximum of \$79.4 million dollars in the event that Milford Health’s pension liabilities and captive insurance exceeds current projections at closing.

<sup>1</sup> Projections reflect an anticipated start date of June 1, 2019. Fiscal Years 2020 through 2022 represent the first three full years post-affiliation.

Ex. A, p. 384

It appears unlikely that, without the proposal, MH will be able to continue to function as an independent community hospital. The total capital cost of acquiring MH is approximately \$66.1M and will be funded through operations. It appears that, based on the financial strength of YNHHS and BH, the projections are reasonable and achievable. However, in order to ensure that the Applicants meet Conn. Gen. Stat. § 19a-639(a)(4), OHS requires that they comply with the cost-related Conditions in the attached Order.

### **E. Cost to Consumers**

32. The Applicants represent that operating MCBH under the BH license, rather than as a separately licensed hospital, will allow for greater efficiencies and cost savings as a result of system-related benefits and reduced overhead. Ex. A, pp. 21, 35
33. The Applicants represent that BH's commercial payer rates (i.e., top six commercial payers by patient volume) are approximately twenty percent (20%) lower than Yale-New Haven Hospital's rates on average, for both inpatient and outpatient services.<sup>4</sup>
34. In FY 2017, Medicaid patients accounted for nearly one-third of the payer mix at BH and MH, combined. Ex. A, p. 42
35. The Applicants do not anticipate significant changes in any facility fees currently charged by MH. Ex. A, p. 35
36. YNHHS administers the same charity care policy for all its member hospitals. If the proposal is approved, BH will implement its existing policies at MCBH. Ex. A, p. 63

BH will implement its charity care policies at MCBH and continue to maintain access to services for Medicaid and indigent patients. As a result, the Applicants have satisfied Conn. Gen. Stat. §§ 19a-639(a)(5) and (a)(6). However, the Applicants have not provided sufficient evidence to substantiate that the proposal will not adversely affect health care costs to the consumer post-affiliation. Accordingly, the Applicants must comply with cost-related Conditions enumerated in the attached Order to ensure that the proposal will not adversely affect consumer costs pursuant to Conn. Gen. Stat. § 19a-639(a)(12).

### **F. Existing Providers**

37. Members of the MH medical staff will be provided the opportunity to apply for medical staff privileges at BH post-transaction. In addition, substantially all MH employees in

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<sup>4</sup> As reflected by BH's lower cost structure as compared to Yale-New Haven Hospital's cost structure as an academic medical center.

good standing will be offered employment at BH or with YNHHS. Ex. A, p. 22

38. The Applicants anticipate that a portion of the Milford-area patient volume that shifted to Yale-New Haven Hospital and BH over the past five years will return<sup>5</sup> to MCBH following the ownership change, likely benefiting existing providers and helping to maintain provider diversity and patient choice in the area. Ex. A, p. 47
39. Future plans for added clinical services and programs are likely to result in additional providers on the medical staff. The specific number, location and provider types are not yet known. Ex. A, p. 48

Access to and utilization of existing providers in the Milford-area is expected to remain initially unchanged. Preserving the continued presence of a hospital in Milford will ensure the stability and continuation of physicians serving the Milford Health communities. As such, Conn. Gen. Stat. §§ 19a-639(a)(8) and (a)(11) are satisfied. However, in order to ensure that the Applicants' proposal does not result in an unnecessary duplication of existing or approved health care services pursuant to Conn. Gen. Stat. §§ 19a-639(a)(9), OHS requires the Applicants to comply with the Conditions in the attached Order.

#### **G. Demonstration of Need**

40. The Applicants do not expect any significant changes to the patient population served or to the payer mix. Ex. A, pp. 25, 28, 38
41. The overall growth in population in MH's service area<sup>6</sup> is projected to remain flat, however the number of residents aged 65+ is expected to increase more than fourteen percent (14%) and account for approximately twenty-one percent (21%) of the service area population by 2024. Ex. A, p. 28
42. The Applicants project that patient volume (inpatient and outpatient) at BH/MCBH will increase by approximately thirteen percent (13%)<sup>7</sup> from FYs 2019-2022. Ex. A, pp. 40-41
43. The Applicants assert that the proposal will stabilize operations at MH, provide continued access to hospital services in Milford and the surrounding communities, and provide additional bed capacity at BH and Yale-New Haven Hospital. Ex. A, pp. 18, 20, 23, 27
44. As of February 2019, bed occupancy rates have risen to nearly eighty-seven percent (87%) at Yale-New Haven Hospital and eighty-nine percent (89%) at BH. Ex. Q, p. 2

The proposal will help to stabilize operations and continue services provided at MH, serving the same patient population as a campus of BH, within a large integrated network (YNHHS). Thus,

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<sup>5</sup> The Applicants project 1,644 incremental inpatient discharges to migrate back to MCBH campus by FY 2022.

<sup>6</sup> MH's service area towns include Milford, Orange, Stratford and West Haven.

<sup>7</sup> The volume projections include anticipated patient migration from BH and Yale-New Haven Hospital to MCBH.

the Applicants have identified the patient population to be served and have demonstrated need for the proposal in conformance with Conn. Gen. Stat. §§ 19a-639(a)(3), (6)-(7).

Based upon the foregoing, the Applicants have conditionally met their burden in satisfying Conn. Gen. Stat. § 19a-639(a)(3), (6)-(8), and (11). Due to the nature of the proposal type—a transfer of ownership resulting in no reduction in access for Medicaid patients—Conn. Gen. Stat. §§ 639(a)(10) is not germane to the application. Lastly, the Statewide Health Care Facilities and Services Plan does not address transfers of ownership and OHS currently has no policies or regulations in place regarding such transfers. Accordingly, Conn. Gen. Stat. §§ 19a-639(a)(1) and (2) cannot be applied.

OHS requires the Applicants to comply with the Conditions in the attached Order to ensure that they have met their burden of satisfying Conn. Gen. Stat. §§ 19a-639(a)(4) (5), (9) and (12).

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## Order

Based upon the foregoing Findings of Fact and Discussion, Bridgeport Hospital (“BH”), Yale New Haven Health Systems, Corporation (“YNHHS”), Milford Hospital (“MH”) and Milford Health and Medical, Inc. (“Milford Health”), herein collectively referred to as (“Applicants”) seeking authorization to transfer substantially all of Milford Health’s assets to BH 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.

1. For three (3) years following the closing of the transfer of ownership (the “Closing Date” or “Date of Closing”), YNHHS/BH shall include at least one (1) community representative to serve as a voting member on the BH Board of Trustees with rights and obligations consistent with other BH voting members on BH’s Board of Trustees. YNNHS/BH shall select the community representative in a manner that ensures the appointment of an unbiased individual who will fairly represent the interests of the communities served by BH at both campus locations (Bridgeport and Milford). BH shall, for the appointment of each new community representative, provide notification to OHS that includes:
  - a. The name of the community representative;
  - b. A resume or curriculum vitae for the appointed representative; and
  - c. The rationale for the appointment of the community representative.

YNHHS/BH shall ensure that such Board meetings are held in such a manner to allow full participation of the one or more community representatives.

2. For three (3) years following the Closing Date, BH/MCBH shall hold two (2) annual community meetings, provided however, that should the Independent Monitor requirement set forth in Condition 9 be extended at OHS’ discretion, this requirement shall be equally extended. The public shall be notified at least two (2) weeks in advance of the date and time for each meeting. Additionally, BH/MCBH shall schedule each meeting at a convenient time and location for the public. During these meetings, BH/MCBH shall inform the public of the BH’s/YNHHS’s activities and the public shall be afforded an opportunity to ask questions and make comments regarding those activities.
3. YNHHS/BH shall ensure that BH maintains and adheres to its current policies regarding charity care and indigent care after the Closing Date and are consistent with state and federal law. These policies shall be prominently posted on the individual hospital’s website and as additionally required by applicable law.
4. For five (5) years following the Closing Date, YNHHS shall provide written notice to OHS of any significant modification, amendment or revision to the charity care and indigent care policies at BH/MCBH that result in increased costs to consumers at least thirty (30) days prior to the implementation of such change. The notice of these changes

shall be accompanied by copies of any revised policies. The notice and revised policies shall be prominently posted on the BH's website following OHS approval.

5. BH shall participate with key community stakeholders, health organizations and local health departments in Bridgeport and Milford, in conducting the 2022 Community Health Needs Assessment ("CHNA") and shall submit BH's CHNA, as well as the CHNA Implementation Strategies, to OHS within thirty (30) days of completion. BH and the participants shall utilize Healthy Connecticut State Health Improvement Plan<sup>8</sup> data and priorities as the starting point for the new CHNA, as well as any applicable community health improvement plan issued by any local health department in BH's service area (which now should include Milford Hospital's service area towns).<sup>9</sup> The Implementation Strategy shall also adopt the evidence-based interventions identified in the Centers for Disease Control and Prevention's ("CDC's") 6/18 initiative<sup>10</sup> to the extent the health priorities identified in the CHNA correlate to the health conditions identified by the CDC and provide information on how patient outcomes related to the Implementation Strategy will be measured and reported to the community. The CHNA and the Implementation Strategies shall be published on BH's website.
6. BH shall maintain community benefit programs and community building activities for five (5) years after the Closing Date consistent with BH's most recent Schedule H of IRS Form 990. Additionally, BH shall proportionately and separately implement community benefits programs and community building activities to benefit the Milford community for at least the same duration.

BH shall apply no less than a 1% increase per year for the next five (5) years toward the hospital's net community benefit expenses classified as Other Benefits and net community building expense in terms of dollars spent. Such community benefit expense calculation shall not include amounts expended for Health Professions Education, Patient Financial Assistance, or Medicaid, as reported in section 7 of Schedule H of IRS Form 990.

In determining BH's participation and investment in both community benefits and community building activities, BH shall ensure its community benefits and community building activities directly address the health needs identified by the applicable CHNA in effect at the time and the population health management objectives, including social determinants of health, contained in the related Implementation Strategy. No later than thirty (30) days after the filing of each FY Schedule H, Form 990, BH shall provide OHS with documentation detailing how its community benefit and community building

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<sup>8</sup> Connecticut State Department of Public Health, Healthy Connecticut 2020, State Health Improvement Plan, <https://portal.ct.gov/dph/State-Health-Planning/Healthy-Connecticut/Healthy-Connecticut-2020>, last accessed on May 15, 2019.

<sup>9</sup> Other tools and resources that BH is encouraged to consider include County Health Rankings and CDC Community Health Improvement Navigator in order to assist with the study process in terms of an understanding of social, behavioral, and environmental conditions that affect health, identifying priorities, and the use of evidence based interventions.

<sup>10</sup> Centers for Disease Control and Prevention, CDC's 6/18 Initiative, <https://www.cdc.gov/sixeighteen/>, last accessed on May 15, 2019.

activity expenditures addressed each element identified in the applicable CHNA, with brief narrative explanation of relevant activity for that element, and dollars spent.

7. YNHHS/BH agrees to file the following documents or information within one (1) month of the Closing Date:
  - a. Notice to OHS of the effective date of the transfer of ownership transaction. Such notice shall be accompanied by the Final Execution copies of all agreements related to same, including but not limited to:
    - i. The Asset Purchase Agreement, including any and all schedules and exhibits; and
    - ii. Certificate of Incorporation documents, Bylaws or similar governance documents for BH.

YNHHS/BH shall provide OHS a list of any information required for submission under (9)(b)(i) that it believes is exempt from disclosure under Conn. Gen. Stat. § 1-210, along with an explanation why each proposed redaction is specifically being claimed as exempt for public record purposes. OHS shall determine if such request for exemption is acceptable.

8. Within sixty (60) days after the Closing Date, YNHHS/BH shall provide OHS with a list of not less than three (3) candidates to serve as an Independent Monitor, including each candidate's qualifications and experience and an attestation that said candidate has no existing or expected contractual or employment relationship with any party to the Asset Purchase Agreement. OHS will review and rank the proposed candidates by preference. YNHHS/BH shall offer to contract with a candidate to serve as Independent Monitor from the approved list, in the order ranked.
9. The Independent Monitor shall be responsible for monitoring YNHHS/BH's compliance with the Conditions set forth in this Order. The Independent Monitor shall be retained at the sole expense of YNHHS/BH. The Independent Monitor shall be engaged for a minimum period of three (3) years following the Closing; however, such obligation to provide an Independent Monitor may be extended at OHS's sole discretion. YNHHS/BH shall provide the Independent Monitor with appropriate access to BH and MCBH and their applicable records in order to enable the Independent Monitor to fulfill its functions hereunder.
10. The Independent Monitor shall report to OHS. The Independent Monitor shall conduct on-site visits of BH and MCBH on no less than a semi-annual basis to assess adherence to the CON Order. These on-site visits shall include meeting with both the individual hospital and YNHHS. The Independent Monitor shall furnish a written report of his or her assessment to OHS within thirty (30) days of the completion of each semi-annual on-site review. Such report shall be comprehensive and shall include a discussion of YNHHS/BH's ongoing compliance with the CON Order and on an annual basis, the level of community benefits and uncompensated care provided by BH and MCBH during the prior year. Each individual hospital and YNHHS shall have the opportunity to review and provide written responses to the report which has been filed with OHS. As OHS deems

necessary, the Independent Monitor shall meet with OHS personnel to discuss the written report and shall perform additional periodic reviews as directed by OHS.

11. In addition to the above, YNHHS/BH will make the following commitment for a minimum period of three (3) years post-Closing:
  - a. The Independent Monitor shall, at a minimum, meet with representatives of the BH community service area at six months after the Date of Closing and annually, thereafter.
  - b. BH shall hold a public forum in the Bridgeport and Milford communities, within sixty (60) days following the receipt of the Independent Monitor's report to provide public review and comment on the monitor's reports and findings as provided to OHS.
  - c. If the Independent Monitor determines that YNHHS/BH is substantially out of compliance with the CON Conditions, the monitor shall notify OHS and YNHHS/BH in writing regarding the deficiency. Within two (2) weeks of such notice, the monitor shall convene a meeting with representatives from YNHHS/BH for the purpose of determining compliance and any appropriate corrective action plan. If YNHHS/BH fails to implement a plan of correction satisfactory to the monitor within thirty (30) days of such meeting, the monitor shall report such substantial noncompliance to OHS. OHS shall determine whether such non-compliance has had a negative material impact and what remedy is reasonably necessary to bring YNHHS/BH into compliance and shall have the right to enforce these Conditions by all means and remedies available to it under law and equity, including but not limited to Conn. Gen. Stat. 19a-642 and the right to impose and collect a civil penalty under Conn. Gen. Stat. 19a-653. In addition, in the event OHS determines YNHHS/BH is in material non-compliance, OHS may order YNHHS/BH to provide additional community benefits as necessary to mitigate the impact of such noncompliance.
12. BH shall, for a period of three (3) years, comply with the terms and price constraints specified in Attachment A.
13. YNHHS/BH understands that OHS will use the All Payer Claims Database ("APCD") to monitor claims for inpatient, outpatient and emergency services provided to consumers at BH and/or MCBH, including the average Commercial Unit Price Rate for services delivered by YNHHS employed providers at BH/MCBH during a given Fiscal Year. OHS shall compare said Rates with those Rates for the immediately preceding Fiscal Year.

If OHS, in its sole discretion, determines that there is a substantial year-to-year increase of these Commercial Unit Price Rates in excess of the Health Care Cost Growth Benchmark Limit described in Attachment A, it may require YNHHS/BH to justify such increases and the impact of such increases to consumers in BH/MCBH's Primary Service Area.

14. BH shall, in accordance with the terms in Attachment A, use reasonable efforts to promote ongoing, annual increases of the number of unduplicated patients attributed to an APM or an Advanced Alternative Payment Model in which employed physicians participating in the YNHHS network are accountable for quality and total cost of care during the specified calendar years, and that pursue or continue APMs with public and private payers to improve population health, reduce the rate of unnecessary cost or utilization growth, improve access to primary care, address social determinants of health and to help the state achieve its vision of overall cost containment, and improved quality and access to affordable health care. Such relationships may include value-based purchasing and alternative payment methods that account for total cost of care and quality and address social determinants of health and needs identified in the most recent CHNA.
15. YNHHS will participate in the Medicare shared savings program, consistent with the terms included in Attachment A, following the Closing Date.
16. BH shall, for a period of three (3) years, submit an annual report demonstrating compliance with Condition #'s 12, 14 and 15. The initial report shall be due with the first semi-annual filing due November 30, 2019, and then annually thereafter.
17. Within one (1) year of the Closing Date, YNHHS/BH shall file a complete copy of its Strategic Plan for acute and ambulatory care in the Bridgeport and Milford Hospital regions. Such Strategic Plan shall be filed within one (1) month of its completion and shall include any and all exhibits, schedules and/or attachments. No part of this planning document may be redacted from submission to OHS, but OHS shall withhold from disclosure any portion of the Strategic Plan protected from disclosure pursuant to Conn. Gen. Stat. § 1-210(b)(5)(B).
18. YNHHS/BH agrees to file the following documents and information on a semi-annual basis. For purposes of this Order, semi-annual periods are October 1-March 31st and April 1- September 30th. The required information is due no later than two (2) months after the end of each semi-annual period and due dates are May 31st and November 30th. The first semi-annual filing will be due November 30, 2019. These semi-annual filings should be submitted to OHS in Excel and PDF format.
  - a. Page 5 of Exhibit C projects cost savings of approximately \$5M per year as a result of MCBH integrating into BH. YNHHS/BH shall provide a report detailing the actual cost savings achieved, and if different than projected, shall provide an explanation for the variance. This report shall be required for five (5) years following the Closing Date, and be provided for BH/MCBH.
    - i. The cost saving totals achieved in the following operating expense categories for BH/MCBH: Salaries and Wages, Fringe Benefits, Contractual Labor Fees, Medical Supplies and Pharmaceutical Costs, Depreciation and Amortization, Interest Expense, Malpractice Expense, Utilities, Business Expenses and Other Operating Expenses. The categories shall be consistent with the major operating expense categories (Categories A, B, C, D, E, G, H, I, J, and K) which are in use at the time of

reporting in the OHS Hospital Reporting System ("HRS") Report 175 or successor report.

The semi-annual submission shall also contain narratives describing:

- A. the major cost savings achieved for each expense category for the semi-annual period;
- B. the effect of these cost savings on the clinical quality of care; and
- C. a consolidated Balance Sheet, Statement of Operations, and Statement of Cash Flows for the Hospital and its immediate parent corporation. The format shall be consistent with that which is in use at the time of reporting in OHS's HRS Reports 100/300 (balance sheets), 150/350 (statement of operations) or successor reports.

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- b. A report of financial measurements. This report shall be required for five (5) years following the Closing Date and shall be filed with OHS for BH and YNHHS. This report shall show current month and year-to-date data and comparable prior year period data. The following financial measurements/ indicators should be addressed in the report:

<b>Financial Measurement/Indicators</b>	
<b>A. Operating Performance</b>	
1.	Operating Margin
2.	Non-Operating Margin
3.	Total Margin
<b>B. Liquidity</b>	
1.	Current Ratio
2.	Days Cash on Hand
3.	Days in Net Accounts Receivables
4.	Average Payment Period
<b>C. Leverage and Capital Structure</b>	
1.	Long-term Debt to Equity
2.	Long-term Debt to Capitalization
3.	Unrestricted Cash to Debt
4.	Times Interest Earned Ratio
5.	Debt Service Coverage Ratio
6.	Equity Financing Ratio
<b>D. Additional Statistics</b>	
1.	Income from Operations
2.	Revenue Over/(Under) Expense
3.	Cash from Operations
4.	Cash and Cash Equivalents
5.	Net Working Capital
6.	Free Cash Flow (and the elements used in the calculation)
7.	Unrestricted Net Assets/Retained Earnings
8.	Bad Debt as % of Gross Revenue
9.	Credit Ratings (S&P, FITCH or Moody's)

19. YNHHS/BH agrees to file the following documents and information on an annual basis. These filings are due no later than two (2) months after the end the semi-annual period ending March 31st, due May 31st, for a period of five (5) years, and shall be posted on BH's website.

- a. A written report describing the achievement of the Strategic Plan components to retain and enhance healthcare services in the Bridgeport and Milford Hospital communities, including with respect to physician recruitment and resource commitments for clinical service programming.
- b. An updated plan demonstrating how health care services are currently provided and will be provided by BH/MCBH for the first five (5) years following the Closing, including any consolidation, reduction or elimination of existing services/group practices or introduction of new services/ group practices (the "Services Plan"). The Services Plan shall be provided in a format consistent with that provided by YNHHS/BH to OHS in its response to Question 4bi, ii, and iii on pages 60-62 of Exhibit A 18-32270-CON. No part of this planning document may be redacted from submission to OHS, but OHS shall withhold from disclosure any portion of the Strategic Plan that OHS determines is protected from disclosure pursuant to Conn. Gen. Stat. § 1-210(b)(5)(B).
- c. An affirmation document attesting to the following:
  - i. Affirmation that YNHHS/BH is meeting the obligations of Conditions 1 and 2.
  - ii. Affirmation that no former MH physician office has been converted to hospital-based status.
  - iii. Affirmation that any new contracts are consistent with the commitments of Condition #s 12, 14 and 15, above.
  - iv. Affirmation that there has been no change in the service provision plan submitted on pages 60-62 of Exhibit A, or, if services have or are planned to change from the same submission, BH shall specify all changes, any consolidation, reduction, or elimination of existing services or introduction of new services.

20. YNHHS/BH shall, with the first semi-annual filing due November 30, 2019, and then annually thereafter, submit to OHS data concerning quality performance, including on readmission measures and related quality performance measures, a report quantifying the thirty (30)-day readmission rates, infection rates, surgical complication rates, patient safety scores and patient experience ratings for BH/MCBH.

21. YNHHS/BH shall, following submission of the initial data referenced in Condition # 20 above, submit annual reports to OHS updating the data for a period of three (3) years. YNHHS/BH shall provide detailed explanations for any negative changes in rates or scores from the previous year and shall include a plan of action that details how it will address them.



22. YNHHS/BH shall, within one-hundred twenty (120) days of the Closing Date, contract with the Connecticut Health Information Exchange Entity (“HIEE”), if operational or, if the HIEE is not operational, with OHS, to participate in Connecticut’s Core Data Analytics Solution, including but not limited to the electronic clinical quality metrics pilot. In the event that YNHHS/BH contracts with OHS for this purpose, YNHHS/BH agrees that such contract shall be transferrable to the HIEE when possible.
23. YNHHS/BH shall, within one (1) year of the Closing Date, provide a written report detailing the implementation and dates of completion of the following initiatives for BH/MCBH:
  - a. BH’s Quality Assessment & Performance Improvement (QAPI) program at MCBH;
  - b. The installation of an Electronic Health Record (“EHR”) on a shared Epic platform at MCBH;
  - c. The establishment of the framework to move the combined BH/MCBH integrated delivery system toward being a High Reliability Organization (“HRO”).

If the aforementioned initiatives have not been implemented when the initial annual report is due to OHS, YNHHS/BH shall disclose the reasons for the delay and shall include a projected date for the completion of any outstanding initiatives. YNHHS/BH will continue to update OHS regarding the status of any outstanding initiatives in a written report every six (6) months following the initial annual report.

24. YNHHS/BH shall provide to OHS, within thirty (30) days of closing, an updated organizational chart that depicts all of the newly acquired assets resulting from the transfer of ownership.
25. OHS and the Applicants agree that this settlement represents a final agreement between OHS and the Applicants with respect to OHS Docket Number: 18-32270-CON. The execution of this agreed settlement resolves all objections, claims and disputes, which may have been raised by the Applicants with regard to OHS Docket Number: 18-32270-CON.
26. 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 by the Applicants.
27. This settlement shall be binding upon the Applicants 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

06/07/2019

\_\_\_\_\_  
Date  
Executive Director

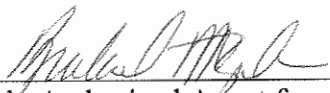
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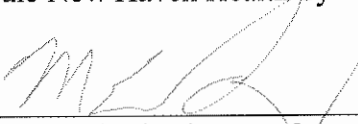
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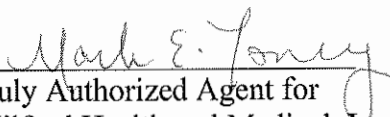
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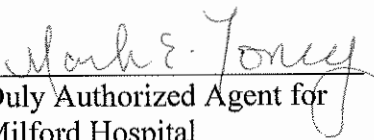
6/7/19  
Date

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Victoria Veltri, JD, LLM

  
Duly Authorized Agent for  
Yale New Haven Health Systems, Corporation

  
Duly Authorized Agent for  
Bridgeport Hospital

  
Duly Authorized Agent for  
Milford Health and Medical, Inc.

  
Duly Authorized Agent for  
Milford Hospital

## **Attachment A**

### Attachment A

a. These terms shall have the following meaning:

1. “Alternative Payment Methods” means any transfer of funds from a Payer to YNHHS/BH pursuant to a contract for a commercial health insurance product or a Managed Medicare health insurance product that is not captured by Commercial Unit Price payments, including but not limited to risk payments (e.g., per member-per-month reimbursement), quality payments, and infrastructure payments.
2. “Baseline Set of Services” shall be the volume of each and every health care service provided at BH and MCBH by BH and/or Covered BH Providers to a commercial Payer’s enrollees (excluding enrollees in a commercial Payer’s Managed Medicare plans) in the most recently completed Contract Year.
3. “Contract Year” shall mean the twelve (12) month period beginning on the date the rate schedule in a commercial health plan contract takes effect.
4. “Commercial Unit Price” shall mean the negotiated rate of reimbursement to be paid to BH or any Covered BH Provider in exchange for providing a specified health care service to an enrollee in Connecticut, as is paid in one of the commercial health plan’s “fee-for-service” commercial health insurance products, including but not limited to rates of reimbursement for physician fees, professional fees and/or facility fees.
5. “Covered BH Providers” shall mean BH employed physicians providing inpatient and/or outpatient services at Bridgeport Hospital or the MCBH, including but not limited to emergency and urgent care services. For the purposes of this Attachment, only those services provided at BH or MCBH shall be included in the calculations required herein.
6. “Health Care Cost Growth Benchmark Limit” shall be lesser of either: i) the change in the Consumer Price Index for the Northeast region, as established by the United States Department of Labor, Bureau of Labor Statistics from the preceding year plus 1.0%, or ii) 3.0%.
7. “Payer” means any organization or entity, other than a governmental health care program, that contracts with health care providers and other health care organizations to provide or arrange for the provision of health care services to any person or group of persons and that is responsible for payment to such providers and other health care organizations of all or part of any expense for such health care services, including but not limited to commercial insurance companies, health maintenance organizations, preferred provider organizations, union trust funds, multiple employer trusts and self-insured health plans.
8. “Payer Contract” means a contract between YNHHS/BH and a Payer pursuant to which YNHHS/BH agrees to provide or arrange for the provision of health care services to enrollees of

the Payer's commercial health insurance products and/or the Payer's Managed Medicare Insurance Products.

9. "Price Constraint Period" shall mean the three (3) years following the Date of Closing.

10. "BH/MCBH Price Constraint" for any Contract Year beginning within the Price Constraint Period shall not exceed the Health Care Cost Growth Benchmark Limit.

11. "Total Projected Revenue" shall, for each BH Fiscal Year, mean the amount calculated in accordance with subsections (c)(d) and (e) of this Attachment A.

b. During the Price Constraint Period, YNHHS/BH shall not negotiate: 1) commercial health plan contracts with rates first going into effect within the Price Constraint Period, or 2) an existing commercial health plan contract that is extended or renewed during the Price Constraint Period, that result in a Commercial Unit Price Rate Increase ("CUPI") (as defined below) for BH/MCBH that is greater than the Health Care Cost Growth Benchmark Limit. The Commercial Unit Price Rate Increase shall be the percentage change in Total Projected Revenue that would be paid to BH from one Fiscal Year to the immediately following Fiscal Year.

YNHHS/BH shall not contract with any commercial health plan to impose a single system-wide rate, except that if a commercial Payer proposes a system-wide rate and YNHHS/BH can satisfactorily demonstrate to OHS that projected savings of such a proposal in comparison to BH's individual hospital commercial rates will be used to improve the quality of patient care and access to services, including but not limited to, behavioral health and primary care, the OHS may approve a system-wide rate.

c. To calculate the Projected Revenue for a given service in each Contract Year, the negotiated Commercial Unit Price for that BH service in that Contract Year is applied to the volume of that service in the Baseline Set of Services, weighted by commercial payer mix.

- i. If the Baseline Net of Services were those provided in the 2018 Contract Year, to calculate the Projected Revenue for a given service for the 2020 Contract Year, the negotiated Commercial Unit Price for that service for 2020 would be applied to the volume of that service provided in the 2018 Contract Year; if the Baseline Set of Services were those provided in a recent trailing twelve-month period, to calculate the Projected Revenue for a given service for the 2020 Contract Year, the negotiated Commercial Unit Price for that service for 2020 would be applied to the volume of that service provided in that twelve-month period.
- ii. For example, to calculate the weighted Projected Revenue for any given service with multiple commercial payers:
  - a. Assume total hospital volume of 10,000 for Service A during the prior, completed Contract Year;

- b. Of the 10,000, 6,000 were attributed to Payer X, 1,250 to Payer Y, 750 to Payer Z and 2,000 to Payer Q.

Payer	2018 Service A rate	Payer volume	2018 Contract Year Revenue	Proposed 2020 Service A rate	2020 Projected Revenue	CUPI % Change for Service A per Payer
			=Rate * volume		=Rate * volume	=(2020 - 2018/2018)*100
Payer X	\$350	6,000	\$2,100,000	\$370	\$2,220,000	5.7%
Payer Y	\$315	1,250	\$393,750	\$319	\$398,750	1.3%
Payer Z	\$295	750	\$221,250	\$301	\$225,750	2.0%
Payer Q	\$343	2,000	\$686,000	\$333	\$666,000	-2.9%
Total		10,000	\$3,401,000		\$3,510,500	

Using the data in the Table above, the Projected Commercial Unit Price Rate Increase percentage would be:

$$(\$3,501,500 - \$3,401,000 / \$3,401,000) * 100 = 3.22\%$$

- d. The Total Projected Revenue for each Contract Year shall be the sum of the BH Projected Revenue amounts for all services included in the Baseline Set of Services for that Contract Year.

- e. To calculate the Commercial Unit Price Rate of Increase for BH’s Fiscal Year, the Total Projected Revenue for that Fiscal Year is compared to the Total Projected Revenue for the immediately-preceding Fiscal Year.

f. Alternative Payment Models

1. For any Contract Year of a Payer contract executed on or after the Closing Date, with rates first going into effect within the Price Constraint Period, YNHHS/BH and a commercial health plan are free to enter into an agreement that provides payment for a commercial health insurance product to YNHHS/BH or a Covered YNHHS/BH Provider through one or more Alternative Payment Methods provided that:
  - i. Any Commercial Unit Price rates used in the calculation of payments to BH shall be subject to the BH/MCBH Price Constraint.
  - ii. YNHHS/BH, throughout any negotiation with a commercial Payer, shall make available the option for any or all lives and/or services covered by said Payer under a commercial health insurance product to be paid pursuant to a Commercial Unit Price agreement at a rate of increase no-greater-than the BH/MCBH Price Constraint.
    - a) YNHHS/BH and the commercial health plan are in no way constrained in negotiating Alternative Payment Methods for commercial health insurance products and may agree to any Alternative Payment Method for any or all lives and/or services that both parties find mutually preferable to a price constrained Commercial Unit Price arrangement for such lives and/or services.
    - b) If YNHHS/BH and a commercial health plan are unable to negotiate an Alternative Payment Method for a commercial health insurance product which

YNHHS/BH and the Payer find acceptable, YNHHS/BH and the Payer may choose to implement a Commercial Unit Price arrangement covering such lives and/or services.

c) The options described herein preserve the ability of YNHHS/BH and a commercial health plan to innovate and develop mutually advantageous arrangements that improve quality and reduce healthcare spending in the State while ensuring that Commercial Unit Price arrangements are constrained by the BH/MBH Price Constraint.