



State of New Jersey
DEPARTMENT OF HEALTH
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August 16, 2012

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

MARY E. O'DOWD, M.P.H.
Commissioner

VIA UNITED PARCEL SERVICE

Leslie Hirsch
President and Chief Executive Officer
Saint Clare's Health System
20 Pocono Road
Denville, New Jersey 07834

Re: Saint Clare's Hospital Sussex
CN# FR 111202-14-01
Project Cost: 0
Expiration Date: August 16, 2017

Dear Mr. Hirsch:

I am approving with conditions your certificate of need (CN) application submitted on December 1, 2011, for the discontinuance of Saint Clare's Hospital Sussex (SCHS) as a 106-bed general acute care hospital, of which 96 are medical/surgical beds, 6 pediatric beds, and 4 ICU/CCU beds. The hospital's licensed service complement also includes 2 mixed operating rooms, 1 cystoscopy room and 1 computerized tomography scanner unit. After the closure of SCHS, the applicant has disclosed plans to transform the Sussex campus into an outpatient and emergency service facility, which would include a satellite emergency department and the Women's Health Center and operate as a hospital based off-site ambulatory care facility. This application is being approved at zero total project cost since there are no capital costs associated with this project.

The standards that I am compelled to use in evaluating this application are set forth in statute (N.J.S.A. 26:2H-1 et seq.) and by administrative rule (N.J.A.C. 8:33). I must be satisfied that the project submitted by SCHS is consistent with those requirements. Therefore, for the reasons that follow, I am approving with conditions the application submitted by Saint Clare's Health System. I note for the record that my decision to approve this application is consistent with the recommendation of the State Health Planning Board (SHPB), which recommended approval of this application with conditions, at its June 7, 2012 meeting. In issuing this decision, I reviewed the CN application for the closure of SCHS, completeness questions and responses, meeting materials including correspondences from interested parties in the community, the transcript of the public hearing, exhibits, petitions, the Department of Health

(Department) staff analysis and recommendations, and the SHPB's recommendations. These referenced materials are incorporated and made a part of this decision.

N.J.S.A. 26:2H-8, as well as N.J.A.C. 8:33-4.9(a), provides for the issuance of a certificate of need only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, I must take into consideration: (a) the availability of facilities or services which may serve as alternatives or substitutes, (b) the need for special equipment and services in the area, (c) the possible economies and improvement in services to be anticipated from the operation of joint central services, (d) the adequacy of financial resources and sources of present and future revenues, (e) the availability of sufficient manpower in the several professional disciplines, and (f) such other factors as may be established by regulation.

I am also mindful that in 1992, the Legislature enacted P.L. 1992, c. 160, the "Health Care Reform Act" (HCRA) to "move in the direction of a deregulated hospital reimbursement system" and promote a "truly competitive market environment." Indeed, in the years since the HCRA became law, the health care environment has changed dramatically: among other things, it has become increasingly competitive and in many ways more financially challenging for hospitals. For example, managed care penetration has grown significantly during this period, and partly as a result of this, unnecessary hospital utilization has decreased substantially. The HCRA also eliminated authority for hospital rate-setting, which in the past may have shielded hospitals from the financial consequences of their actions or inactions. Additionally, many services and procedures that were performed on an inpatient basis in the past may now be safely performed on an outpatient basis. This further decreases the need for inpatient services and lowers utilization. These changes in the dynamics of inpatient hospital care are reflected in Saint Clare's Hospital Sussex's very low utilization as noted during the SHPB review. Both occupancy rate and average daily census have been very low over the past five years, with an average daily census during 2011 of less than 12 patients per day.

As part of the review process, the SHPB is also required to hold at least one public hearing in the service area of the health care facility within 30 days of the application being declared complete by the Department. A public hearing was held at the Wantage School, All Purpose Room, located in Wantage on May 1, 2012. Approximately, 300 people attended this hearing. Thirty-eight members of the public spoke during the hearing. Unfortunately, the time constraints under which the public hearing was conducted did not allow all the signed up members of the public to testify. Of the 38 people who presented testimony during the hearing with the exception of the

Chief Operating Officer for Saint Clare's Health System, all opposed the closure of SCHS. The Department and the SHPB reviewed these concerns and adequately addressed the issues in the analysis and recommendations approved by the SHPB.

As to the specifics of this application, N.J.S.A. 26:2H-8(a) requires that I consider the availability of facilities or services, which may serve as alternatives or substitutes. There are five hospitals within the region that may serve as possible alternatives, all of which are within a 40-mile radius. Newton Memorial Hospital with 90 licensed medical/surgical, 10 ICU/CCU and 13 pediatric beds is the closest hospital to SCHS only 14.55 miles away or 22 minutes. Saint Clare's Hospital Dover and Chilton Hospital are within a 30 mile radius and Saint Clare's Hospital Denville and Morristown Memorial Hospital are within a 30- to 40-mile range. These travel times are appropriately attributed to voluntary admissions and hospitals visitors. Emergencies are currently transported by ambulance to these facilities and will continue following the transformation of Saint Clare's Hospital Sussex to an ambulatory care setting under the Saint Clare's Hospital Denville. The daily bus service from the Saint Clare's Sussex site to Newton Memorial Hospital would continue to operate unchanged. In addition, the application notes that a taxi voucher system will be in effect for those patients who are without adequate financial means or access to public transportation as referenced in Condition number two.

Furthermore, the 2011 average daily census figures indicates that there is a sufficient number of unused beds available throughout the region to easily absorb the relatively small 2011 inpatient census of 12 at SCHS. Information provided by the Health Care Financing Authority for 2011 shows that Saint Clare's Hospital Sussex had only 7.4 percent of the market share for its own county. The three top market share providers in the county were Newton Memorial Hospital (37.4 percent), Morristown Memorial Hospital (17.8 percent), and Saint Clare's Hospital Denville (11.9 percent). The existing inpatient capacity at the regional hospitals along with the applicant's plans to transform the Sussex campus into an outpatient and emergency service facility, which would include a satellite emergency department, same day surgery, and Women's Health Center, should maintain a comparable service level to that previously provided for SCHS. The transformed hospital site would include no loss of existing clinical services since it will continue to provide virtually the same diversified array of outpatient services such as a CT scanner, general radiology and ultrasound, laboratory services, endoscopy procedures and a Women's Health Center providing mammography, breast biopsy and bone density. I am confident that the proposed closure will not have any significant adverse effect on accessing health care services for the community, including for the medically indigent and medically underserved population.

I also find that the requirement at N.J.S.A. 26:2H-8(b) to consider the need for special equipment and services in the area would be met in this case, since the hospital

does not currently provide specialized services or equipment. I note that the existing level of specialized services within the region will continue at their same operating levels to satisfy the demand from the former patients of SCHS without any disruption in their care.

With respect to N.J.S.A. 26:2H-8(c) regarding the possible economies and improvement in services to be anticipated from the operation of joint central services, this provision is not applicable since SCHS would be discontinuing its services. The continuation of SCHS at its current low utilization would not contribute positively to any possible economies and improvements from the operation of joint central services. The planned hospital-based off-site ambulatory care facility transforming the Sussex campus from an inpatient to emergency and outpatient setting under the license of Saint Clare's Hospital Denville could provide benefits to Saint Clare's Health System through the operation of joint central services.

N.J.S.A. 26:2H-8(d) requires me to examine the adequacy of financial resources and sources of present and future revenues. I am convinced that Saint Clare's Health System can no longer afford to continue to provide inpatient hospital services at its Sussex campus given its operational losses. Information included in the certificate of need application show that the Sussex campus of Saint Clare's Health System has incurred operating losses of over \$3 million in the last two full fiscal years (2010 and 2011); those losses translate to negative operating margins for the system of greater than 10 percent. The hospital is on pace to lose even more in fiscal year 2012. In fact, the Health Care Facilities Financing Authority has determined based on the applicant's data that Saint Clare's Hospital Sussex has incurred a negative operating margin of 13.95 percent and a negative profit margin of 12.86 percent. These margins were the fourth worst of any hospital in the state when compared to the statewide medians for operating and profit margins, which were 1.53 percent and 1.89 percent respectively. Financial projections included with the application forecast that discontinuing all inpatient services and transforming the hospital into an outpatient diagnostic and treatment facility would reduce these losses to \$838,000 in fiscal year 2013 and \$451,000 in fiscal year 2014. I believe the closure of SCHS and its conversion to emergency and outpatient services would be the first step in reversing the recent operating losses for Saint Clare's Health System and would be beneficial in preserving the financial integrity of the system as a whole.

Finally, with respect to N.J.S.A. 26:2H-8(e) regarding the availability of sufficient manpower in the several professional disciplines, I am satisfied that there will be sufficient qualified personnel in this regard, since the application proposes closure of the site as an inpatient facility making adequate staffing not an issue. However, I note that the application indicates efforts by Saint Clare's Hospital System to offer and hire as many displaced employees at SCHS within its own system without loss of seniority or

benefits. For those employees that would be eliminated, the applicant plans to assist them with their job prospects and placement at other health care facilities in the region.

N.J.S.A. 26:2H-8(f) requires consideration of such other factors as may be established by regulation; therefore, I have taken into consideration the applicable administrative rules governing the services subject to full review (i.e., N.J.A.C. 8:33-1.1 et seq.). Saint Clare's Hospital System is in compliance with the access requirements set forth in N.J.A.C. 8:33-1.1 et seq. and N.J.A.C. 8:33-4.10(a). Specifically, Saint Clare's Hospital Sussex states it will not make any changes to the care or services currently provided at its remaining hospitals and that outreach efforts will continue to low income, racial and ethnic minorities, women, disabled, elderly and all other patients in need of prevention, diagnostic and treatment services. The applicant states that there will be no change in its policies regarding the provision of indigent care and will continue to accept all patients regardless of their ability to pay. Saint Clare's Hospital System notes it will maintain a commitment to the community to continue providing medical care and treatment for medically underserved populations. Saint Clare's Hospital System's commitment to transform the Sussex campus into an outpatient and emergency service facility, which would include a satellite emergency department, same day surgery and Women's Health Center, demonstrates its long-range commitment to the community. These outpatient services in conjunction with the remaining inpatient services provided at the remaining regional hospitals would maintain a comparable level of access to health care services for the entire SCHS community.

I have also taken into consideration the statutory requirement to determine whether the action proposed will have an adverse economic or financial impact on the delivery of health care services in the region or statewide and will contribute to the orderly development of adequate and effective health care services. I note the project will result in the closure of a 106-bed acute-care facility, which is currently severely underutilized. I conclude that the applicant's decision to close SCHS appears sound and in the best interest of the region's health care delivery system. With a declining patient population at SCHS (since 2007, an average daily census of only 17 in 2009 which was the highest of any year from 2007 – 2011), clinical skills would become underutilized over time potentially weakening the quality of patient care. It is doubtful that that SCHS would be able to recapture the lost market share and rebuild their service levels. The objectives of this closure would be accomplished in that current levels of accessibility and availability will remain relatively undisturbed in the affected areas, and the financial viability of Saint Clare's Health System would ultimately be strengthened.

Additionally, as previously noted, there will be sufficient regional capacity to meet the need for inpatient acute care services, even after closure of the SCHS. As to whether the discontinuance of acute inpatient services at SCHS would contribute to the orderly development of adequate and effective health care services, I find that the

established regional health care network would serve as the foundation for an orderly transition for SCHS from providing inpatient care to emergency and outpatient services as well as the anchor for continuing to provide effective preventive and outpatient health care services for all patients throughout the region. I also conclude this hospital closure would be accomplished without any disruption in the scope or level of services being eliminated at SCHS since there are a sufficient number of hospitals in the region offering the same or similar services for private pay, insured and uninsured populations. Continuity and access for the population historically served by SCHS should remain relatively unimpaired given the ample number of available medical/surgical and ICU/CCU beds in both the county and region.

With respect to the recommendations of Departmental staff and the State Health Planning Board that Saint Clare's Health System be permitted to retain its hospital license for the Sussex site to facilitate a possible future transfer, I find that if that were to occur, the Department's regulatory process requires that an application for a certificate of need to operate an acute care hospital be filed, and that the application be subject to the Department's full CN review process. I am very sensitive to the concerns of the community regarding the desire to leave open the possibility that an acute care hospital may be operated in Sussex sometime in the future. However, I am not convinced that allowing Saint Clare's Health System to continue to hold the license for a period of time in order to facilitate a transfer of the license is required in order to accomplish that goal. If the Department subsequently determines that there is a need for an acute care hospital in the community, the Department may issue a call for applications for a certificate of need to provide those services and the applications would be subject to the Department's full CN review process. Any potential applicant for a certificate of need may submit a request to the Department at any time petitioning the Department to issue a call for applications, and the Department will process that request as expeditiously as possible. By considering multiple CN applications under the competitive call process, the Department can most fairly consider what applicant is best equipped to provide the required services.

Based on the foregoing, I am approving the application for the closure of SCHS. My decision to allow this closure is based on the fact that SCHS survival is unsustainable, the level of access for the population historically served by SCHS will remain comparable, including for the medically indigent and medically underserved population, and this closure will alleviate further financial risk for Saint Clare's Health System. I am confident the remaining regional health care network will have an ample supply of inpatient and outpatient providers to adequately bridge any health care service gaps that may arise. I believe the existing data clearly shows that the existing hospitals within the region would not be adversely impacted and may even benefit with slight increases in patient volume. There is no existing data to suggest the health status of the patients in the affected areas would be compromised after the closure of this

hospital.

Finally, I acknowledge that Saint Clare's Hospital System will continue its long standing commitment to the residents in Sussex County through the provision of outpatient and emergency services into the foreseeable future. I also note that the components of the remaining health care landscape are more than sufficient to provide both inpatient and outpatient services to treat the former patients at SCHS and maintain a comparable level of continuity and quality of care. For the reasons set forth in this letter and noting the approval of the SHPB, I am approving Saint Clare's Health System's application for the closure of SCHS subject to the following conditions, which I note were accepted by a representative of the applicant while addressing the SHPB:

1. The applicant shall submit a detailed communication plan to the Department for review and approval. The purpose of the communication plan is to inform all residents in SCHS primary service area and surrounding communities, as well as local governments, emergency service providers and alternative area service providers, of the approval of this closure and the availability of the SED and outpatient health services as of the closure date of SCHS. The plan shall include a mechanism for responding to questions from the public regarding implementation of the closure and transportation/access concerns. Written communication shall be developed and published in at least two newspapers of general circulation in SCHS' service area prior to the closure and within 15 days of CN approval and 30 days prior to the actual closure of inpatient services.
2. As stated in the application, patients who require non emergent care, follow-up services at the site or elsewhere but are without adequate financial means or access to public transportation will be provided taxi service vouchers to facilitate continuity of care. The applicant shall provide a quarterly report in the first year from the date of closure and thereafter for the next two years indicating the number of patients accessing care by taxi under this voucher system.
3. An outreach effort shall be placed into effect to ensure that all residents of the former hospital's primary service area, especially the medically indigent, have access to the available services in the area. A self-evaluation of this effort shall be conducted on a yearly basis for five years after certificate of need approval to measure its effectiveness with the first report submitted to the Department for review and comment within six months of the date of this approval, the second on the first anniversary of approval and annually thereafter on the anniversary of approval.
4. Saint Clare's Health System shall establish and maintain a Satellite Emergency Department at the former SCHS site.

- a. The SED shall be operated and licensed in accordance with the Department's regulations for such services at N.J.A.C. 8:43G-36.
 - b. The SED shall remain in operation for a minimum of three years, and SCHS must provide 120-day notice and receive written approval from the Department prior to ceasing or reducing services or hours of operation.
5. Within three months of approval of this application, Saint Clare's Health System shall develop and participate in a Community Advisory Board (CAB) to provide ongoing community input to the hospital's CEO and the hospital's Board on ways that the hospital system can meet the needs of the residents of the areas served by the former SCHS. To the extent possible this CAB should incorporate in its membership the existing community advisory group noted by the Saint Clare's representative to the SHPB.
 - a. Saint Clare's Health System may petition the Department to disband the CAB not earlier than three years from the date of CN approval and on showing that all of the above conditions have been satisfied for at least one year.
6. Saint Clare's Health System shall periodically reassess its bed inventory by individual category to ensure that an adequate number of beds at each of its hospitals would be available. In the first year after approval, this reassessment shall be done on a quarterly basis and the results reported to the Department within 10 business days of completion. This report shall include admissions, patient days, percent occupancy, average daily census and average length of stay. In the second year after approval, this reassessment shall be completed on a biannual basis and the results reported to the Department within 10 business days of completion. If any reassessment indicates the need for additional beds, Saint Clare's Health System shall file the appropriate application for either its Denville and/or Dover hospital to increase beds.
7. The applicant shall notify the Department's Office of Certificate of Need and Healthcare Facility Licensure (CNHCFL) in writing, specifically who is responsible for the safekeeping and accessibility of all SCHS patients' medical records (both active and stored) in accordance with N.J.S.A. 8:26-8.5 et seq. and N.J.A.C. 8:43G-15.2.
8. In accordance with N.J.S.A. 26:2H-18.64 and N.J.A.C. 8:43G-5.2(c), Saint Clare's Health System shall comply with federal EMTALA requirements and also provide care for all patients who present themselves at any Saint Clare's

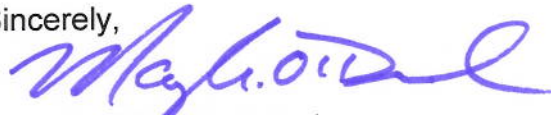
Health System's hospitals or hospital based off site ambulatory care facilities without regard to their ability to pay or payment source.

9. All reports required in these conditions shall be submitted annually and/or as required by a specific condition to CNHCFL.
10. The applicant shall continue to own and operate the Emergency Medical Services provided by SCHS after its closure of the Sussex campus. There shall be no changes in the SCHS EMS service area, and SCHS shall maintain these EMS services at the same operating level after the closure of the Sussex campus to inpatient services. Any change in EMS services shall receive Department approval at least 120 days in advance of the implementation of such change.

Failure to satisfy the aforementioned conditions of approval may result in sanctions, including license suspension, monetary penalties and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all other applicable requirements. Acceptance of these conditions will be presumed unless written objections are submitted to the Department within 30 days of receipt of this letter. Upon receipt of such objections, this approval will be deemed suspended, and the project shall be reexamined in light of the objections.

We look forward to working with you and helping you to provide a high quality of care to your patients. If you have any questions concerning this CN, please do not hesitate to contact John Calabria, Director, Office of Certificate of Need and Healthcare Facility Licensure, at (609) 292-8773.

Sincerely,



Mary E. O'Dowd, M.P.H.
Commissioner

c: John A. Calabria