



Nicole Alexander-Scott MD, MPH
Director

Department of Health
Three Capitol Hill
Providence, RI 02908-5097

TTY: 771
www.health.ri.gov

September 1, 2016

Via Electronic Mail

Stephen D. Zubiago, Esq.
Nixon Peabody, LLP
One Citizens Plaza, Suite 500
Providence, RI 02903

Re: Expedited Review Hospital Conversion Initial Application of Yale-New Haven Health Services Corporation, Lawrence + Memorial Corporation and LMW Healthcare, Inc. d/b/a Westerly Hospital

Dear Mr. Zubiago:

Please find attached Decision with Conditions approving the Hospital Conversion Application of the following Transacting Parties: Yale-New Haven Health Services Corporation, Lawrence + Memorial Corporation and LMW Healthcare, Inc. d/b/a Westerly Hospital.

Please be advised that any aggrieved Transacting Party may seek judicial review pursuant to section 23-17.14-34 of the Rhode Island General Laws, as amended.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Alexander-Scott", is written over a horizontal line.

Nicole Alexander-Scott, MD, MPH
Director of Health

cc: Jessica Doyle, Esq.
Rhode Island Department of Attorney General



Rhode Island Department of Health

**Decision
With
Conditions**

**Application of Yale-New Haven
Health Services Corporation,
Lawrence + Memorial Corporation,
and LMW Healthcare, Inc., d/b/a
Westerly Hospital**

Nicole Alexander-Scott, MD, MPH

Director of Health

September 1, 2016

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND DEPARTMENT OF HEALTH

3 CAPITOL HILL, ROOM 401

PROVIDENCE, RHODE ISLAND 02908

September 1, 2016

In the Matter of:

Proposed Affiliation of Yale-New Haven Health Services Corporation (“YNHHSC”), Lawrence + Memorial Corporation (“L+M”), and LMW Healthcare, Inc., d/b/a Westerly Hospital (“Westerly Hospital”) (collectively referred to as the “Transacting Parties”) Under the Hospital Conversions Act of Rhode Island : **DECISION**

I. Introduction and Background

The above entitled matter came before the Rhode Island Department of Health (“Department”) on July 21, 2015, in the form of a request for an expeditious review of the hospital conversion application pertaining to the proposed acquisition of L+M, including Westerly Hospital, by YNHHSC.

RIGL 23-17.14-12.1(a)(2)(v) provides for an expeditious review when, among other statutory criteria, a hospital has an inpatient occupancy rate of less than fifty percent (50%). The Transacting Parties represented in their July 2015 request that Westerly Hospital’s inpatient occupancy rate at that time was 27.4%. For fiscal year 2013, Westerly Hospital’s inpatient occupancy rate was 28.8% and for fiscal year 2014, the Hospital’s inpatient occupancy rate was 29.7%. Westerly Hospital is currently licensed for 125 inpatient beds. Its average daily inpatient census for the most recent quarter cited in the July 2015 request was 34.25 patients. It was based upon these data that the Transacting Parties requested that their Application be approved for an expedited review. The Department reviewed and approved the request for an expedited review on July 31, 2015.

The Westerly Hospital and Lawrence + Memorial Corporation conversion Application that was approved by the Director of Health (“Director”) on April 16, 2013 (“2013 Decision”) was the first expedited review processed by the Department. The Rhode Island Attorney General approved this conversion Application on April 17, 2013. That hospital conversion marked the first time an out-of-state owner became the parent of an entity holding a Rhode Island hospital license.

On November 9, 2015 the Transacting Parties filed Initial Applications to the Department and the Rhode Island Office of Attorney General (“RIAG”) pursuant to Section 23-17.14-12.1 of the Rhode Island Hospital Conversions Act (the “Act”). Upon receiving the Initial Application, the Department reviewed the Application for completeness.

On December 4, 2015, the Department sent a letter notifying the Transacting Parties that the Application was incomplete and specified all the additional information the Transacting Parties were required to submit to complete the Application. On January 29, 2016, in accordance with the December 4, 2015 request, additional materials were received from the Transacting Parties. On February 18, 2016, the Department again transmitted a request for additional information and the Application remained incomplete. On April 11, 2016, in accordance with the February 18, 2016 request, additional materials were received from the Transacting Parties. The Application was deemed complete and accepted for review by the Department on June 10, 2016.

Concurrent with the Department's review of the Application, the RIAG was completing its determination pursuant to Sections 23-17.14-6(c) and 23-17.14-32 of the Act as to whether certain information contained in the Application was confidential and/or proprietary. The Transacting Parties requested confidentiality for no less than nine (9) exhibits submitted to the Department with the Application. Of these nine, all or portions of six (6) exhibits were subsequently deemed confidential for purposes of this review by the Attorney General on July 11, 2016, in accordance with the request of the Transacting Parties and all applicable law. On August 22, 2016, all or portions of thirteen (13) supplemental exhibits were deemed confidential for purposes of this review by the Attorney General, in accordance with the request of the Transacting Parties and all applicable law. The Department posted the portion of the Application that was deemed public on the Department's website in order to make the Application available for inspection by the public; as consistent with the Act.

a. The Transacting Parties

YNHHSC is the parent corporation of the Yale-New Haven entities that include the following:

Yale-New Haven Hospital ("YNHH") is a Connecticut-licensed, 1541-bed acute care hospital that maintains two main campuses in New Haven, Connecticut. It serves as the teaching hospital for the Yale University schools of medicine and nursing. YNHH includes the Yale-New Haven Children's Hospital, Yale-New Haven Psychiatric Hospital, and the Smilow Cancer Hospital. Its primary service area includes 48 municipalities and 116 zip codes.

Bridgeport Hospital ("Bridgeport") is a 383-bed acute care hospital located in Bridgeport, Connecticut. It formed the Yale-New Haven Health System along with Yale-New Haven Hospital in 1996.

Greenwich Hospital ("Greenwich") is a 206-bed acute care hospital located in Greenwich, Connecticut. It was acquired by the YNHHSC in 1998.

Northeast Medical Group ("NEMG") is a non-profit multi-specialty physician medical foundation that provides primary care, specialty care, medical education, and hospitalist services throughout the YNHHSC. It includes approximately 100 practice locations. As part of this

transaction, YNHHS is proposing to transfer the ownership of the L+M Physician Association, Inc. to the NEMG.

L+M is the parent corporation of the entities that include the following:

L+M Hospital (“L+MH”) is a non-profit general medical-surgical 280-bed hospital that provides care to the residents of eastern Connecticut, southern Rhode Island, and Fisher’s Island, New York. It is located in New London, Connecticut. L+M Hospital also operates two ambulatory surgical centers and eight outpatient facilities. The Hospital also includes 28 bassinets for newborns.

LMW Healthcare d/b/a Westerly Hospital (“Westerly Hospital”) is a 125-bed acute care hospital located in western Rhode Island that focuses on primary and routine medical and surgical services. The primary service area of Westerly Hospital includes Westerly, Rhode Island; Hopkington, Rhode Island; and Stonington, Connecticut. The Hospital’s secondary service area includes the towns of: Charlestown, Rhode Island; Groton, Connecticut; Ledyard, Connecticut; West Kingstown, Rhode Island; Wyoming, Rhode Island; Carolina, Rhode Island; and Wood River Junction, Rhode Island. As part of the 2013 Decision, it was required that Westerly Hospital would remain open as an acute care, community hospital for a period of at least five years after the conversion was approved. Subsequently, L+M agreed to extend this commitment for an additional year, pursuant to a “Consent Order Regarding Post-Closing Items of the Superior Court of Rhode Island” dated May 23, 2014. This extends the period for Westerly Hospital to remain open as an acute care community hospital through April 2019.

L+M Physician Association d/b/a L+MMG (“L+M Physician Association”) is a physician multi-specialty medical foundation that maintains approximately 11 locations in western Rhode Island and southeastern Connecticut. Its 71 physicians are affiliated with L+MH and Westerly Hospital. As part of the 2013 hospital conversion transaction, the Westerly Hospital’s Atlantic Medical Group physicians became integrated into L+M Physician Association. As part of the current transaction, L+M Physician Association physicians will now become integrated into NEMG.

b. Description of Proposed Affiliation

According to the Transacting Parties, the proposed affiliation is the result of the long-standing collaborative working relationship between the Transacting Parties. The Transacting Parties have determined that the proposed affiliation will provide significant benefits to Westerly Hospital’s service area residents as well as to both Transacting Parties. The Transacting Parties will be better able to further their charitable missions in the changing healthcare marketplace. Both organizations’ missions and values have a strong focus on service excellence, a commitment to serve uninsured and underinsured patients, and provide robust community benefit and uncompensated care. L+M, specifically L+MH and Westerly Hospital, as a cost-effective acute care provider, with a vibrant outpatient and primary care capacity, strong management, and a

history as a high quality, high value, and patient-centered provider, will add to the strength of YNHHS.

The terms of the *Affiliation Agreement by and between Yale-New Haven Health Services Corporation and Lawrence + Memorial Corporation dated July 17, 2015* will permit YNHHS to become the sole corporate member of L+M. L+M will remain the parent company to Westerly Hospital and L+MH. This is similar to the relationship that currently exists between YNHHS and YNH, Bridgeport, and Greenwich. L+MH and Westerly Hospital will maintain separate hospital licenses and boards of directors. Organized medical staffs of both hospitals will remain in place with their own bylaws, rules, regulations, and elected officers.

c. Jurisdiction

Section 23-17.14-4(6) of the Act defines a “Conversion” as:

“any transfer by a person or persons of an ownership or membership interest or authority in a hospital, or the assets of a hospital, whether by purchase, merger, consolidation, lease, gift, joint venture, sale, or other disposition which results in a change of ownership or control of possession of twenty percent (20%) or greater of the member or voting rights or interests of the hospital or of the assets of the hospital or pursuant to which, by virtue of the transfer, a person, together with all persons affiliated with the person, holds or owns, in the aggregate, twenty percent (20%) or greater of the membership or voting rights or interests of the hospital or of the assets of the hospital, or the removal, addition or substitution of a partner which results in a new partner gaining or acquiring a controlling interest in the hospital, or any change in membership which results in a new person gaining or acquiring a controlling vote in the hospital.”

The proposed affiliation satisfies the definition of a conversion under the Act and is therefore subject to the prior review and approval of the Department and the RIAG. Pursuant to Section 23-17.14-12.1 of the Act, the review is conducted by the Department without derogation of the authority of the Attorney General, with the Attorney General’s review done concurrently with the Department’s review. Separate statutory review criteria are established under the Act for the Department and the RIAG.

d. The Department’s Standards for Review under the Act

While the Act requires the Department’s consideration of certain statutory criteria set forth below, it also contemplates that the Director may consider matters related to the viability of a safe, accessible, and affordable healthcare system that is available to all the citizens of the State and matters otherwise related to protecting the public health and welfare.

The Department’s additional statutory criteria include:

- Whether the character, commitment, competence, and standing in the community, or any other communities served by the proposed Transacting Parties are satisfactory;

- Whether sufficient safeguards are included to assure the affected community continued access to affordable care;
- Whether the Transacting Parties have provided satisfactory evidence that the new hospital will provide healthcare and appropriate access with respect to traditionally underserved populations in the affected community;
- Whether procedures or safeguards are assured to insure that ownership interests will not be used as incentives for hospital employees or physicians to refer patients to the hospital;
- Whether the Transacting Parties have made a commitment to assure the continuation of collective bargaining rights, if applicable, and retention of the workplace;
- Whether the Transacting Parties have appropriately accounted for employment needs at the facility and addressed workforce retraining needed as a consequence of any proposed restructuring; and
- Whether the conversion demonstrates that the public interest will be served considering the essential medical services needed to provide safe and adequate treatment, appropriate access, and balanced healthcare delivery to the residents of the state.

In addition, under the Rules and Regulations Pertaining to Hospital Conversions (R23-17.14-HCA, Section 5.3(h)), the Director shall also consider market issues, including market share, especially as they affect quality, access, and affordability of services.

e. Other Regulatory Process

Health Services Council (“Council”) Review under the Health Care Facility Licensing Act of Rhode Island.

On July 16, 2016, in accordance with the requirements of RIGL 23-17, the Application submitted by YNHHS for change in effective control of L+M was deemed complete for processing before the Council. The Council reviewed this Application at two meetings held on July 19, 2016, and August 23, 2016. At the meeting of August 23, 2016, the Council unanimously recommended that the Application be approved subject to conditions. The Council subsequently adopted the written report at a meeting held on August 30, 2016. The written report of the Council, including all findings and recommendations, was transmitted to the Director of Health. The entirety of the record of the Council review, including but not limited to the Application, written information provided by the Applicant, representations made by the Applicant both in writing and verbally before the Council, third party advisories and recordings of meetings of the Council, and the Council’s written report to the Director are hereby incorporated within the record of the Department’s review under the Hospital Conversion Act. The entire record of the Council review is also available to the public.

RIAG Review under the Hospital Conversion Act

As previously indicated, the Act requires both the Department and the RIAG to review and approve a hospital conversion. The review criteria for each department are separately set forth in the Act and each department independently and separately issues its determination under the Act.

Connecticut Department of Public Health (“CDPH”) Certificate of Need (“CON”) Review

The Transacting Parties filed a CON application with the CDPH on October 7, 2015 related to the current affiliation. A second CON application was filed on October 7, 2015 with the CDPH related to the transfer of ownership of L+M Physician Association to the NEMG as part of this transaction.

Federal Trade Commission (“FTC”) and Department of Justice (“DOJ”) Review under the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (“HSR”)

The Transacting Parties filed Notification and Report Forms for Certain Mergers and Acquisitions (“Forms”) with the FTC and DOJ on August 7, 2015. A merger subject to HSR filing requirement may not close until the designated waiting period expires or the government grants early termination of the waiting period. By correspondence dated August 10, 2015, the FTC confirmed receipt of the completed Forms and stated that the waiting period would expire on September 8, 2015. On September 8, 2015, the FTC allowed the waiting period to expire without further investigation of the transaction. Under the FTC’s regulations, the parties have one year following the expiration of the waiting period to consummate the transaction. Accordingly, after September 8, 2016, the Transacting Parties will have to refile an HSR application and be subject to FTC review of the transaction in the event this transaction is not implemented before September 8, 2016.

II. Description of the Department’s Review Process under the Act

a. Application and Other Documents Supplied by Transacting Parties

The Transacting Parties submitted documents in response to an application form that gathers information for the review by the Department and the RIAG. The application form consists of twenty-seven (27) questions and requests for information (thirteen (13) required by the Act) and four (4) required appendices, including, but not limited to:

- a detailed summary of the proposed conversion;
- a description of the governance structure of the hospital post-conversion, including a description of how members of any board of directors, trustees, or similar type group will be chosen;
- the planning process and resulting consolidation proposal;
- consultant reports concerning the affiliation, including due diligence reports;
- agreements, contracts, and conflict of interest policies and statements related to the proposed affiliation;
- plans for use of charitable assets and restricted funds;
- recent or pending citations, violations, enforcement actions, charges, investigations, or litigation;
- description of consolidated healthcare and administrative services;

- plans relative to staffing levels of all categories of employees following the implementation of the proposed conversion;
- plans for all departments or services that will be eliminated or significantly reduced at the hospital following the implementation of the proposed conversion;
- description of the plan as to how the Transacting Parties and their affiliates will provide community benefits and charity care;
- past financial information for each Transacting Party and future financial projections under the proposed affiliation; and
- impact of the proposed affiliation on the hospital's market share and on the cost of healthcare.

b. Public Process

Seeking and obtaining input from the communities and populations affected by the proposed conversion was of particular importance to the Department. In pursuit of this objective, the Department strove to make the process as open and transparent as possible and to provide the public with as much information about the proposed affiliation as possible.

i. Public Record

The Act contemplates that the Department and the RIAG maintain both a public and a confidential record to support the Department's decision on the conversion Application. On July 11, 2016 the RIAG made its determination, as required by the Act, as to what portions of the Application were confidential and/or proprietary. Upon this determination, the Department posted the entire public record portion of the Application on the Department website in order to provide public access to the non-confidential portions of the Application.

ii. Public Meeting

Although not required by statute, the Department and the RIAG jointly held a public informational meeting to provide opportunity for public comment on the Application. A notice of this public informational meeting appeared in the Providence Journal on July 23, 2016. The meeting was held on August 2, 2016, from 4:00 to 6:00 PM at Westerly Town Hall. The Department and the RIAG jointly moderated the meeting. The CEO of L+M, Bruce Cummings, was provided an opportunity to present a summary of the key points of the proposed affiliation for the attendees. The public was invited to participate and provide comment at the conclusion of the presentation. The meeting generated moderate attendance, with seven people choosing to speak. The entirety of the public comment was favorable to and supportive of the proposed affiliation.

iii. Public Comment

In addition to providing opportunities for comment at the public meeting, the Department and the RIAG established a written public comment period, where the public and interested parties were invited to submit written comments until August 15, 2016. The Department received and considered three (3) written public comments. These three written comments

were submitted by United Nurses and Allied Professionals (“UNAP”), the Westerly Town Manager on behalf of Westerly, and Michael Lichtenstein, President and CEO of Wood River Health Services. All three written public comments were supportive of the proposed conversion.

c. Investigations, Other Testimony, and Site Visits

The Department, in conjunction with the RIAG, conducted a number of investigatory meetings in order to obtain information to inform the Department’s review and decision. These meetings were held with the executive leadership teams of the Transacting Parties, including both Parties’ Chief Executive Officer, Chief Financial Officer, and Chief Medical Officer. In addition, the Department requested additional written information from the Transacting Parties to assist the Department in its review.

In addition, Department staff conducted site visits at Westerly Hospital and YNHH.

d. Use of Experts / Recognition of Reports, Studies, and Other Publications

Pursuant to the provisions of Section 23-17.14-13 of the Act, the Department may engage experts and/or consultants in the review of a hospital conversion application. All costs and expenses accrued in connection with this consulting are the responsibility of the Transacting Parties, in an amount as determined by the Director of Health, and as limited in the case of an expedited review by the provisions of Section 23-17.14-12.1(f).

For this conversion review, the Department contracted with Harborview Consulting, LLC to interpret and analyze financial information supplied by the Transacting Parties. Harborview Consulting’s services included the review and analysis of financial documents, papers, and related financial records provided by the Transacting Parties, that included: audited and internal financial statements, including balance sheets, income statements, cash flow statements, capital budgets, internal operating statements, and any financial or utilization data provided to the Department by the Transacting Parties as part of the expedited review. The purpose of the contract was to obtain consulting services of an expert in the hospital/healthcare accounting industry to develop a financial assessment of the proposed affiliation.

III. Discussion, Analysis, and Findings Relative to Statutory Criteria and Other Considerations

As indicated in the previous section, the Department reviewed and considered the following:

- the completed Application;
- written information received subsequently from the Transacting Parties in response to the Department’s requests;
- information received by the Department as part of the Application for Change in Effective Control (CEC) for the affiliation;
- public comment provided within the context of the public informational meeting;

- other information gathered by the Department; and
- other publicly available information and reports.

A variety of factors have been taken into consideration in rendering this Decision, which include but are not limited by the criteria set forth in the statute. Following is a discussion and analysis of each of the statutory and regulatory criteria, including, for each criterion: (a) factors considered in the review and (b) summary analysis.

Review Criterion 1: Whether the character, commitment, competence, and standing in the community, or any other communities served by the proposed Transacting Parties are satisfactory.

Factors Considered

A hospital's character, commitment, competence, and standing in the community can be evidenced by its standing with the following agencies and groups:

- state and federal legal systems;
- licensing and certifying agencies;
- The Joint Commission ("TJC") and other accrediting organizations;
- employees;
- medical staff;
- patients and family members; and
- community members.

To determine whether the Transacting Parties' character, commitment, and competence are satisfactory, the Department evaluated:

- accreditation status and survey reports of the Joint Commission on Hospitals;
- other accreditations and certifications;
- performance under the hospital license issued and overseen by the Department;
- satisfactory compliance with any conditions imposed in association with approvals of Applications for CON or CEC that have been imposed in the past three years;
- any state or federal legal actions against the Transacting Parties in the past three years, including malpractice cases, consent orders, and evidence of correction;
- the proposed governance structure; and
- policies and procedures regarding corporate compliance and ethics.

To determine whether the Transacting Parties' standing in the community is satisfactory, the Department evaluated:

- patient satisfaction with services provided by the institutions;
- public comment on the affiliation request; and

- efforts to include input of providers and community members in the hospital strategic planning process regarding the current affiliation request.

Summary Analysis

The Department determined that all the component hospitals of YNHHS and L+M have full accreditation status with TJC. Westerly Hospital is accredited by the College of American Pathologists (“CAP”) and TJC.

The Center for Health Facility Regulations within the Department licenses Westerly Hospital. In May 2015, the Center for Health Facility Regulations conducted a survey of Westerly Hospital which found no deficiencies.

L+M received HCA and CEC approval to acquire Westerly Hospital in April 2013. There is no evidence that they are not in compliance with any approvals.

YNHHS and its affiliates hold ownership interests in ten licensed healthcare facilities in Connecticut. According to YNHHS, all of its affiliated facilities hold licenses in good standing.

The Transacting Parties provided a list to the Department for review of all instances and the status and corrective action of all citations, enforcement actions, violations, charges, investigations, or similar types of actions and any civil proceedings involving Transacting Parties.

Additionally, in response to a compliance report request from the Department, the Facility Licensing and Investigation Section (“FLIS”) of the State of Connecticut Department of Public Health verified that YNHHS’s affiliated facilities all hold current valid licenses.

The Transacting Parties’ proposed governance structure for the affiliation will substantially maintain Westerly Hospital’s current structure. As with other affiliate hospitals in the YNHHS, the Board of Trustees of L+M and Westerly Hospital will have a broad-based community presence. The board composition reflected in Westerly Hospital’s current bylaws remains the same, with the addition of a YNHHS representative to the board. The existing authority of Westerly Hospital’s board will remain considerably the same with the exception that those powers that are currently reserved to the L+M Board as Westerly Hospital’s sole member and the powers set forth in the bylaws will also become subject to YNHHS approval as well.

The governance of YNHHS will remain the same after the conversion, except that following the closing the person who serves as the Chair of the Board of L+M will be elected as a voting member of the Board of YNHHS. That person will have the opportunity to be a member of the YNHHS Nominating and Governance Committee. Additionally, other members of the L+M Board will have the opportunity to serve on YNHHS Board committees.

The Centers for Medicare and Medicaid (“CMS”) has created Hospital Compare, a compilation of information regarding the quality of care at more than 4,000 Medicare-certified hospitals across

the country. Hospital Compare uses data provided by the Joint Commission, the Centers for Disease Control and Prevention, the National Healthcare Safety Network, the Veterans Health Administration, and the Hospital consumer Assessment of Healthcare Providers and Systems. The metric “Patient Experience” describes how recently discharged patients responded to a survey regarding their hospital experience, particularly if the patient would recommend the hospital. For the 2014-2015 survey results showed that 77% of respondents would recommend YNHH, 72% would recommend Bridgeport, 87% would recommend Greenwich, 65% would recommend L+MH, and 67% would recommend Westerly Hospital.

After the proposed conversion, the Transacting Parties state that evaluation of community needs and prioritization of focus areas will be made at the local level. Westerly Hospital will maintain autonomy in decisions regarding the provision of community benefits in the facility’s community. Westerly Hospital will continue to dedicate and commit resources to fund and support community benefit programs and to make reinvestments in the communities served by the facility.

At the August 2, 2016 public informational meeting, public comments were made by a member of the Westerly Town Council, the President of the Ocean Community Chamber of Commerce, Westerly’s state senator and representative, as well as the Westerly town manager. All comments received were positive about the proposed affiliation, citing the necessity of the affiliation to the continued operation of Westerly Hospital, as well as that facility’s integral role in the community.

Written comment in support of the proposed affiliation was received in a letter dated July 28, 2016 from Linda McDonald, RN, President of United Nurses and Allied Professionals, a letter dated August 4, 2016 from Derrick M. Kennedy, Town Manager of Westerly, and a letter dated August 23, 2016 from Michael A. Lichtenstein, President and CEO of Wood River Health Services. There were no comments received in opposition to the proposal.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 2: Whether sufficient safeguards are included to assure the affected community continued access to affordable care.

Factors Considered

To determine whether the Transacting Parties include sufficient safeguards to assure the affected community continued access to affordable care, the Department evaluated:

- the past and current financial status of the Transacting Parties;
- the Transacting Parties’ projections of financial status post-affiliation;
- the Transacting Parties’ specific plans, including efficiencies, reductions, consolidations and other methods which the Transacting Parties will use to achieve their financial goals;
- the reasonableness of these assumptions and the basis thereof;
- description of short and long term plans to assure access to healthcare services to the community; and

- the proposed affiliation's potential or likely impact on availability and accessibility of services pre- and post-affiliation, including geographic access to specific services.

Summary Analysis

As part of the affiliation, YNHHSC has committed \$300 million in resources in its Eastern Connecticut and Western Rhode Island region over five years for clinical and operational capabilities. This \$300 million commitment over the five-years following the closing includes \$85 million in guaranteed commitments (from resources other than those generated by the L+M Affiliates) and a contingent commitment of \$215 million. This commitment is not limited to Westerly Hospital as these resources will also benefit L+M and its service areas.

As outlined in the *Affiliation Agreement*, the \$85 million of guaranteed commitments will support the following initiatives:

- \$41 million in resources to support:
 - Implementation of Epic, Lawson and other IT platforms
 - Effectuation and implementation of building the Yale Health System brand across the communities served by the L+M affiliates
 - Up to \$10 million in value represented by participation in and access to Yale Health System population health infrastructure
 - Development of clinical programs and services to associated physician recruitment
- \$44 million in resources to support the clinical programs and services consistent with mutually agreed-upon individual project business plans that are consistent with community need and the Yale Health System's strategic plan, display a positive return on investment and include implementation plans and budget allocations. Such clinical programs and services include:
 - Expansion of primary care network and ambulatory presence, including ambulatory surgery
 - Access to pediatric specialty services
 - Development of a multi-disciplinary musculoskeletal center with orthopedic, neurosurgery, spine and physiatry clinical complements
 - Expansion of maternal fetal medicine and obstetrics capabilities
 - Enhancement of oncology services associated with Smilow Cancer Hospital
 - Reintroduction and expansion of bariatric and/or laparoscopic surgical programs
 - Expansion of neuromuscular and stroke programs
 - Development of a multidisciplinary vascular program and enhancement of cardiac services including electrophysiology
 - Enhancement of endocrinology/thyroid services
 - Development of population health and risk contracting capabilities and participation in population health infrastructure
 - Continued access to SkyHealth
 - Expanded emergency services
 - Physical plant and infrastructure maintenance, development and renovations

The contingent commitment of \$215 million made under the *Affiliation Agreement* is based on a five-year forecast developed as part of the affiliation process, as well as anticipated merger synergies that were developed in June 2015. Changes in L+M's operating performance, as well as realization of merger synergies may result in a reduction in this commitment.

Expert's Report

The Department engaged an expert in the hospital/healthcare accounting industry, Harborview Consulting, LLC, whose principal is John Schibler, CPA, PhD, to develop a financial assessment of the proposed affiliation. The expert reviewed and analyzed the financial documents, papers, and related financial records provided by the Transacting Parties, that included: audited and internal financial statements, including balance sheets, income statements, cash flow statements, capital budgets, internal operating statements, and any financial or utilization data provided to the Department by the Transacting Parties as part of the expedited review. The expert reviewed the current financial status and recent financial history for the Transacting Parties as presented in the submitted documents, as well as the Transacting Parties' financial projections under the affiliation, and the underlying assumptions for the projections.

L+M has experienced continuing operating losses for the fiscal years ended 2013 through 2015. The losses are driven by lower volumes, particular of the inpatient category, unfavorable reimbursements, and increasing Connecticut provider taxes. The FY 2016 operating loss is forecasted to be approximately \$22 million. Operating losses are primarily driven by investments required by L+M Physician Association, with approximately \$70 million being transferred from other affiliates to L+M Physician Association in order to maintain operations. In the long term, transfers of this magnitude are unsustainable and have contributed to the decline in cash over the period.

While Westerly Hospital has experienced positive earnings margins, inpatient volumes continue to decline reflecting a decreasing market share. The average daily census has been averaging about thirty-five (35) patients.

In August 2016, the Fitch Group downgraded L+M's credit rating to A- with a negative outlook. Fitch specifically noted that ongoing operating losses were the reason for the downgrade. Despite recent operational challenges, Fitch predicts that a manageable debt burden and adequate liquidity will enable L+M to service debt, at least in the short-term. Fitch views the proposed affiliation positively due to positive financial benefit as well as the \$85 million strategic investment by YNHHS.

In May 2016, S&P downgraded L+M's rating from A- to BBB+ with a developing outlook. S&P specifically noted a sharp decrease in operating profitability below that of previous historical levels. Additionally, the downgrade was attributed to pressure on margins from the increasing Connecticut state hospital tax, continued inpatient volume softness, a continuing shift to outpatient settings, and weakened liquidity resulting in less financial flexibility. S&P noted L+M's strong

market position, significant expense control efforts, and health reserves relative to debt as positive factors. S&P noted a possible upward rating if the integration with YNHHSC is consummated.

In April 2016, the Fitch Group rated YNHHSC as having a stable outlook, specifically noting several strengths including solid and consistent operating results, adequate liquidity especially in relation to outstanding debt, low debt burden with strong debt service coverage, and sizeable capital investment with a focus on strategic growth. The report noted that Connecticut fiscal pressures including higher provider taxes, as well as lower Medicaid reimbursements, will compress margins. However, YNHHSC's margins are expected to remain positive.

All YNHHSC's primary affiliates have contributed with positive margins for the fiscal years ended 2012 through 2015, with the exception of NEMG which has required investments of \$165 million over the period. Operating performance has been consistently positive and YNHHSC continues to have strong liquidity. Interim operating results through June 2016 continue to be positive.

While YNHHSC has demonstrated strong historic financial performance, changes in the healthcare market pose certain risks. These risks are not specific to YNHHSC, however they will result in additional challenges in maintaining strong operating performance. Healthcare reform poses a level of uncertainty as new regulations, delivery models, and reimbursement methodologies evolve. States are re-evaluating Medicaid payments to providers as a result of fiscal pressures and expanding Medicaid coverage in the context of healthcare reform. While the overall U.S. economy has improved, the regional economy still has not fully recovered, which can result in increases of uninsured patients. Finally, the Transacting Parties have significant cash reserves which generate strong levels of investment income, with the caveat that these investments are subject to market fluctuations influenced by changes in the environment.

In conclusion, the expert determined that the forecasts and operational improvements developed by the Transacting Parties are reasonable. Additionally, the expert determined that there does not appear to be any reason the transaction should not be approved. Without the proposed affiliation, L+M and consequently Westerly Hospital may endure unsustainable financial losses.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 3: Whether the Transacting Parties have provided satisfactory evidence that the new hospital will provide healthcare and appropriate access with respect to traditionally underserved populations in the affected community.

Factors Considered

To determine whether the Transacting Parties have provided satisfactory evidence that the proposed affiliation will provide healthcare and appropriate access with respect to traditionally underserved populations in the affected community, the Department evaluated:

- the Transacting Parties' history of providing care to underserved populations, including the provision of charity care;
- identification of any services provided by the Transacting Parties which are considered critical due to short supply or uniqueness;
- evidence that the Transacting Parties provide and will continue to provide care that welcomes and accommodates multilingual and multicultural populations and individuals with disabilities;
- the Transacting Parties' history of and plan for providing community benefits.

Summary Analysis

As the sole community hospital in southwestern Rhode Island, Westerly Hospital provides community benefits to advance its mission of improving the health of the communities it serves. In FY 2014, Westerly Hospital's community benefits totaled over \$3.7 million in free programs and services, with \$3.3 million helping to ensure access to care for 15,150 people, \$124,000 helping to educate sixty-two (62) future healthcare providers, and \$283,000 promoting a healthy community for 2,500 people. In advancement of its non-profit mission, Westerly Hospital's method to identify local health needs takes place both formally through the triennial community health needs assessment ("CHNA") process and informally through a periodic internal review of disease incidence and prevalence rates. These analyses inform Westerly Hospital of the health status of its community and are used to focus program and service development on the areas of greatest concern.

Westerly Hospital completed its most recent CHNA in 2013, with top needs identified as mental health and substance abuse, diabetes, and heart disease. Since the 2013 CHNA, implementation action items completed or in-process include establishment of a multidisciplinary behavioral health task force and placement of a dedicated behavioral health practitioner in Westerly Hospital emergency department, diabetes outreach and education (including support groups), and establishment of a Heart Healthy Westerly multidisciplinary team to develop strategies to improve cardiovascular health (including smoking cessation and worksite wellness). Work is currently underway between Westerly Hospital, the Hospital Association of Rhode Island, and consultant Baker-Tilly to revise the CHNA with completion anticipated in calendar year 2016.

Since its acquisition by L+M in 2013, Westerly Hospital has implemented several strategies to ensure access to care for uninsured and under-insured individuals. First, Westerly Hospital initiated a financial counseling service for patients which is dedicated to helping patients and their families navigate the state requirements for Medicaid enrollment as well as guiding them through the hospital's internal charity care process. Westerly Hospital also maintains a Charity Care Policy and free bed fund that promotes provision of medically necessary care to all patients, regardless of ability to pay.

In FY 2014, YNHHS's affiliated hospitals provided over \$569.2 million (at cost) in community benefit and community building activities. As part of the system-wide commitment to

serve as strong community partners, each hospital provided numerous health screenings, community education sessions, community-building events, community leadership activities and grants, and assistance to improve and enhance the health of its local community. In addition, the area of community benefits also includes costs associated with health professions-related education, as well as uncompensated and under-compensated care.

Examples of the community benefit programs provided in FY 2014 by YNHHSC affiliated hospitals include the following:

- at YNHH the Me & My Baby program provided 208 newly enrolled mothers access to prenatal and pediatric care, health education, care coordination, and prescription drug coverage. This program also offered free pregnancy testing as well as counseling by a registered nurse;
- in partnership with the Cornell Scott-Hill Health Center, YNNH's digital mammography van provided 913 screening mammography exams at 69 locations throughout southern Connecticut, enhancing accessibility to mammography services;
- YNHH offers support groups free of charge to patients and families in over 25 areas, staffed by social workers in order to help patients and families cope with illnesses and related issues. In FY 2014, nearly 3,600 people attended and participated in these support groups.
- YNHH provides easily accessible legal services to 275 children and families through the Medical Legal Partnership with the Children's Advocacy Center in Pediatric Primary Care Center;
- Bridgeport provided free medical, screening, and diagnostic breast services to over 1,000 uninsured and under-insured women through the Norma F. Pfriem Breast Care Center's Underserved Program, which also provided outreach services to over 3,100 women;
- Greenwich held a variety of community programs such as mental health first aid training and programs on alcohol awareness, anxiety disorders, and sensory modulations;
- Greenwich's Kids Cooking in the Kitchen Program provided children ages 9-12 with the opportunity to participate in three weekly hands-on after school sessions focused on nutrition with hospital registered dietitians, nurses, and chefs in collaboration with the Boys & Girls Club; and
- Greenwich provided free screenings to 64 men through the Ed Randall Fans for the Cure.

Pursuant to the Rules and Regulations Pertaining to Hospital Conversions (R23-17.14-HCA), hospitals must provide full charity care (i.e., a 100% discount) to patients/guarantors whose annual income is up to and including 200% of the Federal Poverty Levels ("FPL"), taking into consideration family unit size. Hospitals must also provide partial charity care (i.e., a discount less than 100%) to patients/guarantors whose annual income is between 200% and up to and including 300% of the FPLs, taking into consideration family unit size.

YNHHSC's current Financial Assistance Program, as provided by the Transacting Parties, will provide free care to patients with gross annual family up to and including 250% of the FPL. Additionally, the current program will provide discounted care if a patient's gross annual family income is 251% or above the FPL. The Transacting Parties represented because YNHHSC's

current Financial Assistance Policy is more inclusive than the requirements in the Rhode Island Regulations, Westerly Hospital's post-closing charity care policy, as with its status as an enrolled Medicare and Medicaid provider, will assure continued access to affordable care for patients within its community.

According to the Transacting Parties, YNHHS is currently in the process of updating the Financial Assistance Policy to ensure continued compliance with the Affordable Care Act. Following the proposed transaction, specific provisions will be made to note Westerly Hospital's obligation to comply with the Statewide Standard of Charity Care and Statewide Standard of Uncompensated Care.

In summary, the Transacting Parties have a significant history of serving underserved and low income populations and will assure continued access to affordable care for patients within Westerly Hospital's community.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 4: Whether procedures or safeguards are assured to insure that ownership interests will not be used as incentives for hospital employees or physicians to refer patients to the hospital.

Factors Considered

Section 1877 of the Social Security Act prohibits a physician from referring patients to an entity for a designated health service ("DHS") if the physician or a member of his or her immediate family has a financial relationship with the entity, unless an exception as specified in 42 CFR Part 411(J) applies. The law also prohibits an entity from presenting a claim to Medicare or to any person or other entity for DHS provided under a prohibited referral. No Medicare payment may be made for a DHS rendered as a result of a prohibited referral, and an entity must refund any amounts collected for a DHS performed under a prohibited referral on a timely basis. Civil monetary penalties and other remedies may also apply under some circumstances.

To determine whether the Transacting Parties have provided sufficient evidence that they have satisfactory procedures or safeguards to insure that ownership interests will not be used as incentives for hospital employees or physicians to refer patients to the hospital, the Department evaluates:

- evidence of such written policies in the current entities; and
- proposed policies and procedures for the new affiliation.

Summary Analysis

The new hospital will continue to be a non-profit corporation and its sole member will continue to be L+M. Therefore ownership interests in Westerly Hospital will not be available to any third party, including hospital employees or physicians.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 5: Whether the Transacting Parties have made a commitment to assure the continuation of collective bargaining rights, if applicable, and retention of the workforce.

Factors Considered

In order to determine whether the Transacting Parties have provided satisfactory evidence of their commitment to assure the continuation of collective bargaining rights, the Department evaluated:

- the Transacting Parties' description of collective bargaining issues that may be raised by the proposed affiliation;
- plans to address those issues;
- evaluation of the commitment demonstrated in Transacting Parties' plan to assure continued collective bargaining rights of employees;
- evidence that the Transacting Parties sought and considered the input of employees and employee union representatives in such plans; and
- any comments provided by employees and employee union representation.

In order to determine whether the Transacting Parties have provided satisfactory evidence of their commitment to assure retention of the work force, the Department evaluated:

- the Transacting Parties' description of the planned consolidation, elimination, or expansion of functions/positions as a result of the affiliation;
- the impact of such changes on the workplace and workforce; and
- evidence that the Transacting Parties demonstrate a commitment to retaining the existing workforce where feasible.

Summary Analysis

Section 2.4(c) of the *Affiliation Agreement* between the Transacting Parties specifically provides that all current collective bargaining agreements to which the L+M affiliates are parties as of the closing date will remain in full force and effect in accordance with their terms. Accordingly, the Transacting Parties have pledged to continue collective bargaining agreements.

Linda McDonald, President of the United Nurses and Allied Professionals ("UNAP"), the union which represents the employees of Westerly Hospital, submitted a written public comment dated July 28, 2016 regarding the proposed affiliation. Her written public comment states that UNAP "*strongly and unequivocally support the affiliation of Lawrence and Memorial Healthcare that includes Westerly Hospital with Yale-New Health System.*" Additionally, the written public comment states "*We believe that an affiliation with a non-profit, Connecticut based entity with a Board that has members based in the communities and the standing and record Yale-New Haven Health Systems has is by far the best choice,*" as well as "*There is no doubt whatsoever that the affiliation of Lawrence and Memorial Healthcare and Westerly Hospital with Yale New Haven Health System is by far the best option for our respective communities and it should be supported.*"

At the August 2, 2016 public informational meeting, two representatives of UNAP Local 5075, Westerly Hospital's associated UNAP chapter, including the chapter secretary, expressed their support for the affiliation, reiterating that the affiliation is the best option for the community.

The Transacting Parties have represented that during the first three years following the conversion, there are no planned consolidations, closures, or reductions in any of the healthcare services offered by the affiliated hospitals.

In summary, the Transacting Parties have stated their commitment to preserve the continuation of collective bargaining rights. Additionally, as noted above UNAP has expressed strong and unequivocal support for the affiliation.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 6: Whether the Transacting Parties have appropriately accounted for employment needs at the facility and addressed workforce retraining needed as a consequence of any proposed restructuring.

Factors Considered

Hospitals that are affiliating should make reasonable efforts to retrain employees for new positions if their job is eliminated, with a goal of minimizing disruption of employment as a result of the conversion to the extent possible.

In order to determine whether the Transacting Parties have provided satisfactory evidence that they have appropriately accounted for employment needs at the facilities, the Department evaluated:

- the Transacting Parties description of the planned consolidation, elimination, or expansion of functions/positions as a result of the affiliation; and
- the Transacting Parties' demonstration that current and planned staffing levels are adequate, in particular in direct patient care areas.

Summary Analysis

As stated in the Summary Analysis for Review Criterion 5 above, The Transacting Parties have represented that during the first three years following the conversion, there are no planned consolidations, closures, or reductions in any of the healthcare services offered by the affiliated hospitals.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 7: Whether the conversion demonstrates that the public interest will be served considering the essential medical services needed to provide safe and adequate treatment, appropriate access, and balanced healthcare delivery to the residents of the state.

Factors Considered

In order to determine whether the Transacting Parties have demonstrated that the proposed conversion will assure and improve access to safe and adequate treatment by providing access to essential medical services to communities served, the Department evaluated:

- The Transacting Parties' description of short and long term plans to assure the provision of safe, high quality healthcare services to the community;
- description of changes to quality structures and processes, including the organizational structure that will be used for clinical quality management, oversight, and enforcement;
- plans and timelines for development and implementation of consistent clinical, quality, and patient safety policies and procedures across the new entity;
- description of plans to improve quality and patient safety through the further development of health information systems; and
- current and planned access to electronic medical information by affiliated physicians.

Summary Analysis

The proposed affiliation will enhance Westerly Hospital's ability to provide safe, adequate, and essential medical services to the communities it serves. The proposed affiliation will benefit Westerly Hospital and the community by improving access to primary care and advanced specialty services, strengthen Westerly Hospital's ability to retain and recruit the best talent available, increase access to capital needed to invest in facilities and technologies, improve access to population health expertise and infrastructure, and enhancing Westerly Hospital's financial stability by virtue of being integrated into the larger health system.

YNHHSC represents that it emphasizes quality improvement and innovation throughout its organization. The System Quality Council meets quarterly and identifies key performance improvement initiatives for the system and coordinates these with the local delivery networks' Performance Improvement programs. This Council is comprised of Chief Medical Officers, Chief Quality Officers, Chief Nursing Officers, safety officers, performance management directors and miscellaneous other leaders from each delivery network within the system.

The System Quality Leadership Committee meets monthly and functions as an executive committee to the System Quality Council. This Committee consists of each CMO, CQO, CNO and safety officer and is a decision making body that develops the corporate quality objectives, approve policies and charter system workgroups to drive best practice and standardize care.

On August 23, 2016 at the meeting of the Health Services Council, Thomas Balcezak, MD, MPH, Chief Medical Officer of YNHHSC gave a presentation on quality, safety, and performance improvement practices and initiatives of YNHHSC. He stated that YNHHSC's safety and quality

agenda is dictated by putting patient safety first, striving to get to zero events of harm. In order to achieve this goal, YNHHSO has commenced a multiyear journey to become a high reliability organization to reduce preventable harm to patients and employees. The principles of high reliability include preoccupation with failure, sensitivity to front-line operations, not simplifying interpretations, deference to expertise, and the fast detection, containment, and remediation of potentially harmful situations.

In summary, it appears that the affiliation will provide the opportunity to improve quality at Westerly Hospital, positioning it as part of the larger healthcare system to provide a more balanced delivery system.

The Department notes YNHHSO's guaranteed and contingent financial commitments to the Eastern Connecticut and Western Rhode Island region and, as such, expects that any health service delivery, population health infrastructure building, and community development investments will be aligned to address the needs of the new hospital's service area, supporting statewide priorities, with a focus on health equity, integrated population health planning, and health system transformation. Accordingly, the Department has considered the public's interest and therefore has incorporated within this decision condition of approval number 9 which requires the new hospital to develop and submit within the first year following the date of this decision an implementation plan, with annual reporting thereafter, of its strategies and activities to improve the health and well-being of the residents within the community of the new hospital.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

Review Criterion 8: Issues of market share especially as they affect quality, access, and affordability of services.

Summary Analysis

As Westerly Hospital is the sole Rhode Island hospital involved in this conversion, the Department foresees little to no impact to market share of the facilities in the area. In regards to affordability of care, efficiency of care, and potential impact of the affiliation on the financial viability of the proposed affiliated entity, please see the responses to Review Criteria 1-4 and 7 above.

Finding: The Department finds that the Transacting Parties have satisfied this criterion.

IV. Conclusions

In the Rhode Island Hospitals Conversions Act, the first purpose in defining the intention of the chapter is to assure the viability of a safe, accessible, and affordable healthcare system that is available to all citizens of the state. In the review of the proposed affiliation of YNHHSO and L+M, the Director of Health considered this purpose, as well as the eight criteria specified in the statute and associated regulations for the review of the proposed conversions of non-profit hospitals.

In the course of this review, the Department found that the financial viability of L+M is tenuous. The Department also found that the proposed affiliation is likely to strengthen the financial viability of L+M and by association Westerly Hospital. The proposed affiliation appears to be critical to the continued operations of Westerly Hospital.

The Department found that Westerly Hospital provides services that are essential to the health of the citizens of Rhode Island, and to the community primarily served by that hospital. The continued operations of Westerly Hospital through this proposed affiliation is necessary for continued access and availability of services provided to the primary community served and to all citizens of the state. Furthermore, the improved financial strength of Westerly Hospital is necessary for it to have sufficient resources to continue to provide safe, high quality service.

The Department also found in the course of its review that Westerly Hospital is a community hospital that serves as an accessible and more affordable alternative to more costly tertiary care hospital systems for services appropriately provided in a community hospital. The continued presence of Westerly Hospital through this affiliation will support the viability of an affordable healthcare system available to Rhode Island's citizens.

V. Decision and Conditions

The Hospital Conversion proposed by the Transacting Parties is approved by the Department, subject to the conditions that follow. Within the following conditions, LMW Healthcare d/b/a Westerly Hospital ("Westerly Hospital" or "new hospital") refers to the newly approved hospital, which has been referred to as Westerly Hospital throughout Section III.

1. The Transacting Parties shall implement the conversion consistent with the Department's assessment and review of the Application and as approved thereon by the Director.
2. The new hospital shall provide on or before March 1 of each calendar year a report in a form acceptable to the Director containing all updated financial information required to be disclosed pursuant to RIGL 23-17.14-12.1(b)(7), and any other information as prescribed by the Director.
3. ~~The Transacting Parties shall comply with non-financial commitments outlined in the *Affiliation Agreement by and between Yale-New Haven Health Services Corporation and Lawrence + Memorial Corporation dated July 17, 2015*, and as may be amended.~~
4. The Transacting Parties shall comply with financial commitments outlined in the *Affiliation Agreement by and between Yale-New Haven Health Services Corporation and Lawrence + Memorial Corporation dated July 17, 2015*, unless otherwise authorized by the Department in response to written proposals from the Transacting Parties.
5. The Transacting Parties shall fulfill on the \$30 million commitment to fund improvements at Westerly Hospital as set forth in the 2013 Decision. This condition is distinct and separate

from the \$300 million commitment referenced in the *Affiliation Agreement by and between Yale-New Haven Health Services Corporation and Lawrence + Memorial Corporation dated July 17, 2015*.

6. The new hospital shall be maintained as licensed by the Department at the time of this approval and any change in services shall require prior review and approval by the Department. Services requiring such prior review and approval shall include, but not be limited to, primary care, behavioral health, medical care, surgical care, emergency room, and intensive care unit.
7. The new hospital shall ensure access to services to all patients without discrimination, including payment source or ability to pay.
8. In accordance with the federal *National Standards for Culturally and Linguistically Appropriate Services in Health Care (National CLAS Standards)*, published in 2000 by the Office of Minority Health, U.S. Department of Health & Human Services, and with the current interpreter service policy in Rhode Island, the new hospital shall:
 - Ensure that a qualified interpreter (for both spoken and sign languages) is present in connection with all services if the appropriate bilingual assistance (including sign language) is not available to translate for every non-English speaker who is a patient or seeks appropriate care and treatment and who is not accompanied or represented by an appropriate qualified interpreter or a qualified sign language interpreter who has attained at least sixteen (16) years of age; and
 - Post multi-lingual notices in conspicuous places setting forth the requirement in subsection (a) of this section in English and, at a minimum, the three (3) most common foreign languages used within the new hospital's service area.
9. Prior to or on the anniversary of this decision and for five (5) successive years, the new hospital shall submit an implementation plan to the Department addressing the following:
 - The findings of the *RIDOH 2015 Statewide Health Inventory* (and all subsequent editions);
 - The delivery of primary care within an integrated health care delivery system for physical (including oral health) and behavioral health (including mental health and substance use) in the new hospital's service area;
 - The recommendations of the Rhode Island State Innovation Model and its associated initiatives;
 - Progress of achieving health equity and the *IHI Triple Aim Initiative*;
 - Activities related to integrated *population health and risk contracting capabilities, and participation in population health infrastructure* within Rhode Island as supported by the financial commitments in the *Affiliation Agreement* referred to in this report including but not limited to:
 - Implementation of Screening, Brief Intervention, and Referral to Treatment (SBIRT) for substance use disorder within the Emergency Department and primary care settings;

- Expansion of Medication Assisted Treatment providers and services to address the overdose epidemic;
 - Participation in interventions to improve the safety of opioid prescribing;
 - Utilization of Certified Community Health Workers and Certified Peer Recovery Specialists within any aspect of the healthcare delivery system or Community Health Teams established in the new hospital's service area;
 - Expansion of maternal and child health interventions to reduce infant mortality, as well as toxic stress, within maternal fetal medicine, obstetrics, and pediatrics capabilities, as may be applicable to the new hospital
 - Development of relationships with local tribal nations.
- Strategies that support achieving the Department's *Integrated Population Health Leading Priorities, Strategies, and Goals*, including but not limited to:
 - Addressing social and environmental determinants of health within the new hospital's community and service area through the *RIDOH Health Equity Zone Initiative (HEZ)*;
 - Reducing and preventing health disparities;
 - Expanding access to care for the community's vulnerable populations;
 - Improving integrated population health outcomes;
 - Improving health equity as measured by the *Statewide Health Equity Indicators*, once established;
 - Developing a workforce that reflects the service area's diversity
 - Details outlining financial investments to date and going forward in Westerly Hospital or the surrounding Rhode Island community.
10. The new hospital shall provide complete and timely information in response to requests to the Department regarding the *RIDOH Statewide Health Inventory*.
11. The new hospital shall participate in CurrentCare, Rhode Island's Statewide Health Information Exchange, through the following:
- Offer enrollment in CurrentCare to all patients seen in ambulatory clinics and physician practices owned by the new hospital, patients seen in the emergency departments, and all patients at time of admission or discharge.
 - Continue to send or receive any data currently sent or received to or from the state's designated entity for Health Information Exchange, and work with the state's designated entity for Health Information Exchange to expand the quality, scope, and type of data sent or received. The new hospital shall share data for statewide health information exchange purposes, including, but not necessarily limited to data included in CurrentCare. Health information exchange purposes includes exchanging (both sending and receiving) CCDs, ADTs, Labs, Radiology reports, and EKGs as structured data feeds between providers with treating relationships to the patient. If the new hospital has locations outside of Rhode Island which share the same system as those within Rhode Island, preferably the new

hospital will also agree to share these types of data from those locations. The new hospital shall share data from non-Rhode Island sites that is directly related to Rhode Island residents.

- Make the CurrentCare data available at all clinical sites (such as ambulatory clinics and physician practices, hospitals, and emergency departments) if at least 25% of the patient population served at the site within the last year is made up of Rhode Island residents. For CurrentCare data to be considered available at the site, CurrentCare data must be made available through bidirectional exchange within the site's Electronic Health Record ("EHR") for any EHR vendor where this is already occurring in Rhode Island and relevant staff must be trained to access this information, alternatively if bidirectional exchange is not already in place with the EHR vendor, at least 75% of relevant clinical staff must be trained and received a username and password to access the CurrentCare Viewer.

12. Services at the new hospital shall maintain compliance with the requirements of the Rules and Regulations for Licensing of Hospitals (R23-17-HOSP) and Rules and Regulations Pertaining to Hospital Conversions (R23-17.14-HCA).

The conditions set forth above shall be enforceable and have the same force and effect as if imposed as a condition of licensure in accordance with RIGL §§ 23-17 and 23-17.14, and shall supersede and or replace any and all previous conditions, except as to condition of approval number 5 above regarding L+M's \$30 million commitment to Westerly Hospital.

The Rhode Island Department of Health may take appropriate action, in the sole discretion of the Director, to enforce compliance with these conditions. However, in recognition of a dynamic and ever-changing healthcare system, the Department, in its sole discretion, may reconsider this decision and the conditions herein, upon written proposal by the Transacting Parties.

If any of the aforesaid conditions or the Application thereof to any person or circumstances is held invalid, that invalidity shall not affect any other condition or application of any other condition which can be given effect without the invalid provision, condition, or application, and to this end the conditions and each of them are declared to be severable.

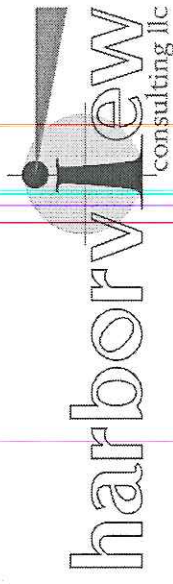
RHODE ISLAND DEPARTMENT OF HEALTH



**Nicole Alexander-Scott, MD, MPH
Director of Health
Rhode Island Department of Health**

September 1, 2016

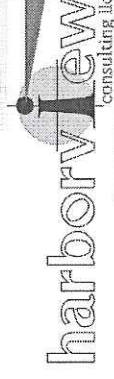
Date



Lawrence + Memorial (Westerly) / Yale-New Haven Health System Merger Analysis

John J. Schibler, Ph.D., CPA

August 22, 2016

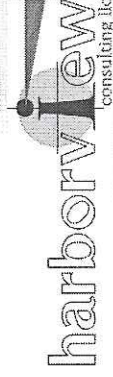


Organization of Assessment

- ❖ Executive Summary of Findings
- ❖ Overview of Lawrence + Memorial (L+M)/Yale-New Haven Health System (YNHHS) transaction
- ❖ Review of Lawrence + Memorial's Historic Financial Performance
- ❖ Review of Yale-New Haven Health System's Historic Financial Performance
- ❖ Forward Looking Risks

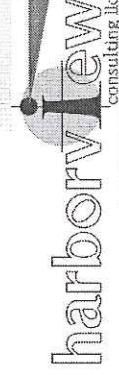
Executive Summary of Findings

- Yale-New Haven Health System has adequate financial resources to fulfill the \$85 million of guaranteed commitments made under the Affiliation Agreement.
- The contingent commitment of \$215 made under the affiliation are based on a five-year forecast developed as part of the affiliation process, as well as anticipated merger synergies that were developed in June, 2015. Changes in L+M's operating performance, as well as realization of merger synergies may result in a reduction in this commitment.
- As part of negotiation of the affiliation, L+M and YNHHS utilized outside consultants to facilitate the negotiations as well as develop forecasts and identify/quantify merger synergies. Based on my review of the information provided, the forecasts and operational improvements developed in June, 2015 are reasonable. These forecasts have not been updated and therefore do not reflect any changes in operations since the time of the original forecasts.



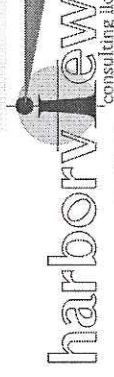
Executive Summary of Findings (cont'd)

- As a result of my review, nothing has come to my attention that the transaction should not be approved.
- With respect to internal controls, while conducting my review of the L+M/YNHHS merger analysis, nothing has come to my attention that would indicate any significant weakness in internal control.



Overview of Transaction

- Yale-New Haven Health System (YNHHS) will become the sole corporate member of Lawrence + Memorial Corporation (L&M) which includes Westerly Hospital.
- YNHHS will commit \$300 million in resources over five years for clinical and operational capabilities as follows:
 - A guaranteed commitment of \$85 million allocated as follows:
 - \$41 million will be made available for information systems, rebranding, population health infrastructure and clinical programs, including physician recruitment.
 - \$44 million will be made available for strategic clinical programs that are consistent with community needs, YNHHS's strategic plan and that will display a positive return on investment
 - A contingent commitment of \$215 million based on the operating performance of L+M entities against certain financial metrics. These funds will be directed to support services consistent with community needs, YNHHS's strategic plan and that will display a positive return on investment.



Overview of Transaction (cont'd)

- The contingent commitment is based on baseline forecasts that project five-year cash flows of approximately \$215 million consisting of:
 - \$160 million baseline (before merger synergies) operating cash flow
 - \$65 million of merger synergies to include operating and technology-enabled efficiencies (\$8 million), net reduction of corporate overhead (\$3 million), and volume increases (\$54 million).
- Changes from forecasted performance or shortfalls in merger synergies could negatively impact the contingent commitment.
- The merger of L+M and YNHHS was not challenged by the Federal Trade Commission; however, applicants will have to reapply if the transaction is not consummated by early September.

Lawrence + Memorial: Assessment

- L+M has experienced continuing operating losses for the fiscal years ended 2013 through 2015. Losses are driven by lower volumes, especially inpatient, unfavorable reimbursement and increasing Connecticut provider taxes. Based on interim financial statements and discussions with management, the FY 2016 operating loss is forecasted to approximate \$22 million.
- Operating losses are primarily driven by investments required by L+M Physician Association (LMPA). Over the four-year period, approximately \$70 million has been transferred from other affiliates to LMPA to maintain operations. In the longer-term transfers of this magnitude are unsustainable and have contributed to the decline in cash over the period.
- While Westerly has experienced positive margins, inpatient volumes continue to decline reflecting a decreasing market share based on a recent consultant's report. Average daily census has been averaging about 35 patients.



Lawrence + Memorial: Assessment (cont'd)

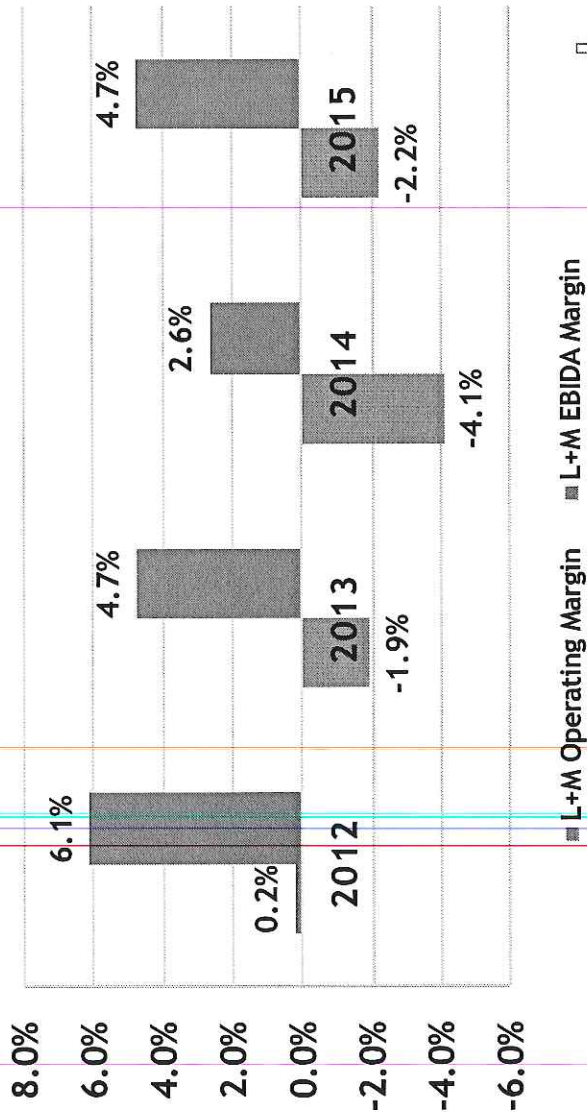
- L+M is subject to various loan covenants under various financing agreements. Covenants include a minimum Debt Service Coverage Ratio, Days Cash on Hand, and Debt to Capitalization Ratio. L+M is in compliance of all covenants through June, 2016.
- In August, 2016, Fitch downgraded L+M's credit rating to A- with a negative outlook. Fitch noted the following:
 - Ongoing operating losses is cited by Fitch as the reason for the downgrade.
 - Fitch highlights that despite recent operational challenges, a manageable debt burden and adequate liquidity will enable L+M to service debt, at least in the short-term.
 - Fitch views L+M's affiliation with YNHHS positively due to positive financial benefits as well as the \$85 million strategic investment by YNHHS.

Lawrence + Memorial: Assessment (cont'd)

- In May, 2016, S&P downgraded L+M's rating from A- to BBB+ with a developing outlook. S&P noted the following as reasons for the downgrade:
 - A sharp decrease in operating profitability--below that of previous historical levels.
 - Pressure on margins from the increasing Connecticut state hospital tax
 - Continued inpatient volume softness and a continuing shift to outpatient settings
 - Weakening liquidity resulting in less financial flexibility.
- S&P did note L+M's strong market position, significant expense control efforts and healthy reserves relative to debt as positive factors.
- S&P noted that a lower rating is possible if the balance sheet and operating performance is not improved
- S&P also cites a possible upward rating if the integration with YNHHS is consummated.

Lawrence + Memorial: Margins

L+M has experienced continuing operating losses for the fiscal years ended 2013 through 2015 well below the Fitch benchmark of 3.6%. Similarly, EBIDA margins which represent Earning Before Interest, Depreciation, and Amortization, are well below the 2014 Fitch benchmark of 12.4%.



Lawrence + Memorial: Operating Margin by Entity

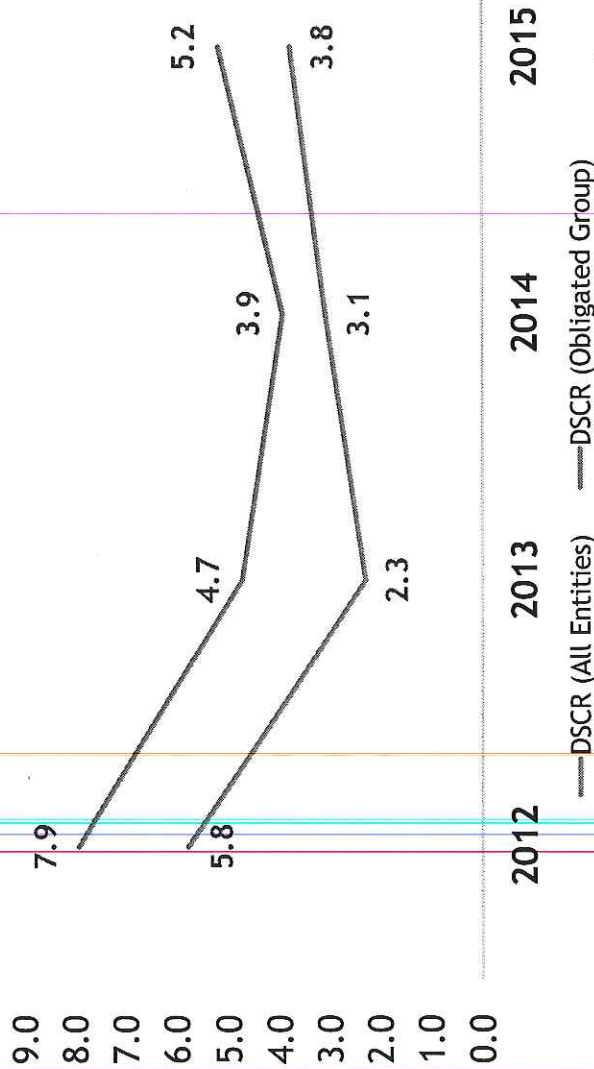
| | 2012 | 2013 | 2014 | 2015 |
|---------------------------------------------|------------------|-------------------|--------------------|--------------------|
| Gain (Loss) | | | | |
| Lawrence & Memorial Hospital - Consolidated | \$ 12,965 | 4,604 | (2,809) | 4,585 |
| Lawrence & Memorial Corporation | (142) | (834) | 2,324 | 4,476 |
| L+M Obligated Group | \$ 12,823 | \$ 3,770 | \$ (485) | \$ 9,061 |
| VNA of Southeastern Connecticut | 324 | 378 | 892 | 1,101 |
| L+M Indemnity | (329) | 1,373 | (444) | (1,247) |
| L+M Physician Association | (13,297) | (14,042) | (23,132) | (21,902) |
| L+M Systems | 445 | 227 | 343 | 323 |
| Westerly Hospital | - | 463 | 3,886 | 2,127 |
| Eliminating Entries | (34) | (7,831) | (18,938) | (10,537) |
| | 738 | 414 | 256 | 239 |
| L+M Corporation & Subsidiaries | \$ 704 | \$ (7,417) | \$ (18,682) | \$ (10,298) |

Source: Summarized from L+M audited financial statements, 2012-2015

Note: Westerly joined L+M in June, 2013; FY 2013 represents operating margin for the period June through September, 2013.

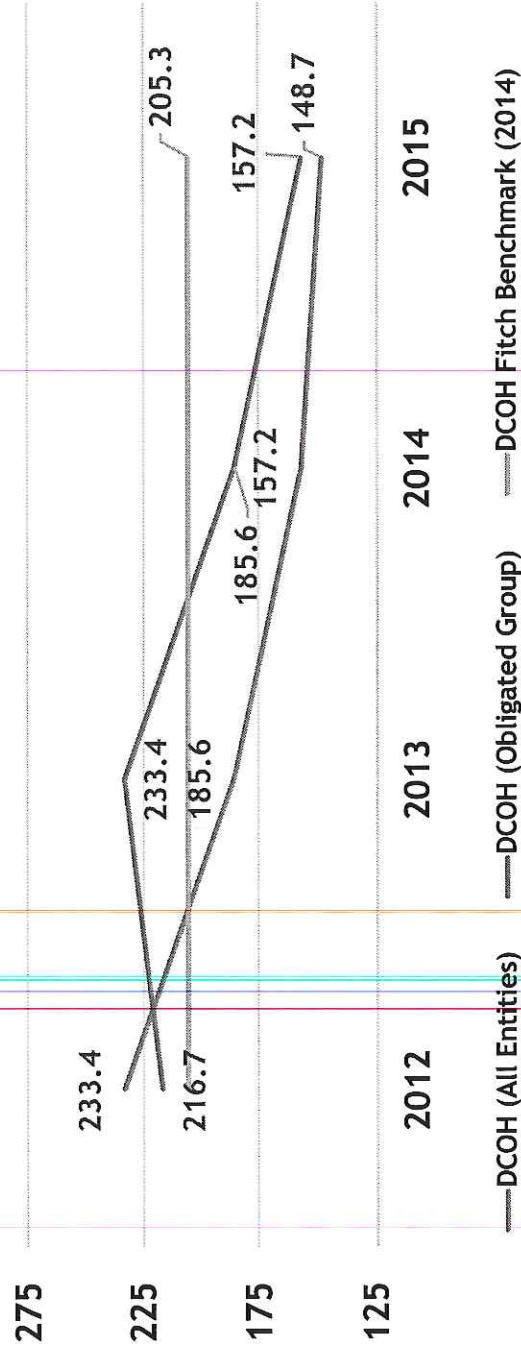
Lawrence + Memorial: Debt Service Coverage Ratios

L+M's Debt Service Coverage Ratio (DSCR), based on current maturities, has declined. L+M is subject to a minimum DSCR under several loan agreements ranging from 1.0X to 1.25X (based on maximum debt service). L+M is currently in compliance with these covenants.



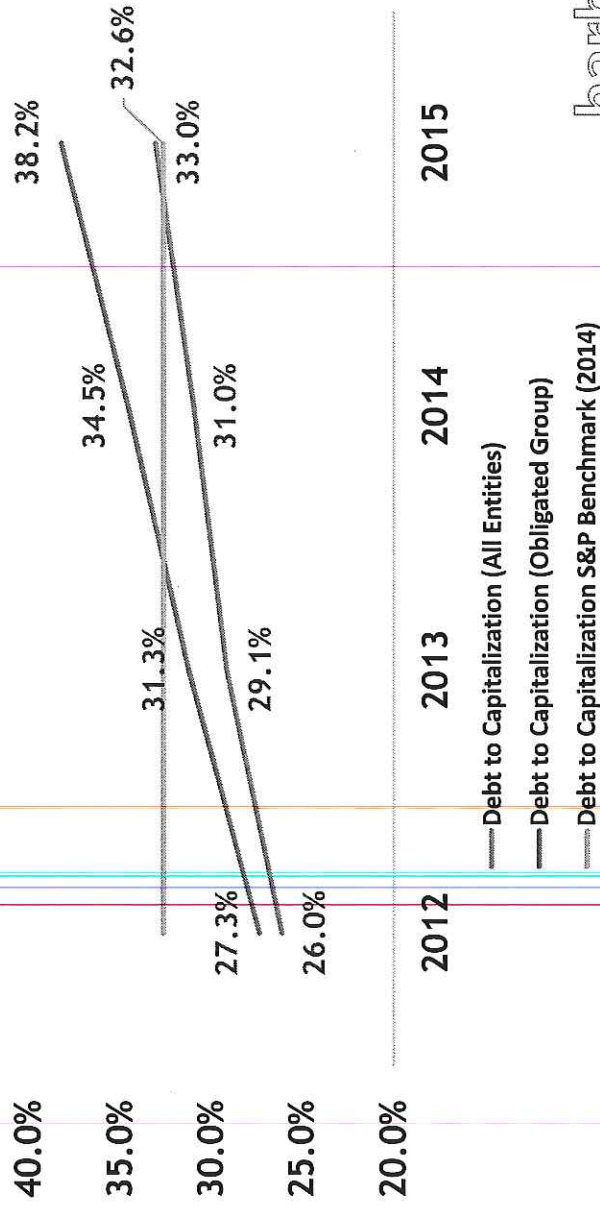
Lawrence + Memorial: Days Cash on Hand

Days Cash on Hand (DCOH), a measure of liquidity, has declined over fiscal years 2012 through 2015 reflecting ongoing losses. L+M's DCOH is below the Fitch 2014 benchmark of 205.3 days. L+M is subject to a minimum DCOH under several loan agreements ranging from 60 to 75 days. L+M is currently in compliance with these covenants.



Lawrence + Memorial: Debt to Capitalization

L+M's Debt to Capitalization Ratio has increased reflecting increased borrowings and declining unrestricted net assets primarily due to operating losses. The Ratio is slightly above the S&P benchmark of 32.6%. Under several loan agreements L+M must maintain a ratio below 50%. L+M is currently in compliance with these covenants.



Yale New Haven Health System: Assessment

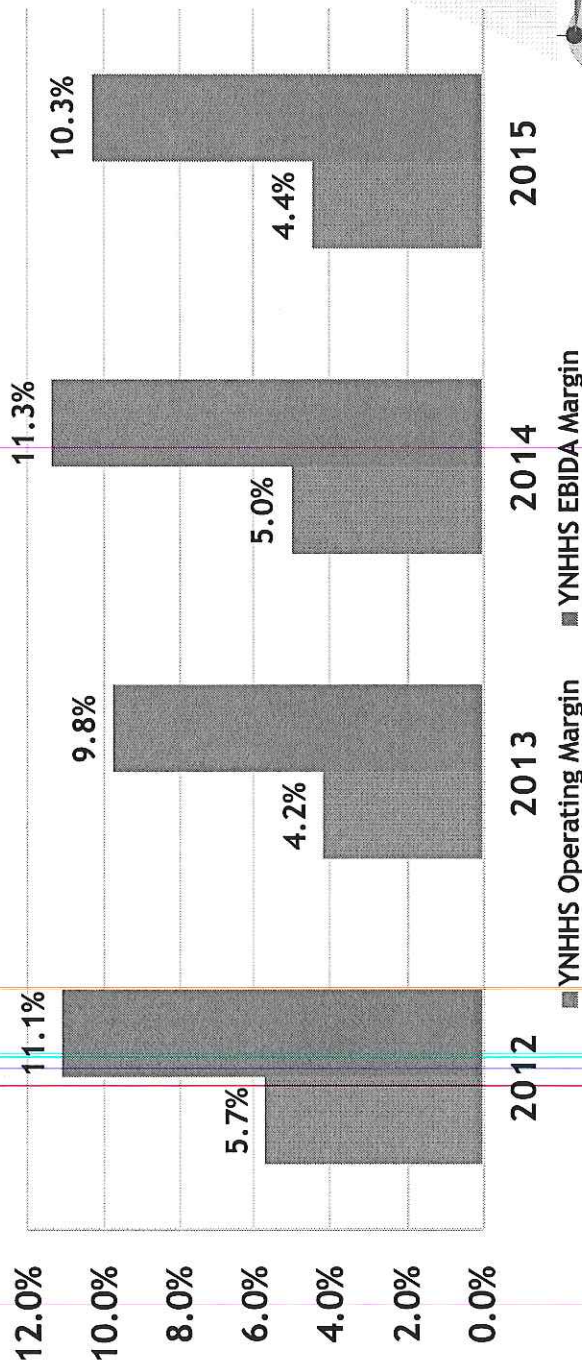
- The YNHHS Obligated Group represents approximately 87% of the System's consolidated assets and 75% of the System's revenues. The only significant affiliate that is not included in the obligated group is Greenwich Health Care Services.
- In April 2016, Fitch rated YNHHS AA- with a stable outlook. They specifically noted YNHHS strengths:
 - Solid and consistent operating results
 - Adequate liquidity, especially in relation to outstanding debt
 - Low debt burden with strong debt service coverage
 - Sizeable capital investment, much focused on strategic growth
- In their report, Fitch did note that Connecticut fiscal pressures resulting in higher provider taxes as well as lower Medicaid reimbursement will compress margins; however, they expect them to remain positive.

Yale New Haven Health System: Assessment (cont'd)

- Operating performance has been consistently positive and YNHHS continues to have strong liquidity. Interim operating results through June 2016 continues to be positive.
- All YNHHS's primary affiliates have contributed with positive margins for the fiscal years ended 2012 through 2015, except for New England Medical Group which has required investments of \$165 million over the period.

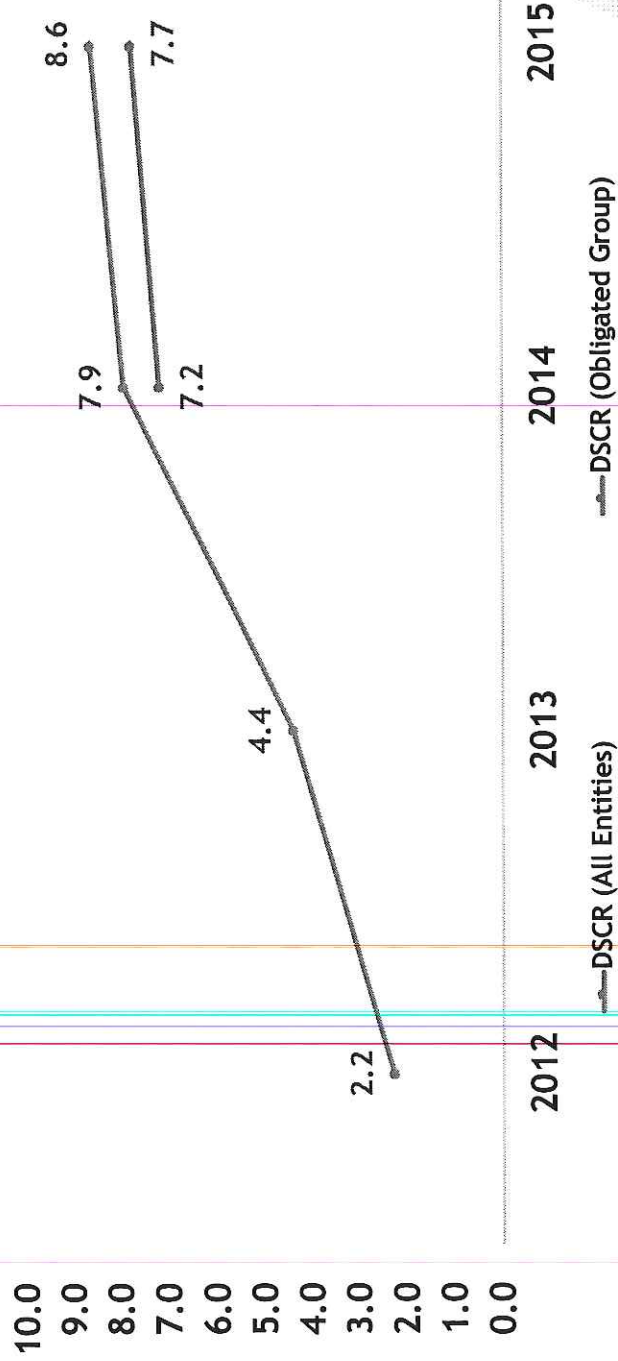
Yale New Haven Health System: Margins

YNHHS has consistently delivered positive operating margins over the last four years that approximate the Fitch 2014 benchmark of 4.9%. Similarly, EBIDA margins which represent Earning Before Interest, Depreciation, and Amortization, track the 2014 Fitch benchmark of 10.9%.



Yale New Haven Health System: Debt Service Coverage Ratio

YNHHS strong operational performance coupled with its low debt burden supports a debt service coverage well above that required by the bond covenant of 1.1.

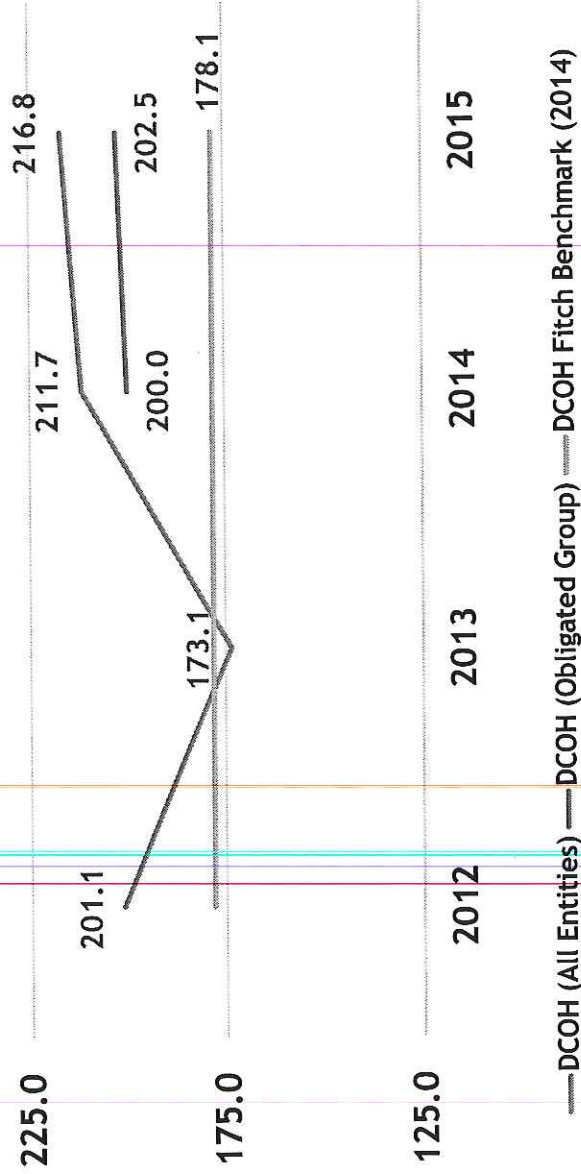


Note: The YNHHS obligated group was formed in 2014

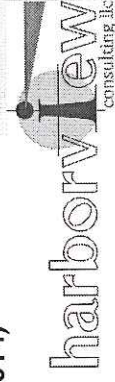


Yale New Haven Health System: Days Cash on Hand

YNHHS has strong cash position based on days cash on hand enabling them to make maintain capital spending and strategic investments.

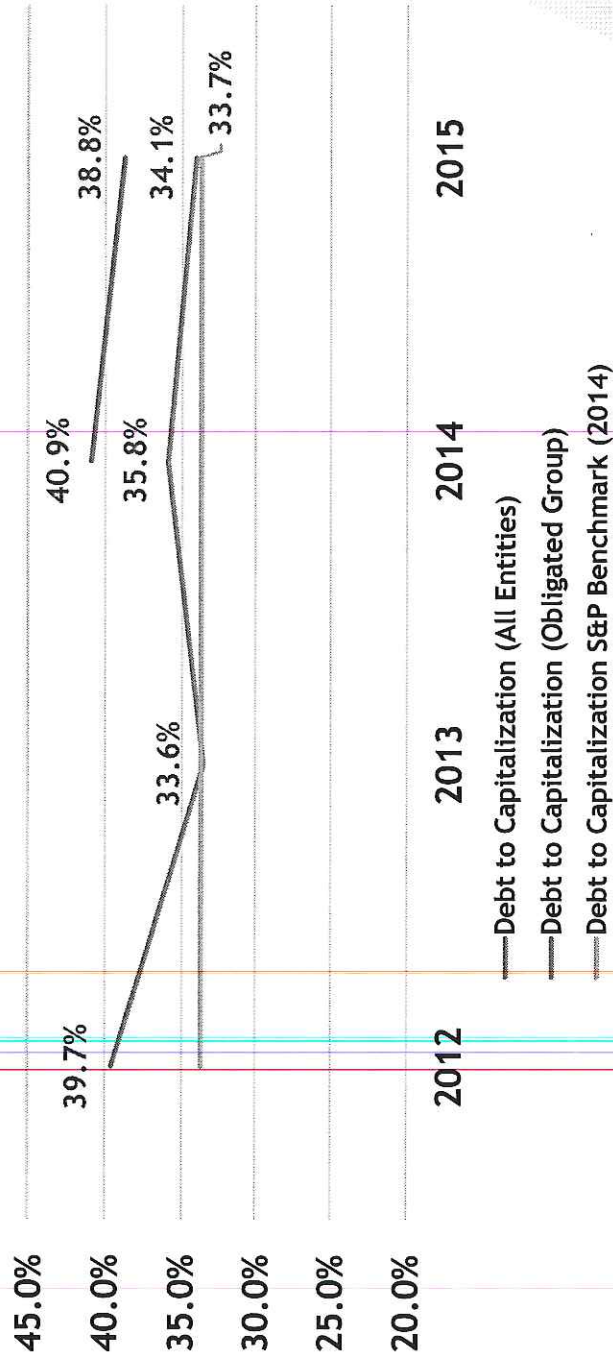


Note: The YNHHS obligated group was formed in 2014



Yale New Haven Health System: Debt to Capitalization

YNHHS has a low debt burden which allows strong debt service. The 2014 S&P benchmark is for similarly-rated health systems.



Note: The YNHHS obligated group was formed in 2014



Forward Looking Risks

- While YNHHS has demonstrated strong performance historically, changes in the healthcare market pose certain risks. These risks are not specific to YNHHS; however, they will result in additional challenges in maintaining strong operating performance. Some of these risks include
 - Health care reform poses a level of uncertainty as new regulations, delivery models, and reimbursement methodologies evolve.
 - Changes in insurance payment models.
 - States are reevaluating Medicaid payments to providers as a result of fiscal pressures and expanding Medicaid coverage in the context of healthcare reform.
 - While the overall US economy has improved, the regional economy still has not fully recovered. Protracted economic weakness can result in increases of uninsured patients.
 - Increased competition from other providers within and outside the region, including the entry of new competitors or new care models.
 - Connecticut budget pressures impacting hospitals through increased provider taxes and changes in Medicaid reimbursement both in Connecticut and Rhode Island.
 - The ability to continue to attract skilled clinical professionals to meet increasing care demands.
- YNHHS and L+M have significant cash reserves which generate strong levels of investment income. These investments are subject to market fluctuations influenced by changes in the environment.

