



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

September 9, 2011

**IN THE MATTER OF:**

An Application for a Certificate of Need  
filed pursuant to General Statutes § 19a-638  
(a) (1) by:

**Blue Sky Behavioral Health, LLC**

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 11-31687-CON

**Establishment of a Psychiatric Outpatient  
Clinic for Adults and a Facility for the Care  
and Treatment of Substance Abusive or  
Dependent Persons in Danbury, Connecticut**

To: David Palmer  
Chief Executive Officer/Manager  
Blue Sky Behavioral Health, LLC  
3 Sand Road  
New Milford, CT 06776

Dear Mr. Palmer:

In accordance with the Connecticut General Statutes Section 4-179, the Proposed Final Decision dated August 19, 2011 by Hearing Officer Melanie A. Dillon is hereby adopted as the final decision of the Commissioner of the Office of Health Care Access, Department of Public Health in this matter. A copy of the Proposed Final Decision is attached hereto and incorporated herein.

Sincerely,

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Kimberly R. Martone,  
Director of Operations

KRM: pf

cc: Melanie A. Dillon, Hearing Officer, OHCA/DPH



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

**In Re: Blue Sky Behavioral Health, LLC**  
**Docket Number: 11-31687-CON**


**FINAL DECISION**

On August 19, 2011, a Proposed Final Decision was issued in the above matter pursuant to Section 4-179 of the Connecticut General Statutes.

In accordance with Connecticut General Statutes Section 4-179, the attached Proposed Final Decision dated August 19, 2011 by Hearing Officer Melanie A. Dillon is hereby adopted as the final decision of the Commissioner of the Department of Public Health in this matter. A copy of the Proposed Final Decision is attached hereto and incorporated herein.

WHEREFORE, it is the final decision of the Commissioner that the application of Blue Sky Behavioral Health, LLC for the establishment of a psychiatric outpatient clinic for adults and a facility for the care and treatment of substance abusive or dependent persons in Danbury is hereby approved.

September 7, 2011  
Date

  
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Jewel Mullen, MD, MPH, MPA  
Commissioner



**State of Connecticut  
Department of Public Health  
Office of Health Care Access  
Certificate of Need Application**

**Proposed Final Decision**

**Applicant:** Blue Sky Behavioral Health, LLC

**Docket Number:** 11-31687-CON

**Project Title:** Proposal to Establish a Psychiatric Outpatient Clinic for Adults and a Facility for the Care and Treatment of Substance Abusive or Dependent Persons in Danbury

**Project Description:** Blue Sky Behavioral Health, LLC ("Applicant") is proposing to establish a Psychiatric Outpatient Clinic for Adults and a Facility for the Care and Treatment of Substance Abusive or Dependent Persons in Danbury at an estimated total capital expenditure of \$64,000.

**Procedural History:** On May 10, 2011, the Office of Health Care Access ("OHCA") received the completed Certificate of Need ("CON") application for the above-referenced proposal. The Applicant published notice of its intent to file the CON Application in *The News-Times* (Danbury), on December 21, 22 and 23, 2010. OHCA received no responses from the public concerning the Applicant's proposal.

A public hearing regarding the CON Application was held on June 2, 2011. On May 23, 2011, the Applicant was notified of the date, time and place of the hearing. On May 18, 2011, notices to the public announcing the hearing were published in *The News-Times* (Danbury), *The Republican-American* (Waterbury) and *The Register-Citizen* (Torrington). Commissioner Jewel Mullen designated Melanie Dillon, Staff Attorney as the hearing officer in this matter on May 19, 2011. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act, General Statutes § 4-166 et seq. and General Statutes § 19a-639a (f). The Hearing Officer considered the entire record in rendering this proposed final decision.

## Findings of Fact

1. The Applicant, a for-profit limited liability company, proposes to establish the Blue Sky Clinic ("BSC") to provide behavioral health services at 2 Glen Hill Road in Danbury, Connecticut. Ex. A., pp.1-3.
2. The Applicant will seek licensure as a Psychiatric Outpatient Clinic for Adults and as a Facility for the Care and Treatment of Substance Abusive or Dependent Persons from the Department of Public Health. Ex. A., p. 3.
3. BSC will provide the following services:
  - a. Individual therapy for psychiatric services and drug and alcohol counseling;
  - b. Group therapy for motivation to change, impulse control, 12-step program; and relapse prevention;
  - c. Dialectical behavior therapy ("DBT");
  - d. Exposure and response prevention ("ERP");
  - e. Eye movement desensitization and reprocessing ("EMDR");
  - f. Cognitive behavior therapy; and
  - g. Groups for member support, relationships, family diversity, anger, anxiety, personality disorders and mature adults.Ex. A, p. 4.
4. The Applicant proposes to provide services to residents of the following towns that comprise Region 5 as defined by the State of CT, Department of Mental Health Services ("DMHAS"):

Barkhamsted	Goshen	Newtown	Southbury
Beacon Falls	Hartland	Norfolk	Thomaston
Bethel	Harwinton	North Canaan	Torrington
Bethlehem	Kent	Oxford	Warren
Bridgewater	Litchfield	Prospect	Washington
Brookfield	Middlebury	Redding	Waterbury
Canaan	Morris	Ridgefield	Watertown
Cheshire	Naugatuck	Roxbury	Winchester
Colebrook	New Fairfield	Salisbury	Wolcott
Cornwall	New Hartford	Sharon	Woodbury
Danbury	New Milford	Sherman	

Ex. A, p. 5.

5. BSC will be easily accessible for patients recently discharged from Danbury Hospital and its new affiliate, New Milford Hospital. Ex. A, p. 6.
6. David J. Palmer, the Chief Executive Officer for the proposed clinic, is currently the Executive Director and Chief Operating Officer of Supervised Lifestyles, a residential facility ("SLS Residential") in Brewster, New York, that specializes in psychiatric and substance abuse disorders. He is also the Chief Operating Officer of SDL Case Management, LLC ("SDL"), an affiliate of SLS Health Group ("SLS"). Ex. A, p. 162.

7. According to the National Institute of Mental Health (“NIMH”), 26% of adults ages 18 and older suffer from a diagnosable disorder in a given year. The NIMH also states that mental health disorders are the leading cause of disability in the United States and when left untreated can result in disability, substance abuse, lost productivity, family discord and suicide. Ex. A, p. 4.
8. According to the Substance Abuse and Mental Health Services Administration (“SAMHSA”), an estimated 22 million Americans abuse or are addicted to alcohol, prescription drugs or illegal drugs. Ex. A, p. 4.
9. According to the State of Connecticut 2008 Mental Health Outcomes Measures, 61% of adults treated with a diagnosable mental health disorder are between the ages of 18 and 64, with 42% of these adults also having co-occurring substance abuse issues. Ex. A, p. 4.
10. In FY 2010, there were a total of 367,489 discharges from acute care hospitals in Connecticut. Persons age 18 and older with a behavioral health diagnostic category, including mental disorders and alcohol and drug abuse, accounted for 27,670 of those discharges. In FY 2010, there were a total of 57,354 discharges age 18 and older in Region 5 with 4,122 having a behavioral health diagnostic category. Source: *CT Department of Public Health Office of Health Care Access Acute Hospital Inpatient Discharge Database*
11. SAMHSA’s National Survey on Drug Use and Health (“NSDUH”) for 2007 estimates that 202,000 adults in Connecticut, 18 and older, had used an illicit drug within the past month of the survey. Ex. A, p. 78.
12. The NSDUH for 2007 also reports that there were 58,000 adults needing, but not receiving, treatment<sup>1</sup> for illicit drug use and 210,000 needing, but not receiving, treatment for alcohol use. Ex. A, pp. 78-79.

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<sup>1</sup> Treatment refers to a specialty facility, i.e., drug and alcohol rehabilitation facilities providing inpatient and/or outpatient services, hospitals for inpatient services, and mental health centers.

13. The U.S. Census Bureau estimated that the total national adult population in 2009 was 307,006,550 of which approximately 75.7% were ages 18 and older. Region 5 towns have an estimated 465,000 adults, 18 years of age and older. Using the provided percentages, the number of adults that may require treatment from Region 5 only are:

**Table 2: Number of Estimated Adults in Region 5 with Behavioral Health Disorders in 2009**

Organization	Percentage of Adults 18 years of age Affected	Number of Adults that may be affected in Region 5:
NIMH	26% with a diagnosable mental health disorder	$(465,000 * .26) = 120,900$
SAMHSA	$(22 \text{ million} / 307 \text{ million}) * 75.7\% = 5.4\%$	$(465,000 * .054) = 25,232$
<b>Total Number of Affected Adults in Region 5</b>		<b>146,132</b>

Note: The number of adults reported does not account for those with co-morbidities and may be included in both calculations.

Sources: *U.S. Census Bureau 2010* and *National Survey on Drug Use and Health for 2007*

14. The Connecticut State Office of Rural Health reported in 2006 that mental health and substance abuse issues were becoming the most prevalent diseases that affect an individual's well-being and have large economic impacts in terms of both costs of care and lost productivity. In addition, the report stated that there was a shortage of mental health providers in Northwest Connecticut. Ex. A, pp. 121-122.
15. The majority of referrals to the BSC would originate from the Danbury area. Currently, SLS Residential has relationships with other providers in the area, including Mountainside and High Watch, which provide residential services, and Silver Hill Hospital, a Hospital for Mentally Ill Patients. Public Hearing, June 2, 2011.
16. BSC will build upon these relationships and expects to receive referrals from these providers. Public Hearing, June 2, 2011
17. Additionally, Western Connecticut State University is located in Danbury and is a potential referral source for BSC based upon recent studies that have shown that substance abuse is a growing problem among college students. Ex. A, p. 5
18. According to the College Board Advocacy and Policy Center, alcohol use is a continuing problem on college campuses, where nearly 73% of students drink at least occasionally. Ex K, p. 298.
19. In addition, according to the Federal Centers for Disease Control for 2010, at least one in four college students, 18 to 34 years of age, binge drink. Furthermore, the National Center on Addiction and Substance Abuse at Columbia University reported in 2007 that nearly half of America's 5.4 million full-time college students abuse drugs or drink alcohol on binges at least once a month. Ex. K, pp. 299-301, 305-306, 314-317.

20. The proximity of BSC to the college in Danbury will offer college students who attend the campus a convenient means to receive a variety of different types of treatments while still attending their classes. Ex. K, p. 294.
21. BSC will have the following strengths:
  - a. A 40-hour per week staff of certified alcohol and drug counselors to provide support to substance abuse members;
  - b. On-call for emergencies;
  - c. Variety of different therapists will be employed, such as psychologists, licensed master social workers, and licensed clinical social workers;
  - d. Innovative treatment options, including DBT, ERP and EMDR ;
  - e. Innovative group offerings, such as men's and women's anger management groups, psychodrama groups, sexual preference groups, DBT groups, substance abuse groups, relapse prevention groups, men's and women's relationship groups and eating disorder groups;
  - f. Psychiatrist on staff.Ex. J, p. 281.
22. The proposal will provide residents with services that are not readily available at a single location within Region 5. Ex. A, p. 21.
23. BSC will offer custom-tailored services to meet each client's needs and would fill a niche by providing specialized and "a-la-carte" services. Public Hearing, June 2, 2011.
24. DBT will be offered at BSC and taught by a certified and trained instructor. Public Hearing, June 2, 2011.
25. DBT is a treatment therapy based on the idea that psychosocial treatment of those with certain disorders plays as important a role in controlling the condition as traditional psychotherapy and pharmacotherapy. DBT maintains that some people react abnormally to emotional stimulation and have no coping mechanisms for sudden and intense surges of emotion. DBT is a method for teaching clients the skills that will help them react more appropriately in certain situations. Ex. K, p. 347.
26. BSC will offer a modular DBT program that takes several months to complete, with beginning, intermediate and advanced modules. DBT has been proven helpful to people that have substance abuse and mental health issues, as it provides people with skills and coping mechanisms to handle certain situations. Public Hearing, June 2, 2011.
27. BSC would have a minimum of two clinicians trained in DBT on the premises. Public Hearing, June 2, 2011.
28. The only provider in the area that offers DBT is Silver Hill Hospital. However, Silver Hill Hospital only offers DBT to inpatients. Public Hearing, June 2, 2011.

29. BSC would offer two other specialized services: ERP and EMDR. Public Hearing, June 2, 2011.
30. ERP is a treatment for obsessive compulsive disorders. Its goal is to decrease the frequency and intensity of obsessions and reduce the client's drug cravings. Clients are exposed to stimuli associated with their histories in the effort to reduce or eliminate the conditioned response to cues. Ex. K, pp. 295-296.
31. EMDR is a method for treating emotional difficulties caused by disturbing life experiences. It is a complex method that combines psychodynamic, cognitive, behavioral and client-centered approaches with the unique element of eye moments or other bilateral stimulation such as taps or tones. Ex. K, p. 321.
32. There are twenty-six (26) licensed Psychiatric Outpatient Clinics in Region 5. Ex. A, pp. 87 – 94.
33. There are twenty-eight (28) for the Care or Treatment of Substance Abuse or Dependent Persons in Region 5. Ex. A, pp. 87 – 94.
34. The effect of the proposed clinic on the existing providers will be minimal. The services that the Applicant proposes to offer are more comprehensive than services currently offered at other clinics. Ex. A, p. 11; Public Hearing, June 2, 2011.
35. The Applicant proposes to provide individual therapy sessions to a client at the rate of one per week. The number of ERP therapy sessions is based on one a week for half the number of clients in the first year and then one a week for all clients starting in the second year. The group therapy sessions are based on a percentage of the clients multiplied by eight group sessions per week. Medication management is based on one visit a week for a percentage of the members.

**Table 3: Projected Therapy Sessions for the First Three Years of Operations\***

<b>Service Volumes</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Individual Therapy Sessions</b>	1,950	2,535	3,315
<b>ERP Therapy Sessions</b>	975	2,535	3,315
<b>Group Therapy Sessions</b>	15,600	20,280	26,520
<b>Medication Management</b>	1,950	2,535	3,315

\* July 1 to June 30.

Ex. A, p. 13; Ex. K, p. 388.



36. The following table reports total clinic availability in clients and days:

**Table 4: Projected Clinic Availability for the First Three Years of Operations\***

	2011	2012	2013
<b>Total Clinic Availability (clients)</b>	75	75	75
<b>Total Clinic Availability (days)</b>	23,400	23,400	23,400
<b>Projected Total Occupancy</b>	50% (38 people)	65% (49 people)	85% (64 people)
<b>Projected Clinic Days</b>	11,700	15,210	19,890
<b>Projected Clinic Admissions</b>	38	49	64

\*July 1 to June 30.

Ex. K, p. 388.

37. The Applicant's rate for the services at the proposed clinic are based on current rates charged for similar services at SDL and are:

- Individual Therapy Sessions - \$100
- ERP Therapy Sessions - \$50
- Group Therapy Sessions - \$50
- Medication Management - \$125

Ex. A, p. 19.

38. Existing skilled staff, including the medical director at SLS Residential, will also work at BSC once it opens. Public Hearing, June 2, 2011.

39. Additional staff for the proposed clinic includes Dr. David Moore, a licensed psychologist, as the Clinic Director, Linda Padroff, a licensed clinical social worker, and Robert DeLetis, a certified alcohol and drug counselor. Ex. A, p. 17.

40. In order to support the operations at the proposed clinic, 38, 49 and 64 clients would need to be provided with services during the first, second, and third years, respectively. Ex. A, p. 21.

41. The following table reports the projected operational revenue and expenses for the proposed clinic:

**Table 5: Blue Sky Clinic Financial Projections by Fiscal Year ("FY")\***

	FY 2011	FY 2012	FY 2013
<b>Total Revenue from Operations:</b>	\$1,267,500	\$1,711,125	\$2,237,625
<b>Total Expenses from Operations:</b>	605,875	639,412	653,091
<b>Earnings before Taxes</b>	\$ 661,625	\$1,071,713	\$1,584,534

\* Based on fiscal year ending Dec 31.

Ex. A, pp. 179 and 180.

42. The Applicant proposes to purchase non-medical equipment for the proposed clinic for \$64,000. The fair market value of the leased space is \$36,000. Ex. A, p. 15.

43. Mr. Palmer testified that he and Dr. Joe Santoro, a part owner of SDL and a co-author of several books<sup>2</sup> on addictive disorders, will be the principal owners of BSC and will provide their personal funds for costs associated with the proposal. Public Hearing, June 2, 2011.
44. The proposed clinic will have a patient population mix of 80% private pay and 20% commercial insurance. The Applicant based this patient mix on the experience at SDL. Ex. A, p. 19.
45. Mr. Palmer testified that with private pay and commercial insurance, BSC would not take funding away from other providers who are not-for-profit, as they are not serving the same population. Public Hearing, June 2, 2011.

## Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in General Statutes § 19a-639 (a) and the Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995); *Bridgeport Ambulance Serv. v. Connecticut Dept. of Health Serv.*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Steadman v. SEC*, 450 U.S. 91, 101 S.Ct. 999, *reh'g den.*, 451 U.S. 933 (1981); *Bender v. Clark*, 744 F.2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. FCC*, 627 F.2d 240, 243 (D.C. Cir. 1980).

The Applicant proposes to provide behavioral health services to adults between the ages of 18 and 65. BSC will be located at 2 Glen Hill Road in Danbury and will be licensed as a Psychiatric Outpatient Clinic for Adults and as a Facility for the Care and Treatment of Substance Abusive or Dependent Persons. FF1-2. BSC will be located in Region 5 as defined by DMHAS. FF4.

The NIMH estimates that 26% of adults, ages 18 and older, suffer from a diagnosable disorder in a given year. FF7. The NIMH also states that mental health disorders are the leading cause of disability in the United States and when left untreated can result in disability, substance abuse, lost productivity, family discord and suicide. FF7. According to the State of Connecticut 2008 Mental Health Outcomes Measures, 61% of the adults treated with a diagnosable mental health disorder are between the ages of 18 and 64, with 42% of these adults also having co-occurring substance abuse issues. FF9. Application of these statistical percentages to Region 5 with a population of approximately 465,000 adults 18 years of age and older results in an estimate of 146,132 adults that may require treatment. FF13. Based upon the foregoing, OHCA finds that the Applicant has demonstrated a clear public need for the proposed services.

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<sup>2</sup> Among the books that Dr. Santoro co-authored are *The Angry Heart* (1997), about overcoming borderline and addictive disorders and *Kill the Craving* (2004) that describes a revolutionary new treatment for addiction offering lifelong protection from relapse triggers.

BSC will offer the traditional treatments for its behavioral health clients, such as individual and group therapy, cognitive behavior therapy, and groups for member support relationships, family diversity, anger, anxiety, personality disorders and mature adults. FF3. More importantly, BSC will offer specialized services, such as DBT, ERP and EMDR. FF24-FF28. DBT has been proven helpful to people that have substance abuse and mental health issues by giving them skills and coping mechanisms to handle stressful situations. FF25. ERP and EMDR are therapy techniques that provide clients with mechanisms to handle stressful situations that will alter their current conditioned response. FF29-31. Currently, Silver Hill Hospital is the only provider in the area that provides DBT, however, it is only offered through its residential programs. FF28. In addition to providing specialized services that are not readily available at a single location within Region 5, BSC will fill a niche by offering custom-tailored services to meet the needs of each individual client. FF22-23. BSC will improve the quality of health care delivery in its service area by providing specialized services that are not readily available in its service area.

SLS Residential currently has relationships with other providers of behavioral health services in the area, such as Mountainside, Silver Hill Hospital and High Watch. FF15. BSC proposes to build upon these relationships and receive referrals from these providers. FF17. Given the increase in percentages of colleges that abuse alcohol and other substances, the Applicant also expects to receive referrals from Western Connecticut State University. FF17-18. The proximity of BSC to the college in Danbury will offer college students who attend the campus a convenient means to receive a variety of different types of treatments while still attending their classes. FF19. OHCA finds that this proposal will improve accessibility to outpatient psychiatric and substance abuse treatment services for adults in the Danbury area. OHCA also finds that BSC will provide an important continuum of care for those persons discharged from one of the residential programs in the area.

The total capital expenditure associated with the proposal is \$64,000. FF42. David Palmer and Dr. Joe Santoro, part owner of SDL, will be the principal owners of BSC and will provide their personal funds for costs associated with the proposal. FF43. The Applicant projects that BSC will realize net operating gains in each of the first three years of operations before taxes. FF40. All BSC clients either have private insurance or will self-pay. FF44. The Applicant's client volumes and financial projections upon which the operating gains are based appear to be reasonable. Therefore, OHCA finds that the CON proposal is financially feasible. OHCA concludes that the proposal will have a positive impact on the financial strength of the health care system by improving the quality and accessibility to outpatient psychiatric and substance abuse treatment services in Region 5.

## Order


Based on the foregoing Findings and Rationale, the Certificate of Need application of Blue Sky Behavioral Health LLC, for the establishment of Blue Sky Clinic, a facility for outpatient psychiatric treatment of adults and a facility for the care or treatment of substance abusive or dependent adults, at an associated capital expenditure of \$64,000, is hereby GRANTED, subject to the following condition:

1. Blue Sky Behavioral Health, LLC shall submit to OHCA in writing the initial date of operation of the proposed clinic.

Should the Applicant fail to comply with the aforementioned condition, OHCA reserves the right to take additional action as authorized by law. All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

Based upon the foregoing, I respectfully recommend that the Commissioner approve the Certificate of Need Application of Blue Sky Behavioral, LLC to establish Blue Sky Clinic, a psychiatric outpatient clinic and facility for the care and treatment of substance abusive or dependent persons.

August 19, 2011  
Date

  
Melanie A. Dillon  
Hearing Officer

MD:lkg:pf