REPORT OF THE HEARING OFFICER
TO THE

AMBULANCE COMMITTEE OF THE
REGIONAL EMERGENCY MEDICAL SERVICES
COUNCIL OF NEW YORK CITY, INC.

ON THE APPLICATION FOR
A CERTIFICATE OF NEED FOR
EXPANSION OF AN AMBULANCE SERVICE

REQUESTED BY

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER
d/b/a MOUNT SINAI WEST

June 17, 2016

FRANK J. SCHORN, Esq.
Hearing Officer
78-11 79th Street
Glendale, New York 11385
(917) 548-2397
frank.schorn@gmail.com
Introduction

This report is being respectfully provided to the Ambulance Committee of The Regional Emergency Services Council of New York City, Inc. (hereinafter “NYC REMSCO”) following a public hearing on the need for expanded ambulance services requested by St. Luke’s-Roosevelt Hospital Center, which does business as Mount Sinai West. The hearing was held on Tuesday June 7, 2016 at 475 Riverside Drive, New York, New York. The public hearing was moderated and conducted by the undersigned.

Application and Its Scope

In April 2016, St. Luke’s-Roosevelt Hospital Center, which does business as Mount Sinai West (hereinafter "Mount Sinai West") submitted an application to NYC REMSCO in an effort to allow this organization to expand its ambulance operations from within a circumscribed area of Manhattan (New York County) to all five of the boroughs that comprise New York City.

According to its submission, the Applicant is financially stable and has sufficient financial resources. To be sure, the Applicant is a very large consortium of hospitals largely located within Manhattan and the other four boroughs of New York City.

Need

As the basis for its request, the Applicant has posited that expansion of ambulance service to all five boroughs is warranted for three factors:
St. Luke’s-Roosevelt Hospital Center d/b/a Mount Sinai West


(1) the bankruptcy and cessation of ambulance operations of TransCare, thus leaving a void in available ambulances for transport emergency and non-emergency patients,

(2) the need to provide infrastructure to Mount Sinai West, its partners and affiliates as it seeks to provide care to its patients within the network that constitutes the Mount Sinai Health System, and

(3) the desire to help reduce the strain on the 911 system, thereby freeing FDNY ambulances and staff to respond to other incidents.

Current Ambulance Operations

The Applicant is the successor operator to ambulances previously run by St. Luke’s Hospital and Roosevelt Hospital, both of which were on located on the West Side of Manhattan.

The ambulance service to the seven hospitals that currently comprise the Mount Sinai Hospitals Group (MSHG) is centered at Mount Sinai West.

During recent hospital consolidations, mergers and reorganizations, following the 2013 merger of Continuum

1 St. Luke’s Hospital, now called Mount Sinai St Luke’s, is located at 1111 Amsterdam Avenue in Manhattan, near 113th Street.

2 The Roosevelt Hospital, later called Mount Sinai Roosevelt, now called Mount Sinai West, is sited at 1000 Ninth Avenue, at 59th Street, in Manhattan.
Health Partners and Mount Sinai, the Applicant reports³,

“the geographic distribution of the member hospitals has grown significantly. However, the current primary operating territory reflects only the geographic area of Mount Sinai West. An expanded primary operating territory that includes the entirety of New York City will enable the MSHG to serve the communities of New York City in which the seven (7) member hospitals and their partners/affiliates are situated.”

The Applicant notes a shift from “volume-based care” to “value-based care”, and that

“inter-facility transports, intra-facility and hospital discharges are interdependent and are playing a larger role [in] the healthcare system”

Application, Part 1, at Page 64⁴, while emergency 911 admissions transports play a lesser role in the Applicant’s ambulance needs. Id.

The increasing number of inter-facility and intra-facility transfers, was cited by the Applicant as the result of several possible factors, including (a) regionalization of specialty care, (b) high dependence on efficient ambulance discharge to maintain hospital expeditious “throughput”⁵


⁴ Further references to Part 1 of the Application shall omit the URL of the web-site, but shall be deemed to refer to the web-site address noted in Footnote 3, above. References to other parts of the Application shall identify the web-address of the application as contained on NYC REMSCO’s web site.

⁵ A previously unfamiliar term to the author, but which appears repeatedly in the Application. Throughput is defined as “the amount of material, data, etc., that enters and goes through something (such as a machine or system)” in http://www.merriam-webster.com/dictionary/throughput. The term in the
of patients within its system. Additionally, the Applicant sees an expansion of ambulance need in “medical homes” and “community paramedicine”. These topics, the latter of which was a point of some discussion during the Public Hearing, Transcript at pp. 24, 26, 59, 81-82, are of marginal value in the later discussion of public need at present.

Mount Sinai West currently owns a fleet of 17 ambulances, of which nine (9) ambulances operate at any one time. Four of the nine ambulances are Advanced Life Support (ALS) units while the other five (5) are Basic Life Support (BLS) units.

The Applicant seeks to purchase 11 additional ambulances, along with requisite equipment, if it is allowed to expand its primary operating territory to all five boroughs of New York City.

Planned Staffing and Expansion into Ambulance Services

The Applicant indicates that while it would like to expand its territory to all five boroughs, and add just 11 more ambulances to its current service, the Applicant’s 9 current ambulance service now operates 24 hours a day, 7 days a week, and will continue to do so.

It is important to note that the Applicant does not seem to be seeking expansion for 911 emergency ambulance operations at all. The expansion of the Mount Sinai ambulance services hospital context coldly but conceivably refers to patients, likely describing attention to a patient’s needs from admission through discharge, and possibly extending to after-care. But the Applicant does not ever define the scope of its view and understanding of “throughput”.
St. Luke’s-Roosevelt Hospital Center d/b/a Mount Sinai West


is designed to facilitate inter-facility and intra-facility care of patients within the Mount Sinai Health Care System.

Population and Demographics

The Applicant cites several demographic details as bases for its determination that a need exists for more ambulance service.

The Applicant notes a dispersion of the “encounters” it has from patients and others who seek care or treatment at its network of hospitals, care centers and affiliates.

“In 2015, these facilities/programs experienced over 3.5 million encounters, broken down as follows: Bronx County (395,279 encounters); Kings County (637,698 encounters); New York County (1,864,496 encounters); Queens County (561,984 encounters); and Richmond County (71,140 encounters)”

Application, Part 1, at p. 69.

The “encounters” include in-patient, out-patient, emergency and Faculty Practice medical contacts. Id.

The population demographic is also aging, and the Applicant, under current health care reform, is responsible for on-going care and maintenance of the health of some 316,000 individuals within New York City. Application, Part 1, at pp. 69-70.

The Applicant expects the number of people whose health it will be responsible for will increase in forthcoming years.

A table representing the Applicant’s current and projected volume, in actual numbers, with the amount of percent change, appears below.
Number of Lives Managed Through Population Health Efforts of Mount Sinai

<table>
<thead>
<tr>
<th></th>
<th>Estimated</th>
<th>Projected</th>
<th>% Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bronx.</td>
<td>36,000</td>
<td>44,000</td>
<td>22.2%</td>
</tr>
<tr>
<td>New York</td>
<td>170,000</td>
<td>232,000</td>
<td>36.5%</td>
</tr>
<tr>
<td>Kings</td>
<td>59,000</td>
<td>116,000</td>
<td>96.6%</td>
</tr>
<tr>
<td>Queens</td>
<td>45,000</td>
<td>81,000</td>
<td>80.0%</td>
</tr>
<tr>
<td>Richmond</td>
<td>6,000</td>
<td>9,000</td>
<td>50.0%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>316,00</td>
<td>482,00</td>
<td>52.5%</td>
</tr>
</tbody>
</table>

Application, Part 1, p. 70.

Ambulance Call Volume and Response Times

The Applicant cites the bankruptcy and cessation of ambulance operation of TransCare, a private ambulance company, as a primary reason for establishing public need.

“TransCare operated a total of 27 24-hour units (representing staffing for a total of 81 eight-(8)-hour ambulance "tours" -or shifts) that were lost due to its bankruptcy. This included seven (7) ambulances that were subcontracted to Mount Sinai Hospital and Mount Sinai Beth Israel. In direct response to the sudden loss of TransCare, MSW requested and received temporary approval to expand its service area to all five (5) boroughs of New York City.”

The Applicant’s representatives represented at the public hearing that within the months after TransCare’s closing, Mount Sinai West has been unable to contract ambulance companies that would deliver all the required elements of care and service with reliability of response. Transcript at pp. 36, 45 and 126-128.

The Applicant provided data from the New York City Fire
Department, which operates the 911 emergency ambulance response system. For all 911 emergency responders, municipal, private and volunteer, the data shows:

<table>
<thead>
<tr>
<th>Number of Ambulance Runs (All Segments) – 2015</th>
<th>Average Daily Rate for Calls - 2015</th>
<th>Average Response Times in Minutes (All Segments)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bronx</td>
<td>385,943</td>
<td>1,057</td>
</tr>
<tr>
<td>New York</td>
<td>419,852</td>
<td>1,150</td>
</tr>
<tr>
<td>Kings</td>
<td>476,949</td>
<td>1,307</td>
</tr>
<tr>
<td>Queens</td>
<td>318,698</td>
<td>873</td>
</tr>
<tr>
<td>Richmond</td>
<td>69,185</td>
<td>190</td>
</tr>
<tr>
<td>New York City</td>
<td>1,670,6277</td>
<td>4,577</td>
</tr>
</tbody>
</table>
increased; the most significant increases in ambulance arrival times were in the Bronx (31% increase) and Manhattan (12% increase). See also Application, Part 1, p. 88.

The Applicant argues that ambulance delays are significant for the non-emergency types, as where a patient needs to be transported for other, alternate or succeeding care within the Mount Sinai care network.

At the Public Hearing, the Applicant provided anecdotal evidence of delays, and reported the delays of an hour when trying to engage private ambulance services to assist Mount Sinai patients. Transcript at pp. 50-51, 66 and 77.

While there may in fact be delays, to such an extent, the Applicant did not provide basic quantitative data in numbers of patients affected, nor qualitative data in how such purported delays affected patients and their health outcomes.6

At the Public Hearing, the Applicant discussed its 2016

6 Materials provided to NYC REMSCO after the hearing are not permitted under Certificate of Need process rules. Unfortunately, I had provided the opportunity for the Applicant to submit additional materials. Transcript at p. 144-145. At that point, I was not aware that such expansion of the record was not permitted. Therefore, the material submitted by the Applicant after the hearing will not be considered.

Nevertheless, upon cursory review of the materials the Applicant shared with NYC REMSCO post-hearing, none of the information was of such sufficiency gravity and probity that would likely cause a change in assessment of the evidence.

Materials provided to NYC REMSCO post-hearing at the suggestion of the Hearing Officer appear anecdotal or summative and even if considered would not tend to provide any sustained support of the contention that “bottlenecks” and delays of more than an hour are an important consideration.
St. Luke’s-Roosevelt Hospital Center d/b/a Mount Sinai West


Request for Proposals (RFP)\(^7\) to engage the services of private ambulance providers. The request was to provide alternate transport service following TransCare’s closing. Transcript at p. 26-27, 36-37.

Hospitals Served

Mount Sinai’s health care network consists of some seven hospital campuses within New York City, and has various affiliates and care centers within the same network. Application, Part 1, at page 69. The Mount Sinai hospital is within close proximity of the rapidly consolidating hospitals that exist within the five boroughs.

Quality of Service

The Applicant cites its financial strength, size and inter-connected network of facilities in comparison with that of other ambulance services that have slowed down, shut down or have not been well-funded or sufficiently capitalized. There will be no net loss of qualified, skilled care providers. Application, Part 1 at p. 90. See also Application, Part 2.\(^8\)

Mutual Aid

Mount Sinai West participates in NYC REMSCO's Mutual Aid

---

\(^7\) The Request for Proposals that was alluded to and discussed at the public hearing was not made a part of the initial application, and as such it is not being considered here. A copy was provided to NYC REMSCO after the hearing. It is NOT a part of this proceeding.

\(^8\) The extensive Mount Sinai network of hospitals and facilities is outlined: [http://www.nycremsco.org/images/formsandapplications/Part%20MSW%20MS%20Expansion%20Application%204-26-16%20with%20Redactions.pdf](http://www.nycremsco.org/images/formsandapplications/Part%20MSW%20MS%20Expansion%20Application%204-26-16%20with%20Redactions.pdf)
Mobilization System. Application, Part 1, at p. 88. The Applicant can and does get mobilized by FDNY or the NYC Office of Emergency Management to respond to disasters, unusual emergencies, multiple casualty incidents, or evacuation in the New York City region. \textit{Id.}

**Fiscal Stability**

The Applicant has provided information that it has ample financial stability and resources. Application, Part 2, at p. 75. MSW will expend $2,942,823 in total capital in order to expand its 11 additional ambulance and concomitant costs and expenses. Application, Part 1, at p. 92.

The expanded service will increase costs such that ambulance operations will operate at a deficit of nearly $3 million in the first year of operation, \textit{Id.}, the financial stability of the entire Mount Sinai network seems assured. The Applicant has net assets that were valued in an independent audit as of December 31, 2015 as worth approximately $1.468 billion. Application, Part 3\textsuperscript{9}, at p. 30.

Concern at the public hearing over the operational loss was shared by Ambulance Committee Member James Downey. Transcript at p. 96-98. It was explained that financial costs due to merging hospitals resulted in such a loss. \textit{Id.} However, that concern is directed at a small segment of a much larger and well-financed medical network that can readily absorb losses of that nature. Again, see Application, Part 3, at p. 30.

\textsuperscript{9} Voluminous financial information was submitted in support of the Application: \url{http://www.nycremsco.org/images/formsandapplications/Part\%20MSW\%20Expansion\%20Application\%20with\%20Redactions.pdf}
Communications, Organization and Administration

Mount Sinai has indicated it has ample communications networks for dispatch, communication, and is intricately tied within systems established by FDNY EMS for mutual aid. Application, Part 1, at p. 91.

Qualifications of Staff and Skill Retention

The Applicant has submitted voluminous information regarding the qualifications of its medical staff. The professionalism and capabilities of the physicians, nurses, emergency medical technicians and other health care professionals employed by the Applicant or within the network is not doubted and was unchallenged.

Further, evidence of ongoing skill enhancement of responding medical professionals, including paramedics and emergency medical technicians is clear, convincing and without challenge. Application, Part 1, p. 90.

Community Support

The Applicant, Mount Sinai West, submitted varied letters of support. Notably the letters were largely identical in content, and appeared to have been drafted by one central author, and then placed on the letterhead or stationery of the ultimate signer. One memorable letter of support came from a Mount Sinai physician and left a blank as to who was to be the recipient of the letter. Apparently the signatures
were important, and the volume of correspondence, rather than the intention of the authors

These letters are to a large degree pro forma, but it seems that there was more “forma” than anything else because of the apparent orchestration of the one-note letters of support.

Where were letters from patients? Why couldn’t individualized letters have been solicited? Why the tight cookie-cutter, carbon-copy orchestration? The Applicant’s level of weak community support is hereby noted.

Reallocation of Existing Resources

The Applicant indicated that in light of the cessation of TransCare’s operations, the net effect of Mount Sinai’s expansion will be negligible. Mount Sinai seeks to expand solely to accommodate its plan to internalize ambulance transport operations.

No objections to this application were raised by other ambulance providers, their collective bargaining representatives or the New York City Fire Department’s Emergency Medical Services division. Therefore, no objection exists as to the possible dilution of emergency medical service skills.

A. Application for Determination of Public Need

Under Article 30 of New York’s Public Health Law, to determine whether a new ambulance service may begin service and operate or for an existing ambulance service to expand,
the Applicant for the permission to operate or expand must establish public need for the new or expanded service.

The process to determine the public need is largely delegated to local regional emergency service councils. New York City’s Regional Emergency Services Council (NYC REMSCO) has for the most part adopted state suggestions for the determination of public need.

A document entitled “The Process for Determination of Public Need for a New Ambulance Service and/or Expansion of an Existing Ambulance Service” is the guidepost for applicants, and it outlines the steps required under NY law and under NYC REMSCO practice for a Certificate of Need to be issued. This document is widely available both on-line and through the offices of the NYC REMSCO. It was provided to the Applicant; the Applicant has demonstrated knowledge of the document, the process and the requirements.

Many of the requirements did not generate much if any concern among the individuals in attendance or the undersigned. Therefore, we will address selected portions of the process in greater or lesser depth as the circumstances herein require.

B. Public Hearing of June 7, 2016

A public hearing was conducted at 475 Riverside Drive, New York, New York beginning at 5:12 pm and running until past

8:00 pm on the question of whether there was public need to expand ambulance service by Mount Sinai West.

C. Scope of Hearing

According to New York State Department of Health, Bureau of Emergency Medical Services, Policy 93-10: EMS Service Operating Authority Approvals\(^\text{11}\), page 3, defines Public Need as, “The demonstrated absence, reduced availability or an inadequate level of care in ambulance or emergency medical service available to a geographical area which is not readily correctable through reallocation or improvement of existing resources.”

Among the variables that are to be considered in determining whether “public need” exists are

- Geography
- Population - size, density, projections
- Level of Care - existing, availability, need for
- Quality, reliability and response of existing services
- Type of Service - emergency, non-emergency
- Special need - air, industrial, facility, special population, community identified need
- Existing service effectiveness, cost and operational
- Other locally defined factors

D. Burden of Proof and Submissions

In this process, the Applicant bears the burden of proof for

the demonstration of public need and is responsible to respond to and/or provide data for all requirements and criteria stated in this policy.

The Applicant must complete, submit, and affirm before a Notary Public the required forms, attachments, endorsements, evidence and other supporting and explanatory material the Applicant wishes the Council to consider.

E. Competency and Fitness

Each Applicant shall attest that its owners, directors and officers have the requisite competency and fitness. Under Section 3005(8) of the New York Public Health Law, “competent” refers to the level of prior experience and high level of care a proposed operator has demonstrated in one or more of a number of enumerated positions with an ambulance service in the past 10 years.

The fitness required under Public Health Law §3005(8) refers to the lack of convictions by the owners, operators and senior management of certain specified crimes.

The Applicant asserts that the entity and its key personnel and management meet the competency and fitness requirements. See Application Part 1, pp. 6-63, highlighting Joseph Davis, EMT-P, and Kenneth L. Davis, M.D.  

F. Overview of Hearing – Focus on Discerning and Understanding

New York State law and local procedures require public hearings to provide input and information on the bona fides of the application for a certificate of need.

---

12 Kenneth L. Davis, M.D.’s documentation extends many pages largely due to his CV’s listing of nearly 600 publications.
The public hearing on this application was held on Tuesday June 7, 2016 at a public space within the building which houses the NYC REMSCO offices. The hearing was conducted in a spirit of openness, transparency and fairness. The goal was to elicit the key points of the Applicant’s proposal, as well as to maximize the opportunity for opponents and members of the community to test and comment on the application. See Transcript at pp. 4-5.

The undersigned hearing officer was joined by several members of the NYC REMSCO Ambulance Committee, including Ambulance Committee chair Joseph Marcellino, and members James Downey, Dominick Battinelli and Joshua Hans. Several staff members of NYC REMSCO were present, including the Co-Executive Directors, Nancy Benedetto and Marie Diglio.

The Applicant, Mount Sinai West, was represented by a team of several hospital leaders, notably Carl Ramsay, M.D., as well as their outside counsel, Peter Millock, Esq., of Nixon Peabody LLP.

Dr. Ramsay and his colleagues presented an oral summary of their Application combined with a slide presentation that highlighted details of the Application.\textsuperscript{13}

\textbf{G. Ambulance Need}

The issue regarding ambulance need in this application is not 911 emergency response vehicles, but rather transport ambulances. The category of transport ambulances is not to be minimized, as the Applicant seeks to expand an additional

\textsuperscript{13} The slide presentation is not part of the record of proceedings. While it would not be considered at any rate, the positioning of the video display equipment made it impossible for the Hearing Officer to view the presentation. Further, upon belief, no copy of the presentation was shared with NYC REMSCO.
11 ambulances for transport patients to appropriate facilities largely within its health care network. An example presented in the Application was the transport of a stroke patient to a facility where that patient would receive better care.

The chief objector to the Application, Karen Taddeo, Esq., noted that there was no documented need for additional ambulances. The lack of statistics documenting the purported ambulance delays was glaringly a problem in the Application.

The Applicant provided 911 emergency statistics, and tried to relate that more ambulances in the transport field results in more ambulances freed for 911 responses. Yet the documentation in support of that claim was also absent.

Indeed, the reliance on anecdotal evidence were not of the sort that can be relied upon as de jure certain evidence of ambulance shortfall.

The analysis and the balancing of facts and burdens continues below.

Analysis of Establishment of Need

The central focus of this process is to determine whether the Applicant has demonstrated whether it has proved the need for expanded ambulance service.

While the process requires that “need” be established, there is no overall determinative encompassing standard for measuring and assessing the need. Rather, a series of factors can be examined, including local factors.
The factors are varied, ranging from geography; population size, density and projections; the level of care that exists or is sought; the quality, reliability and response of existing services; the type of services to be provided; special needs and local factors.

Combined, the evidence that can be assessed should allow the Ambulance Committee to make a holistic determination on the totality of the evidence. No one factor or group of factors is determinative and the Ambulance Committee should be free to give its own weight to the factors discussed herein.

This Report, however, will attempt to review the evidence that was presented in a comprehensive manner, giving balance to individualized factors pertinent to the Applicant and the community, as well as to general global concerns of the health care system of today. The overarching question is whether the Applicant has met its burden of proving need.

The question of “need” is paramount here, and must be distinguished from “want” or “desire”. Very few people would not “want” more ambulance services and coverage to be available in their neighborhoods. Ambulances provide the skilled individuals, the technology and the means to save lives that might otherwise perish, shortened or be endangered due to illness, disease or trauma.

But “need” is of a higher order, indicating basic minimum standards without which it would not be possible to proceed.

The issue before the Ambulance Committee is whether without

---

14 The psychologist Abraham Maslow is known for developing a structure to organize and differentiate between human elemental needs at a basic level, and higher order wants and aspirations at a more advanced and developed level. Maslow’s “Hierarchy of Needs” is often understood to mean that “needs” must be satisfied before “wants”. See e.g. [https://accountability.spps.org/uploads/maslow_s_hierarchy_of_needs.pdf](https://accountability.spps.org/uploads/maslow_s_hierarchy_of_needs.pdf).
the Applicant’s expansion of an existing hospital ambulance service would satisfy a “need” within the highly structured context we face. Put another way, are the residents and visitors to New York City missing essential, mandatory and required medical services that might be met by the proposed expansion?

**Geography, Population Size, Density and Projections**

New York City continues to grow in size and its residents live longer. Projections of such growth indicate the trends will continue. New York’s population has a significant proportion of people who are poor and some who are chronically ill. This fact supports the determination of need.

The Application seeks a five-borough-wide permit to transport patients throughout New York City while expanding its ambulance cohort by just 11 vehicles.

Because the Mount Sinai system is geographically diverse, and there is evidence of the fairly wide geographic dispersion of patients who rely on Mount Sinai’s network, the expansion to encompass all of New York City is not unreasonable.

**Medically Underserved Communities**

The Applicant proposes that its administration of pre-hospital care will alleviate the shortage and shortfall of existing ambulance service.

The Applicant talks much about increased emergency response times, especially in New York and Bronx counties. However,
the application does not seek to enhance 911 emergency response times, but instead to address transport delays which Mount Sinai West says exists.

By some measures, the closing of TransCare and the termination of the eighty-plus emergency ambulance tours should be enough to establish a public need for more ambulances. That argument is indeed persuasive if the Applicant were seeking to augment 911 emergency service.15

The Applicant, it must be noted and remembered, is not seeking economic benefit; it is not a for-profit service. As such, it seeks to expand services in a new paradigm that requires Mount Sinai to be responsible for patients’ health and to establish community medicine and paramedicine, all as part of modern healthcare re-design and re-invention.

Level of Care That Exists or is Sought

The Applicant’s level of care is deemed to be of the maximum level. It is part of a large, well-financed health-care system. Experienced leadership and staff are in place. There is no indication that Mount Sinai West’s level of care at the pre-hospital ambulance level is anything other than superior.

Quality, Reliability and Response of Existing Services - Ambulance Response Time

The Applicant presented anecdotal evidence of delayed response within the ambit of transports. No evidence was

15 The sudden closure of TransCare in early 2016 created an emergency condition that New York City, New York State and NYC REMSCO addressed by expanding service territories of ambulance providers, including Mount Sinai West. Application, Part 2 at pp. 3-6.
submitted at the outset in the application addressing this issue.

No evidence was identified at the Public Hearing identifying a shortfall in available ambulances. There was, however, much anecdotal discussion by the applicant of transport delays, some of which extended an hour or more. Transcript at pp. 48-49.

When the Applicant was asked for such evidence to support of its claim, the Applicant’s lead attorney seemed surprised that such evidence would be needed. Transcript at pp. 49-51. The evidence is certainly not included in the original Application. Anecdotal commentary is insufficient. In fact, such evidence is **required** to conclusively establish the public need.

After all, it is the Applicant’s essential claim that there are not enough ambulances available for it to coordinate transports. Yet the Applicant relies on emergency statistics that are not relevant, and omits evidence that might clearly support its claim for public need. Subsequent statements submitted by the Applicant after the hearing would not provide the necessary evidence of need because of the conclusory nature of the statements and lack of details. However, due to NYC REMSCO procedures, any late submitted evidence would not be deemed acceptable.\(^\text{16}\)

---

\(^{16}\) At the Public Hearing, the Hearing Officer did in fact invite the Applicant to submit clarifying evidence by June 10, 2016. However, that invitation was unknowingly in violation of NYC REMSCO procedures. Applications must be complete at the time of submission. New evidence cannot be submitted thereafter. Apologies are extended for the erroneous invitation to submit additional information. The material submitted by the Applicant are not deemed part of the record of proceedings or the Application, and have not been considered in this decision.
St. Luke’s-Roosevelt Hospital Center d/b/a Mount Sinai West


At the Public Hearing, the Applicant and others discussed a Request for Proposals (RFP) that Mount Sinai made to secure services of other private ambulance transport services. The RFP was not provided to the Ambulance Committee in its application as part of this process.\(^\text{17}\)

“Value Added” of Networked Ambulances and Medical Care

The historic principles of need if strictly applied could, under certain perspectives, deny the Application because of the failure to show sufficient cause and need for the expansion.

However, if a different paradigm is used, a “value added” approach, the Ambulance Committee may be able to approve the requested territory expansion. What is the “value added” by having a networked system of Mount Sinai’s ambulances throughout the five boroughs of New York City? In brief, the coordinated services of hospital care, pre-hospital intervention, clinic service, community paramedicine and more that the Applicant outlined in its application and evidence may be different and unique.

The expansion could be seen as synergistic, where the sum of the Mount Sinai’s parts is far greater than they can be considered separately. If their ambulances are allowed to operate within a network throughout New York City, the overall result will be far superior, and the provided health care less disjointed, than if the certificate of need is denied.

\(^{17}\) A copy of the RFP was submitted to NYC REMSCO post-hearing. The RFP is not a part of the formal application, and is not being considered as a substantive part of the Mount Sinai application.
But is this just a benefit to Mount Sinai? It is in fact the residents of New York who are the ultimate recipients of the Applicant’s medical care; it will be the patients who could reap the tangible benefits of faster, integrated, non-duplicated care. Clearly, Mount Sinai looks to economies of scale and integration in furtherance of its business model. Efficiency for the Applicant translates to savings in terms of dollars.

Yet these efficiencies for the medical consumer may result in saved lives and saved patient dollars as well.

Can this value added approach justify the expansion? The Ambulance Committee can in fact find that there is significant public benefit in saving lives, avoiding unnecessary pain, reducing consumer financial loss, and creating pathways to perhaps better medical outcomes. Based on that finding, the Ambulance Committee can see the Mount Sinai West plan for integrated transport services as a “need” it must not deny the people of New York.

**Summary and Recommendation**

The Applicant, Mount Sinai West, carries the burden of proving the need to expand its existing ambulance service. As has been discussed, need must be distinguished from the mere desire to expand services. The question of need can only be determined when all circumstances are considered.

Several of these circumstances tend to argue against expansion. The Applicant has sought to expand its transport services but does not provide specific evidence in support of its contention that delays currently exist, and that in their opinion, unsupported by fact, that medical outcomes are poorer as a result. The Applicant has also failed to show why other alternatives, such as existing ambulance services, would not be adequate to address the problem. All the Ambulance Committee has is the Applicant’s assertion
that the current situation is inadequate, and no supporting facts.\textsuperscript{18}

Data shows a trend toward ambulance and hospital closures, and consolidation at the same time that response times are down, and older, sicker patients are seeking those services. The current health care environment now requires providers to be responsible for an arc of care over time. This tends to support the Applicant’s desire to expand geographically and numerically its non-emergency ambulance services.

The Applicant seems to want to expand largely for internal purposes: internal to its operations and internal to its own network of patients and services.

We have previously addressed the issue of whether the new health care environment justifies the determination of need simply because of patients and the community can be far better served with the network of services such as Mount Sinai would create?

In this era of re-defining and consolidation of health care services, we need not be constrained by paradigms that have been designed decades ago.

We can consider this new paradigm shift, this new way in which consumers receive health care in urgent care centers, linked hospitals, free-standing emergency rooms, affiliated doctors, paramedicine providers, and other modalities described under “value-based care”.

The Ambulance Committee can determine that it can consider such current circumstances and dynamics. Further, the Committee can also determine that, based on ambulance shortfalls, increasingly greying and sicker patients, and based on the Applicant’s own unique characteristics as an integrated health care provider, the Applicant’s expansion

\textsuperscript{18} It is curious and surprising that the evidence that would support the public need for expanded transport ambulances has not been gathered or submitted. Yet the record submitted by the Applicant at the outset is all that can be (and was) considered.
meets a need for a fuller comprehensive set of services for its patients. This need is unique because of the networking and synergistic benefits that can result.

The grant of a full certificate of need for all of New York City’s five boroughs is not overbroad in light of the Applicant’s fairly disperse current service area.

The Ambulance Committee should take a proactive, prospective viewpoint when considering this application, not necessarily limiting its view to what worked in years past.

Though it is not readily a clear decision, I recommend that the Ambulance Committee grant the requested certificate of need based upon the totality of the evidence and circumstances presented by the Applicant, Mount Sinai West.

Respectfully Submitted,

/s/ Frank J. Schorn
Hearing Officer on behalf of
The Regional Emergency Medical Services
Council of New York City, Inc.

Frank J. Schorn, Esq.
Attorney at Law
78-11 79th Street
Glendale, New York 11385
(917) 548-2397
frank.schorn@gmail.com

Dated: June 17, 2016