



Office of Health Care Access

Final Decision

Applicant: The Surgical Center of Connecticut, LLC

Docket Number: 01-510

Project Title: Establish a Single-Specialty Ambulatory Surgery Center in Bridgeport

Statutory Reference: Section 19a-638, Connecticut General Statutes

Filing Date: April 24, 2001

Hearing Date: June 5, 2001

Presiding Officer: Raymond J. Gorman, Commissioner

Informal Participants: Bridgeport Hospital
St. Vincent's Medical Center

Decision Date: July 2, 2001

Default Date: July 23, 2001

Staff: Kim Martone

Project Description: The Surgical Center of Connecticut, LLC ("Applicant") proposes to establish a single-specialty ambulatory surgery center in Bridgeport, Connecticut, at a proposed total capital expenditure of \$400,000.

Nature of Proceedings: On April 24, 2001, the Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application of The Surgical Center of Connecticut, LLC to establish a single-specialty ambulatory surgery center in Bridgeport, Connecticut, at a proposed total capital expenditure of \$400,000. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

A public hearing was held on June 5, 2001. The Applicant was notified of the date, time, and place of the hearing and a notice to the public was published prior to the hearing in the *Connecticut Post* (Bridgeport). Commissioner Raymond J. Gorman served as presiding officer for this case. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-638, C.G.S.

St. Vincent's Medical Center petitioned for Intervenor Status with the right of cross-examination and was granted Informal Participant Status by the Presiding Officer. Bridgeport Hospital petitioned for Intervenor Status and was granted Informal Participant Status by the Presiding Officer.

The Presiding Officer heard testimony from witnesses for the Applicant and the Informal Participants and in rendering this decision, considered the entire record of the proceeding. OHCA's authority to review, approve, modify or deny this proposal is established by Section 19a-638, C.G.S. The provisions of these sections, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were considered by OHCA in its review.

Findings of Fact

Clear Public Need

Impact on the Applicant's Current Utilization Statistics Contribution of the Proposal to the Quality and Accessibility of Health Care Delivery in the Region

1. The Surgical Center of Connecticut, LLC ("Applicant") is a physician office based surgical suite within the Connecticut Hand and Upper Extremity Center at 3101 Main Street in Bridgeport, CT. (*CON Determination, November 29, 1999, Report Number 99-B3*)
2. Under CON Determination Report Number 99-B3, Dr. Thomas A. Rago was authorized to establish a 2600 square foot specialty office based surgical suite ("Center") located within the Connecticut Hand and Upper Extremity Center at a cost of \$250,000. OHCA determined that CON approval was not required, and the Applicant would not seek licensure from the Department of Public Health as an outpatient surgical facility. (*CON Determination, November 29, 1999, Report Number 99-B3*)
3. The Applicant is in the process of completing construction of the surgical suite and anticipates that it will be available for use in July 2001. The total capital expenditure for this project is now \$400,000. (*Testimony of Dr. Thomas Rago, June 5, 2001 and CON Application, page 5*)
4. The Applicant will seek HCFA certification for the Center pending completion of the surgical suite. (*Testimony of Dr. Thomas Rago, June 5, 2001*)

5. The Applicant has a procedures room where he currently performs carpal tunnel release, trigger finger release and treatment of minor injuries. (*Testimony of Dr. Thomas Rago, June 5, 2001*)
6. The Applicant is proposing to seek a license from the Department of Public Health as a single-specialty ambulatory surgery center in Bridgeport, Connecticut. The proposed Center would be limited to Dr. Rago's practice and only procedures related to the hands and extremities will be conducted. (*April 24, 2001 CON Application, pages 4, 5 and 9*)
7. Dr. Rago is requesting licensure as an outpatient surgical facility because of changes in the reimbursement standards of third party payors such as PHS, Anthem/Blue Cross, Aetna, and CIGNA. Many third party reimbursement sources (i.e. Physician Health Services, Blue Cross/Blue Shield, Oxford, US Healthcare/Aetna and Cigna) require licensure as a condition of reimbursement to the Center for its services. (*February 13, 2001 Letter of Intent, Project Description and Testimony of Dr. Thomas Rago, June 5, 2001*)
8. Dr. Rago is the sole member of the Center and is licensed as an orthopedic surgeon in Pennsylvania, New York and Connecticut. Dr. Rago has privileges at Bridgeport Hospital, St. Vincent's Medical Center and Norwalk Hospital. (*April 24, 2001 CON Application, pages 3&11*)
9. The Applicant identified the primary service area as consisting of various municipalities in Fairfield and New Haven Counties. Specific towns were not identified. (*February 13, 2001 CON Determination Form 2020A, page 1*)
10. The Applicant provided a projected procedure mix for the Center, based on a selected case sample, as follows:
 - 50% carpal tunnel release-epineurolysis
 - 20% trigger finger release
 - 30% misc. operations: mass removals, fracture treatment, palmar fasciectomy.(*April 24, 2001 CON Application, page 22*)
11. The Applicant's utilization projections for the first three fiscal years ("FYs") of operation are as follows:

Volume Statistics: FYs 2002-2004

	FY 2002	FY 2003	FY 2004
On-site surgeries	200	220	230

(*April 24, 2001 CON Application, page 24*)

The projections include the surgeries currently performed in the procedures room identified in Finding of Fact # 5. (*Testimony of Dr. Thomas Rago, June 5, 2001*)

12. The Applicant's needs assessment did not include the following:
- Demographic data regarding the population in the primary service area
 - Methodological approach to development of the projections including the current demand for surgical services in the primary service area
 - Copy of any community needs assessment and survey instruments
 - Current utilization statistics.
- (April 24, 2001 CON Application, pages 2&9)*
13. The Applicant did not provide documentation regarding improvements in quality. The following information was omitted:
- Quality measures
 - Quality Assurance Plan
 - Patient Selection Criteria/Intake Form
 - Standards of care
- (April 24, 2001 CON Application, page 3)*
14. The Applicant did not indicate that the proposed Center would receive certification from a nationally recognized accreditation organization to guarantee the provision of quality care. *(April 24, 2001 CON Application, page 3)*
15. St. Vincent's Medical Center ("SVMC") was recognized as an informal participant. Marjorie Guglin commented that in her opinion:
- SVMC would lose 70% of approximately 280 ambulatory surgeries that Dr. Rago performs at SVMC if the project was approved. *(Petition of SVMC received on June 1, 2001, page 5)*
 - The 200-230 annual outpatient surgeries projected by the Applicant could be accommodated by SVMC without taxing its ambulatory care resources, especially once the expansion and upgrade of its existing operating rooms is completed. *(Petition of SVMC received on June 1, 2001, pages 5&6)*
 - Dr. Rago performed approximately 139 ambulatory procedures during the first six months of FY 2001 with charges totaling \$250,000. This represents approximately 22% of all upper extremity cases. *(Prefiled Testimony of Marjorie Guglin, SVMC, received on June 4, 2001, page 4)*
16. Bridgeport Hospital was recognized as an informal participant. Mary Heffernan commented that in her opinion:
- Dr. Rago performs 10-14 operative procedures weekly at Bridgeport Hospital, equating to approximately 480 cases per year.
 - The net revenue loss to Bridgeport Hospital for the estimated 200 cases Dr. Rago would remove in his first year would be in excess of \$300,000.
 - In addition to the full-day of block time currently utilized by Dr. Rago, there is an additional half-day block which often is not used.
- (Testimony of Bridgeport Hospital, Mary Heffernan, received on July 1, 2001)*

**Financial Feasibility of the Proposal and its Impact on the Applicant's Rates and Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care Services and Payers for Such Services**

17. The proposal has a total capital expenditure of \$400,000 for construction and/or renovations costs. The Applicant did not provide any sources of funding. *(April 24, 2001 CON Application, pages 5&6)*
18. The total number of full time equivalents ("FTE's") projected to be employed at the Center would be 7 part-time staff including Dr. Rago and other staff. *(April 24, 2001 CON Application, page 24)*
19. The Applicant projects excess in revenues of \$119,791, \$132,387 and \$121,396 for FYs 2002, 2003, and 2004, respectively with the project. *(April 24, 2001 CON Application, page 24)*
20. If volume projections are achieved, the Applicant's rates are sufficient to cover the proposed capital expenditure and operating costs. *(April 24, 2001 CON Application, page 24)*
21. The projected payer mix at the Center is 70% non-government with 30% commercial payers, 20% Medicare, 5% Medicaid, and 5% Uncompensated Care. *(April 24, 2001 CON Application, page 7)*

**Consideration of Other Section 19a-637, C.G.S.
Principles and Guidelines**

The following findings are made pursuant to principles and guidelines set forth in Section 19a-637, C.G.S.:

22. There is no State Health Plan in existence at this time. *(April 24, 2001, CON application, page 2)*
23. The Applicant has adduced evidence that this proposal is consistent with the Applicant's long-range plan. *(April 24, 2001 CON Application, page 2)*
24. The Applicant's teaching and research responsibilities will not be affected by this proposal. *(April 24, 2001 CON Application, page 4)*
25. The distinguishing characteristic of the patient/physician mix related to this proposal is that the Applicant would only conduct procedures related to the hands and extremities. *(April 24, 2001 CON Application, pages 4 and 9)*

26. The Applicant did not present evidence regarding any activities to improve productivity and contain costs. *(April 24, 2001 CON Application, page 3)*
27. The Applicant has sufficient technical, financial and managerial competence to provide efficient and adequate service to the public. *(April 24, 2001 CON Application, page 3 and Attachment 5.C.)*

Rationale

The Surgical Center of Connecticut, LLC (“Applicant”) is proposing to be licensed as a single-specialty ambulatory surgery center (“Center”) in Bridgeport, CT. Only ambulatory surgical procedures on the hand and extremities will be performed at the Center. The proposal is a subsequent development of the CON Determination issued under Report Number 99-B3, which stated that CON approval was not required for the Applicant to establish a 2,600 square foot specialty office based surgical suite located within the Connecticut Hand and Upper Extremity Center at 3101 Main Street in Bridgeport, CT. At that time, the Applicant was not seeking licensure from the Department of Public Health as an outpatient surgical facility. The Applicant is now requesting licensure as an outpatient surgical facility because of changes in the reimbursement standards of third party payers such as PHS, Anthem/Blue Cross, Aetna and Cigna. These third party reimbursement sources now require licensure as a condition of reimbursement to the Center for its services.

Dr. Rago is the sole member of the Center and has privileges at Bridgeport Hospital, St. Vincent’s Medical Center (“SVMC”) and Norwalk Hospital. The Applicant projects that 200 procedures will be performed at the Center in FY 2002, increasing to 230 in FY 2004. However, the Applicant’s needs analysis did not contain demographic data regarding the population in the primary service area, methodological approach to development of the projections including the current demand for surgical services in the primary service area, copy of any community needs assessment and survey instruments or current utilization statistics. The Applicant did not provide documentation identifying a need for the proposal, improvements in accessibility, or improvements in the quality of care provided. The Applicant did not provide a basis for the projected number of on-site surgeries. Due to these omissions, OHCA is unable to evaluate the need for the proposal based on the lack of documentation submitted, including current volume and the basis of the projected volume of outpatient surgical procedures at the Center.

Additionally, the Applicant did not provide information regarding quality measures, quality assurance plan, patient selection criteria, or standards of care. The Applicant did not indicate that the proposed Center would receive certification from a nationally recognized accreditation organization to guarantee the provision of quality care. Absent this information, OHCA is unable to evaluate the quality of the proposed freestanding ambulatory surgery center.

It is the opinion of SVMC that it would lose 70% of approximately 280 ambulatory surgeries that Dr. Rago performs at SVMC if the project was approved. Further, SVMC believes that the 200-230 annual outpatient surgeries projected by the Applicant could be accommodated by SVMC without taxing its ambulatory care resources. It is the opinion of Bridgeport Hospital that it would lose 200 cases that Dr. Rago currently performs at the hospital. OHCA believes that the Applicant's projected volume of outpatient surgical procedures can be accommodated by the existing hospital providers in a high quality setting with defined standards of care. Until such time as standards of care are developed for outpatient surgical centers, OHCA believes that these procedures should be performed in a hospital where the quality of care is established and monitored.

Finally, if the Applicant is able to meet the volume projections contained in this proposal, the Center should be financially viable. However, since OHCA is unable to evaluate the need for the proposal and projections with respect to volume, the financial projections are also rendered questionable. The paucity of information that was provided with respect to the need methodology and the basis of the assumptions used makes it impossible for OHCA to determine if any of the projections are reasonable and achievable. OHCA believes that the Applicant's proposal is driven by third-party payment for services provided at the Center and will shift commercial payers from existing hospital providers to the Center. As a result, the existing hospital providers in the service area will receive a lower reimbursement for the provision of care to a higher percentage of Medicaid and indigent patients. Therefore, the Applicant's proposal is not in the best interests of consumer or payers of outpatient surgical services.

Based on the foregoing Findings and Rationale, the Certificate of Need Application of The Surgical Center of Connecticut, LLC to establish a single-specialty ambulatory surgery center in Bridgeport, Connecticut, at a total capital expenditure of \$400,000, is hereby DENIED.

Order

The proposal of The Surgical Center of Connecticut, LLC (“Applicant”) to establish a single-specialty ambulatory surgery center in Bridgeport, Connecticut, at a total capital expenditure of \$400,000, is hereby denied.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Office of Health Care Access

Date

Raymond J. Gorman
Commissioner

RJG: km
Decision/01510