



Office of Health Care Access Certificate of Need Application

Final Decision

Parties: The Charlotte Hungerford Hospital,
Saint Francis Hospital and Medical Center and
Winsted Health Center Foundation, Inc.

Docket Number: 01-540R

Project Title: A Modification of the Certificate of Need authorized
under Docket Number 97-513

Statutory Reference: Section 4-181a(b) of the Connecticut General Statutes

Date of Reopening: September 28, 2001

Hearing Date: October 25, 2001

Decision Date: December 4, 2001

Staff: Karen Roberts

Project Description:

The Reopening and Modification of the Certificate of Need (CON) authorization issued by the Office of Health Care Access (OHCA) on July 15, 1997 to The Charlotte Hungerford Hospital, Saint Francis Hospital and Medical Center and Winsted Health Center Foundation, Inc., for the establishment and operation of an ambulatory care and outpatient facility to be known as the Winsted Health Center.

Nature of Proceedings:

On July 15, 1997, under Docket Number 97-513, OHCA granted a Certificate of Need pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes to The Charlotte Hungerford Hospital, Saint Francis Hospital and Medical Center and Winsted Health Center Foundation, Inc. The authorized CON was for the establishment and operation of an ambulatory care and outpatient facility to be known as the Winsted Health Center and to be located at the former site of the Winsted Memorial Hospital at 115 Spencer Street in Winsted at a total capital expenditure of \$1,873,497.

On September 28, 2001, recognizing that the parties were not in compliance with the Order issued by OHCA on July 15, 1997, OHCA issued a Ruling wherein the CON was reopened on OHCA's own

motion under Docket Number 01-540R, as provided for in Section 4-181a(b) of the Connecticut General Statutes. A public hearing was noticed in order to “examine the services which are currently provided at the Winsted Health Center in light of this agency’s Order.” The Charlotte Hungerford Hospital, Saint Francis Hospital and Medical Center and The Winsted Health Center Foundation, Inc., Applicants and Parties to the CON under Docket Number 97-513, were designated as Parties to the proceeding to be held under Docket Number 01-540R.

The public hearing in the matter under Docket Number 01-540R was held on October 25, 2001. The Parties were notified of the date, time, and place of the hearing, and a notice to the public was published prior to the hearing in the *Lakeville Journal*, *Litchfield County Times*, *Register Citizen and Waterbury Republican-American*. Commissioner Raymond J. Gorman served as presiding officer for this case. The public 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).

Mr. Alan DiCara and Mr. Raymond T. Pavlak separately petitioned for Intervenor Status in this proceeding. Both Mr. DiCara and Mr. Pavlak were denied Intervenor Status but were granted Informal Participant Status. Mr. Pavlak participated in the public hearing as an Informal Participant.

The Presiding Officer heard testimony from witnesses for the Parties and in rendering this decision, considered the entire record of the proceeding. OHCA’s authority in this matter is established by Section 4-181a(b), C.G.S. The provisions of this section, 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:

GENERAL INFORMATION:

1. On July 15, 1997, under Docket Number 97-513, OHCA granted a Certificate of Need (CON) pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes, to The Charlotte Hungerford Hospital (CHH), Saint Francis Hospital and Medical Center (SFHMC) and Winsted Health Center Foundation, Inc. (WHCF, Inc.). (*OHCA CON authorization issued under DN 97-513*)
2. The CON issued under Docket Number 97-513 authorized the establishment and operation of an ambulatory care and outpatient facility to be known as the Winsted Health Center to be located at the former site of the Winsted Memorial Hospital at 115 Spencer Street in Winsted at a total capital expenditure of \$1,873,497. (*OHCA CON authorization issued under Docket Number 97-513*)
3. The CON authorized the following services which were to be provided at the Winsted Health Center: emergency and urgent care services, ambulatory surgery, cardiac rehabilitation, physical therapy services, respiratory therapy, women’s health services, pharmacy services, a paramedic intercept program, diagnostic radiology services (radiography, fluoroscopy, mammography), cardiovascular services (stress tests, echocardiography, EKG), laboratory services and health education and wellness programs. (*Page 2 of the CON authorization under DN 97-513*)
4. The Charlotte Hungerford Hospital’s satellite operations at Winsted Health Center were licensed by the Department of Public Health effective April 13, 1998. (*CHH responses to OHCA questions received January 4, 2001*)

5. The CON authorization under Docket Number 97-513 stated that The Charlotte Hungerford Hospital, Winsted Health Center Foundation, Inc., and Saint Francis Hospital and Medical Center were Applicants to the CON and health care facilities or institutions as defined in Section 19a-630 of the Connecticut General Statutes. (*Page 1 of the CON authorization under Docket Number 97-513*)
6. Section 19a-630(a) of the Connecticut General Statutes states, in part: “As used in this chapter: (1) “Health care facility or institution” means any facility or institution engaged primarily in providing services for the prevention, diagnosis or treatment of human health conditions...”
7. Section 19a-638 (a)(2) of the Connecticut General Statutes states, in part: “Any health care facility or institution ... which intends to introduce any additional function or service into its program of health care ... shall submit to the office, prior to the proposed date of the institution of such function or service ... a request for permission to undertake such function or service...”
8. Section 19a-639(a) of the Connecticut General Statutes states, in part: “...any health care facility or institution or any state health care facility or institution proposing a capital expenditure exceeding one million dollars, or the acquisition of major medical equipment requiring a capital expenditure ... in excess of four hundred thousand dollars ... shall submit a request for approval of such expenditure to this office ...”
9. As part of the scope of the authorized CON, WHCF, Inc. indicated it would purchase the buildings, which formerly belonged to the Winsted Memorial Hospital, and The Charlotte Hungerford Hospital and Saint Francis Hospital and Medical Center would lease space from WHCF, Inc. to establish the Winsted Health Center. (*Page 2 of the OHCA CON authorization issued under DN 97-513*)

The Role of WHCF and WHC, Inc.

10. The primary purpose of the Winsted Health Center Foundation, Inc., a tax-exempt 501(c)(3) organization, is to raise funds and support for its tax-exempt subsidiary organization, The Winsted Health Center, Inc. WHCF, Inc. is supported primarily from donor contributions (*Notes to WHCF, Inc. FY 1998 Audited Financial Statements filed with OHCA on January 5, 2001*)
11. The Winsted Health Center, Inc. (WHC, Inc.), a tax-exempt 501(c)(3) organization, owns, manages and leases space at the Winsted Health Center. WHC, Inc. acts as landlord to the various tenants at the Winsted Health Center and employs building maintenance and housekeeping persons. (*WHC, Inc. Articles of Incorporation filed with OHCA on January 5, 2001 and WHCF prefile testimony received October 18, 2001*)
12. For the period January 1, 2001 through September 30, 2001, the WHCF, Inc. received \$88,299 in gifts (public donations) and has spent \$56,345 on capital improvements for the building, including \$43,000 for roofs, \$22,500 for support of emergency services (see FF #13) and \$8,605 for an independent planning consultant. (*Response to OHCA Interrogatory #1, received on October 18, 2001*)
13. WHCF, Inc. currently pays Litchfield Acute Care Services (the private physician group serving both the Charlotte Hungerford Hospital’s main emergency department and the Winsted Health Center emergency department) \$2,500 per month to offset bad debt expense related to the group’s emergency room physician fees. (*WHCF, Inc. oral testimony at October 25, 2001 public hearing*)
14. Neither the Winsted Health Center Foundation, Inc. nor the Winsted Health Center, Inc. provides health care services as a health care facility or provider, bills for and receives reimbursement for

health care services under a provider number nor employs any health care staff. Neither Winsted Health Center Foundation, Inc. nor Winsted Health Center, Inc. holds a health care facility license from the Connecticut Department of Public Health. (*Response to OHCA interrogatories and oral testimony at October 25, 2001 public hearing*)

15. WHCF, Inc. was awarded a \$5,000 restricted fund called the Spiota Fund, which was a restricted fund of the Winsted Memorial Hospital and which is used by WHCF, Inc. to subsidize patients in the CHH cardiac rehabilitation program at the Winsted Health Center. To date, WHCF, Inc. has used approximately \$1,200 of the \$5,000 fund to pay CHH for cardiac rehabilitation services for individual patients who might otherwise have to drop out of the program due to lack of insurance or funding. (*WHCF, Inc. oral testimony at October 25, 2001 public hearing*)

Roles of Service Providers

16. CHH entered into a commercial lease with the WHC, Inc., effective September 1, 1997, for the lease of space within the Winsted Health Center physical plant. The initial term of the lease is eight years or through August 31, 2005. (*Attachment C of The Charlotte Hungerford Hospital's January 4, 2001 response to OHCA questions*)
17. Other tenants who currently occupy or lease space at the Winsted Health Center include SFHMC, the Veterans Administration (for a Community Based Outpatient Clinic), Northwestern Connecticut Community College (for alternate health care courses), The Auxiliary for Community Health (which operates a thrift shop to raise funds for health care related needs), and Sharon OB-GYN (an obstetric & gynecology private practice). (*Response to OHCA Interrogatory #5 received on October 18, 2001*)
18. SFHMC incurred the capital costs to renovate the physical plant for office space for area physicians in private practice and to establish the physical therapy services at the Winsted Health Center. (*WHCF Exhibit – 1 of prefile testimony received on October 18, 2001*)
19. SFHMC leases 10,000 square feet of space at the Winsted Health Center pursuant to a 1997 lease agreement, which has an initial term of eight years. SFHMC subleases all of this space to other providers for the provision of medical services. These providers are:
- Charlotte Hungerford Hospital (which in turn subleases to Physicians for Women's Health, LLC);
 - Winsted Internal Medicine Associates (which in turn subleases to Albert Torres, M.D.);
 - Litchfield Hills Orthopedic Associates;
 - Physical Therapy Partners, a SFHMC affiliated entity;
 - Woodland Physician Associates, a SFHMC affiliated entity;
 - Greater Hartford Cardiology Group, P.C.
- (*SFHMC response to OHCA interrogatories, received on October 18, 2001*)
20. In January of 2001, when asked by OHCA to list all services that SFHMC provided at the Winsted Health Center, SFHMC stated, "Saint Francis operates an outpatient physical therapy service at this location which does business under the name Physical Therapy Partners." (*SFHMC's January 8, 2001 response to OHCA questions*)
21. The physical therapy services provided at the Winsted Health Center are provided by a SFHMC affiliated entity called Physical Therapy Partners. Physical Therapy Partners is a for-profit joint venture in which SFHMC has 49% ownership, with the physical therapists owning the majority 51%.

22. SFHMC does not provide any services at the Winsted Health Center for which SFHMC bills for and receives reimbursement under its own provider number and which are recorded on SFHMC's books as Hospital activity. *(SFHMC oral testimony at October 25, 2001 public hearing)*
23. SFHMC and CHH did not enter into any radiology, laboratory or physical therapy joint ventures as envisioned and proposed in the CON authorized under Docket Number 97-513. The agreement between CHH and SFHMC was modified by the two hospitals during project implementation for "simplicity sake". Instead of implementing joint ventures in radiology, laboratory and physical therapy, CHH fully and solely implemented the radiology and laboratory service lines and SFHMC fully and solely implemented the physical therapy service line. *(SFHMC's January 8, 2001 response to OHCA questions, SFHMC response to interrogatories received on October 18, 2001 and oral testimony at the October 25, 2001 public hearing)*
24. The planned radiology, laboratory and physical therapy joint ventures between SFHMC and CHH were originally projected to provide operating gains to offset the CHH emergency department and paramedic intercept program. The radiology, laboratory and physical therapy programs, as implemented, are not producing actual operating gains to offset any emergency department operating deficiencies. *(Page 17 of CHH responses to OHCA interrogatories, filed with OHCA October 18, 2001)*
25. Charlotte Hungerford Hospital provides the following services at the Winsted Health Center:
- Emergency Services/Urgent Care Services;
 - Cardiac Rehabilitation Program, including EKG performed in the ER;
 - Respiratory/Pulmonary Rehabilitation;
 - Diagnostic Laboratory;
 - Diagnostic Radiology Services, including Radiography and Mammography;
 - First Dose pharmaceutical services to support the ED;
 - Preventive Medicine Programs such as flu shots and prostate screenings;
 - Health Education and Wellness Programs.
- (CHH's January 4, 2001 response to OHCA questions and CHH October 18, 2001 response to OHCA interrogatories)*
26. Pursuant to the CON application, the Emergency Department at the Winsted Health Center would be staffed and equipped to provide stabilization of life-threatening emergencies. *(Page 28 of the February 28, 1997 CON application submission)*
27. The Charlotte Hungerford Hospital Emergency Room at the Winsted Health Center operates twelve hours per day, from 9 A.M. to 9 P.M., seven days per week. The operating hours were reduced in October of 1999. *(Page 2 of CHH January 4, 2001 response to OHCA questions and Page 1 of the Charlotte Hungerford Hospital's response to OHCA interrogatories received October 18, 2001.)*
28. The Charlotte Hungerford Hospital provided FY 2000 and FY 2001 Emergency Department (ED) Utilization Statistics, as follows:

CHH EMERGENCY DEPARTMENT VOLUME AT THE WINSTED HEALTH CENTER

	FY 2000	FY 2000	FY 2000	FY 2001	FY 2001	FY 2001
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	Inpatient	Outpatient	% of total	Inpatient	Outpatient	% of total
Level 1 visits	0	57	0.91%	0	4	0.06%
Level 2 visits	2	2,912	46.24%	1	2,011	30.71%
Level 3 visits	26	2,935	46.61%	31	4,239	64.73%
Subtotal of Levels 1-3	28	5,904	93.76%	32	6,254	95.50%
Level 4 visits	113	338	5.37%	197	262	4.00%
Level 5 visits	50	55	0.87%	11	33	0.50%
Subtotal of Levels 4-5	163	393	6.24%	208	295	4.50%
Total ED Visits	191	6,297	100%	240	6,549	100%

(Page 20a of the CHH response to OHCA interrogatories received October 18, 2001)

29. Regarding the Level 1-5 ED designation provided by the Hospital:

- This method of case designation is a coding method related to reimbursement levels and more accurately depicts facility resources used (staff, supplies, x-rays, lab) than the actual acuity level of the patient seen.
- Pursuant to the testimony of Dr. Mark R. Prete, an emergency room physician at Winsted Health Center, the level of patients seen with an urgent condition versus patients seen with an emergency condition at the Winsted Health Center is approximately 60% urgent to 40% emergent.
- CHH is currently making efforts to look at different methods of determining levels of urgent patients versus emergency patients at its two CHH emergency rooms.
 (CHH oral testimony at the October 25, 2001 public hearing)

30. CHH estimates that it currently takes approximately four urgent patients to generate patient revenue equal to one emergency patient. (CHH oral testimony at the October 25, 2001 public hearing)

31. Terminating emergency services at the Winsted Health Center and operating an urgent care center would not significantly reduce current operating expenses for CHH. An urgent care center would require approximately 15,000 urgent care visits to be financially sustainable. (CHH oral testimony at the October 25, 2001 public hearing)

32. CHH provided FY 2000 and FY 2001 actual revenues and expenses for its overall operations at the Winsted Health Center (without the application of hospital overhead or indirect expenses), as follows:

<u>CHH REVENUES AND EXPENSES AT WINSTED HEALTH CENTER</u>		
	FY 2000	FY 2001
Net Patient Revenue	\$1,422,094	\$1,753,606
Direct Expenses Only	\$1,730,324	\$1,729,991
Gain from Operations	\$(308,230)	\$23,615

(Page 21a of the CHH response to OHCA interrogatories received on October 18, 2001)

33. Gary DePaul, CHH Vice President of Finance indicated at the October 25, 2001 public hearing that applying total hospital indirect expenses to the financial scenario depicted in the above finding would result instead in a loss from operations of approximately \$(175,000) to \$(200,000) specific to CHH

FY2001 operations at the Winsted Health Center. *(Page 21a of the CHH response to OHCA interrogatories received on October 18, 2001 and CHH oral testimony at the October 25, 2001 public hearing)*

The Issue of the Lack of Usage of the Ambulatory Surgical Program Space:

34. The ambulatory surgery program proposed and authorized in the CON was to be a full service program with two ambulatory surgical suites providing a full range of surgical subspecialties. *(Page 88 of the June 24, 1997 CHH responses to OHCA completeness questions under DN97-513)*
35. The Charlotte Hungerford Hospital did initially schedule limited eye, orthopedic, genitourinary and general surgery cases at the Winsted Health Center. From October 1, 1998 to August 1, 1999, there were 59 surgeries performed in the Charlotte Hungerford Hospital surgical space at the Winsted Health Center. This averages only 1.3 surgical cases per week for the two surgical suites available during this timeframe. *(Page 2 of the Charlotte Hungerford Hospital's response to OHCA interrogatories received October 18, 2001.)*
36. The ambulatory surgical program as proposed and authorized under Docket Number 97-513 is not operational.
37. The Charlotte Hungerford Hospital states that the barriers to success for the ambulatory surgery program included the following:
 - Lack of interest by medical staff, particularly in performing surgery at two sites;
 - The logistical impracticality and cost of moving both surgical personnel and equipment back and forth between the Winsted Health Center and the Charlotte Hungerford Hospital;
 - Difficulty recruiting new surgeons because of on-call requirements in the medical staff by-laws which prevented new physicians from wanting to join the Charlotte Hungerford medical staff. *(Page 2 of Charlotte Hungerford Hospital's response to OHCA interrogatories received October 18, 2001.)*
38. A market demand analysis for the two ambulatory surgical suites was not performed at the time of the CON proposal under Docket Number 97-513 to determine the need for the ambulatory surgical program at the Winsted Health Center. *(Charlotte Hungerford Hospital oral testimony at public hearing on October 25, 2001)*

Regarding Other Health Center Services:

39. The program of services authorized under Docket Number 97-513 was to include an Occupational Medicine Services component, through an affiliation with Northwest Connecticut Occupational Medicine, a department of CHH at the time of the CON application, which was to include work related injury/illness treatment, controlled substance and alcohol testing services and work site evaluation. *(Page 348 of the June 2, 1997 CHH responses to OHCA completeness questions under Docket Number 97-513)*
40. The CHH emergency department at the Winsted Health Center serves only as a first report of injury location for work related injury or illness. Referrals for follow up care are made to Eastern Rehabilitation Network's Connecticut Occupational Health Network, which is affiliated with CHH through a joint venture and is located in Torrington. *(Page 8 of CHH's response to OHCA interrogatories and oral testimony at October 25, 2001 public hearing)*

41. Of the routine cardiovascular testing services that CHH indicated in the CON application under Docket Number 97-513 it would provide at the Winsted Health Center, only EKG is being provided. Echocardiology and stress testing were never implemented due to lack of demand. *(Page 3 of the Charlotte Hungerford Hospital's response to OHCA interrogatories received October 18, 2001.)*
42. Respiratory Therapy treatments offered in conjunction with arterial blood gases and pulse oximetry are provided as needed in the emergency department at Winsted Health Center by CHH. Pulmonary Rehabilitation is provided by CHH at Winsted Health Center two days per week. Pulmonary function testing was not implemented by CHH and is available at CHH in Torrington. *(Page 7 of the Charlotte Hungerford Hospital's response to OHCA interrogatories received October 18, 2001.)*
43. Fluoroscopy services were not implemented as part of the radiology services as indicated in the CON application under Docket Number 97-513 due to low demand. *(Page 6 of the CHH responses to OHCA interrogatories)*
44. In Fiscal Year 2001, 58.1 % of the patient volume for the Charlotte Hungerford Hospital services offered at the Winsted Health Center came from the town of Winsted. Torrington was the next highest town at only 7.9% of patient volume. *(Revised Attachment V of the CHH response to OHCA interrogatories, received on October 23, 2001)*
45. The Charlotte Hungerford Hospital expended \$1,928,720 for the renovation of space for this project, which exceeds the authorized capital expenditure of \$1,873,497 by \$55,223 or approximately 3%. *(Page 7 of The Charlotte Hungerford Hospital's January 4, 2001 response to OHCA questions)*
46. On July 1, 2001, The Charlotte Hungerford Hospital, Inc. entered into a Paramedic Intercept Funding Agreement with the Towns of Barkhamsted, Colebrook, Hartland, New Hartford, Norfolk and Winchester (which includes the city of Winsted). The agreement has a term of four years. OHCA is not a party to that agreement, nor is Saint Francis Hospital and Medical Center, The Winsted Health Center Foundation, Inc. or The Winsted Health Center, Inc.

Rationale

On July 15, 1997, under Docket Number 97-513, the Office of Health Care Access granted a Certificate of Need pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes, to The Charlotte Hungerford Hospital (CHH), Saint Francis Hospital and Medical Center (SFHMC) and Winsted Health Center Foundation, Inc. (WHCF, Inc.). The CON under Docket Number 97-513 authorized the establishment and operation of an ambulatory care and outpatient facility to be known as the Winsted Health Center to be located at the former site of the Winsted Memorial Hospital at 115 Spencer Street in Winsted at a total capital expenditure of \$1,873,497. During the past year, OHCA's attention has been drawn to the fact that the Winsted Health Center services have not been fully implemented, and that the health center may not be operating in the manner and scope authorized in the Certificate of Need approved under Docket Number 97-513. It is OHCA's determination that conditions changed since July 15, 1997 when the CON was authorized and before the CON was fully implemented.

OHCA is allowed to reverse or modify a final decision, at any time, at the request of any person or on the agency's own motion on a showing of changed conditions. This review under Docket Number 01-540R is the result of OHCA's reopening of the original CON in order to review the current operations of the

health center and modify the CON authorization as necessary so that the operation of the Winsted Health Center will be within the legal parameters of the Certificate of Need.

The Issue of the Appropriate Designation of Applicancy:

As mandated by the Connecticut General Statutes, all health care facilities or institutions adding a new function or service or expending in excess of one million dollars must seek authorization from the Office of Health Care Access. Such requests are sought and processed in the Certificate of Need application process. State statute defines a health care facility or institution as a provider of services for the prevention, diagnosis or treatment of human health conditions.

On July 15, 1997, under Docket Number 97-513, OHCA granted a Certificate of Need to The Charlotte Hungerford Hospital, Saint Francis Hospital and Medical Center and Winsted Health Center Foundation, Inc. The CON authorization stated that The Charlotte Hungerford Hospital, Winsted Health Center Foundation, Inc., and Saint Francis Hospital and Medical Center are Applicants to the CON, and are health care facilities or institutions as defined in Section 19a-630 of the Connecticut General Statutes. As part of the scope of the authorized CON, WHCF, Inc. would purchase the buildings, which formerly belonged to the Winsted Memorial Hospital, and The Charlotte Hungerford Hospital and Saint Francis Hospital and Medical Center would lease space from WHCF, Inc. The Winsted Health Center Foundation, Inc. is organized specifically to raise funds and support for its subsidiary organization, The Winsted Health Center, Inc. The Winsted Health Center, Inc. owns, manages and leases space at the Winsted Health Center, acting as landlord to the various tenants at the Winsted Health Center and maintaining the physical plant. The majority of the funds raised by the Winsted Health Center Foundation, Inc. are used for capital improvements to the physical plant. The Winsted Health Center Foundation, Inc. also provides monthly support to the emergency department physician group to offset bad debts realized by the group in practicing at the Winsted Health Center. The Winsted Health Center Foundation, Inc. currently provides a small amount of subsidy funding related to the care of patients in the Winsted Health Center Cardiac Rehabilitation program who are unable to fully pay for the services due to financial or insurance constraints. To date, WHCF, Inc. has expended approximately \$1,200 to fund such care.

Neither the Winsted Health Center Foundation, Inc. nor the Winsted Health Center, Inc. is a health care provider. Neither Winsted Health Center Foundation, Inc. nor Winsted Health Center, Inc. holds a health care facility license from the Connecticut Department of Public Health. Despite the fact that the CON application under Docket Number 97-513 was filed as a partnership effort between The Winsted Health Center Foundation, Inc., The Charlotte Hungerford Hospital and Saint Francis Hospital and Medical Center, there is nothing in the CON application under Docket Number 97-513 or filed with OHCA since the CON authorization in 1997 that would establish The Winsted Health Center Foundation or its subsidiary, The Winsted Health Center, Inc. as a provider of health care services and therefore a health care facility or institution under state statute.

The Winsted Health Center Foundation, Inc. is the fund-raising organization for the upkeep and improvement in the physical plant at the Winsted Health Center. Its subsidiary, Winsted Health Center, Inc. remains the leasing arm of the organization. Such activities as currently undertaken by these two entities do not require OHCA authorization.

In regard to the role of Saint Francis Hospital and Medical Center at the Winsted Health Center, it has evolved from the envisioned role as a direct provider of care to one of being merely a part owner in the for-profit joint venture providing the physical therapy services at the Winsted Health Center. Saint Francis Hospital and Medical Center subleases all space that it leases at the Winsted Health Center to other providers, including Physical Therapy Partners, the affiliated joint venture entity.

Saint Francis Hospital and Medical Center does not directly provide any services at the Winsted Health Center for which the Hospital bills for and receives reimbursement under its own provider number and which would be recorded on the Hospitals books as Hospital activity. Again, it is necessary in this modification action to clarify the appropriate applicancy to the Certificate of Need authorization.

Based on the evidence at hand, Saint Francis Hospital and Medical Center, which is a health care facility or institution, does not directly provide any health care services at the Winsted Health Center under its license. Therefore, Saint Francis Hospital and Medical Center, a party to the proceeding under Docket Number 01-540R, should not continue to be considered an Applicant in this matter. This change in status from Applicant to party status only does not and should not affect Saint Francis Hospital and Medical Center's role in or contribution to the partnership existing at the Winsted Health Center.

Based on the above discussion, the Office of Health Care Access determines that the only health care facility or institution directly providing services under its health care facility license at the Winsted Health Center, at this time, is The Charlotte Hungerford Hospital and the Certificate of Need authorized herein should reflect such change.

The Issue of the Appropriate Usage of the Emergency Department

In the CON application under Docket Number 97-513, Charlotte Hungerford Hospital proposed the establishment of an emergency care/urgent care service line at the Winsted Health Center. Such service line was never intended to generate revenues or serve a substantial number of emergency level patients. The goal of the emergency care component of services at the Winsted Health Center was to provide a facility that would be staffed and equipped to provide stabilization of life-threatening emergencies. The information provided to this office regarding emergency care/urgent care services in place at the Winsted Health Center, demonstrates that the Hospital implemented the service line as it was proposed and authorized and that it appears to meet its goal of being staffed and equipped to provide stabilization of life-threatening emergencies.

The difficulty in reviewing the true experience of this service line has been the lack of a method of data collection provided by the Hospital that accurately reflects emergency cases versus urgent care cases. Using Level 1-5 data as provided by the Hospital, it would appear that the emergency department is experiencing 95% urgent level patients and only 5% emergency level patients. Dr. Mark. R. Prete of the Winsted Health Center Emergency Department indicated that this method of data collection is based on a reimbursement-coding model of case designation that primarily reflects facility resources used, such as staffing, lab and x-ray. Dr. Prete further indicated that although the patient volume may result in a 95% urgent to 5% emergency level ratio if using the reimbursement coding, if designation of urgent versus emergency is made based solely on the patient condition regardless of facility resources used, the level is more likely to be 60% urgent care cases versus 40% emergency care cases. CHH is currently making efforts to look at different methods of determining levels of urgent patients versus emergency patients at the two CHH emergency rooms.

From the above, it is determined that the Charlotte Hungerford Hospital has fulfilled its CON obligation to establish an emergency and urgent care center at the Winsted Health Center. Despite the relatively low number of emergency level cases, the services appear to be necessary to serve the needs of Winsted and its surrounding towns. Further, termination of emergency level services may ultimately be financially detrimental to the remaining services at the Winsted Health Center and this loss of the emergency patient revenues might make the overall operations unsustainable. As such, OHCA determines that it is

appropriate for the Charlotte Hungerford Hospital to continue to maintain both emergency and urgent care services at the Winsted Health Center.

The Issue of the Lack of Usage of the Ambulatory Surgical Program Space

A second major component of the Certificate of Need authorized under Docket Number 97-513 was an ambulatory surgery program with two ambulatory surgical suites providing a full range of surgical subspecialties. The Charlotte Hungerford Hospital did initially schedule limited eye, orthopedic, genitourinary and general surgery cases at the Winsted Health Center and from October 1, 1998 to August 1, 1999, there were 59 surgeries performed in the Charlotte Hungerford Hospital surgical space at the Winsted Health Center. This averages only 1.3 surgical cases per week for the two surgical suites available during this timeframe. Since then the only clinical activity in the surgical space is the provision of a lithotripsy service twice a month. The Charlotte Hungerford Hospital states that the barriers to success for the ambulatory surgery program included a lack of interest by medical staff, particularly in performing surgery at two sites; the logistical impracticality and cost of moving both surgical personnel and equipment back and forth between the Winsted Health Center and the Charlotte Hungerford Hospital; and difficulty recruiting new surgeons because of on-call requirements in the medical staff by-laws which prevented new physicians from wanting to join the Charlotte Hungerford medical staff.

A market demand analysis for the two ambulatory surgical suites was not performed at the time of the CON proposal under Docket Number 97-513 to determine the need for the ambulatory surgical space at the Winsted Health Center. In retrospect, the need for an ambulatory surgical program at the Winsted Health Center was not fully demonstrated in the CON authorized under Docket Number 97-513. The relationship of the CON authorized under Docket Number 97-513 to the principles and guidelines set forth in Section 19a-637 of the Connecticut General Statutes is altered by this modification only in that OHCA finds no clear public need for the previously authorized ambulatory surgery program. As a result, the ambulatory surgery program was not successfully implemented in a timely manner and it appears unlikely that it will be resurrected in the near future. The Hospital indicated that any further plans to go forward with new services at the health center would be accompanied by a prudent business plan and a market demand analysis. Based on the above, OHCA concludes that the ambulatory surgery component of the Certificate of Need was terminated from the program of services by the Applicant, Charlotte Hungerford Hospital, and should therefore be terminated from the Certificate of Need authorization.

Based on the foregoing Findings of Fact and Rationale, OHCA hereby vacates the previous OHCA order issued under Docket Number 97-513 and issues the following Order in its place.

MODIFICATION ORDER

For the reasons stated above, OHCA hereby modifies the OHCA order issued on July 15, 1997 under Docket Number 97-513 by replacing it, in its entirety, with the following:

- 1) The Charlotte Hungerford Hospital is hereby authorized to provide the following services at the Winsted Health Center at 115 Spencer Street in Winsted:
 - ❖ An Emergency Room providing both Emergency & Urgent Care Services;
 - ❖ Cardiac Rehabilitation, including EKG's performed in the ER;
 - ❖ Respiratory/Pulmonary Rehabilitation;

- ❖ Diagnostic Laboratory Services;
- ❖ Diagnostic Radiology Services, including Radiography and Mammography;
- ❖ First Dose Pharmacy Services;
- ❖ Preventive Medicine Programs such as flu shots and prostate screenings;
- ❖ Health Education and Wellness Programs.

Such services are provided as services of The Charlotte Hungerford Hospital under The Charlotte Hungerford Hospital's acute care hospital license. The hours of operation of the above listed services are at The Charlotte Hungerford Hospital's discretion.

- 2) With this CON modification, OHCA recognizes the termination of the ambulatory surgical program by The Charlotte Hungerford Hospital at The Winsted Health Center location. Such termination of authorized health care services occurred without OHCA approval, which is a violation of OHCA's Statutes and Regulations. OHCA herein waives any civil penalty related to any violation by The Charlotte Hungerford Hospital directly related to the lack of full implementation of the CON authorized under Docket Number 97-513. OHCA hereby requires that the reinstatement of an ambulatory surgical program at this location by The Charlotte Hungerford Hospital or any other licensed health care facility or institution will necessitate the filing of a Certificate of Need application with OHCA pursuant to Section 19a-638 of the Connecticut General Statute.
- 3) It is recognized that the mobile lithotripsy services authorized to the entity, CT Lithotripsy, LLC, by OHCA under a separate and distinct Certificate of Need action are currently provided in the Charlotte Hungerford Hospital's now defunct ambulatory surgical suites at the Winsted Health Center and Condition # 2 above, does not affect the continued provision of the mobile lithotripsy services.
- 4) This CON modification recognizes that Saint Francis Hospital and Medical Center, Inc. had terminated its hospital services at the Winsted Health Center location and does not directly provide any services at the Winsted Health Center as originally envisioned and authorized in the Certificate of Need issued under Docket Number 97-513. Therefore, Saint Francis Hospital and Medical Center is not designated as an Applicant to the OHCA authorization issued herein. Saint Francis Hospital and Medical Center, Inc. does however, maintain its designated Party Status to the proceeding under Docket Number 01-540R. OHCA herein waives any civil penalty related to any violation of OHCA's Statutes and Regulations by Saint Francis Hospital and Medical Center, Inc. directly related to the lack of full implementation of the CON authorized under Docket Number 97-513.
- 5) Winsted Health Center Foundation, Inc., which does not directly provide health care services, is not designated by OHCA as an Applicant to the OHCA authorization issued herein. Winsted Health Center Foundation, Inc. does however, maintain its designated Party Status to the proceeding under Docket Number 01-540R.
- 6) The CON modification clarifies that the maintenance of the Winsted Area Paramedic Intercept Program is currently funded by and through an agreement effective July 1, 2001 by and between The Charlotte Hungerford Hospital and the Towns of Barkhamsted, Colebrook, Hartland, New Hartford, Norfolk and Winchester. OHCA clarifies herein that the provision of this emergency service system to the Winsted area is not a component of the CON authorized under Docket Number 97-513, as superseded by Docket Number 01-540R. The July 1, 2002 agreement is separate from this CON action and OHCA is not a party to that agreement.
- 7) The Charlotte Hungerford Hospital is required to provide to OHCA on a semi-annual basis for a period of two fiscal years, detailed statistics regarding the emergency/urgent care service line. Such statistical data shall include at a minimum, the Charlotte Hungerford Hospital emergency/urgent care

volume at the Winsted Health Center broken down by Levels 1-5 reimbursement designation previously provided by The Charlotte Hungerford Hospital to OHCA in this matter. The Hospital is not precluded from and is encouraged to also file this volume by other designations or methods as long as such statistical basis is proven to be an appropriate method for designating levels of care and is fully explained in the Hospital's reporting filings to OHCA. The statistical information will be filed as follows:

- For the period October 1, 2001 – March 31, 2002 on or by May 31, 2002;
 - For the period April 1, 2002 – September 30, 2002 on or by November 30, 2002;
 - For the period October 1, 2002 – March 31, 2003 on or by May 31, 2003;
 - For the period April 1, 2003 – September 30, 2003 on or by November 30, 2003.
- 8) The Charlotte Hungerford Hospital is also required to provide actual financial results to OHCA on a semi-annual basis for a period of two fiscal years for its services at the Winsted Health Center. Such information shall include net patient revenues, direct expenses, indirect expenses and gain/loss from operations for each service line and in total. The information will be filed as follows:
- For the period October 1, 2001 – March 31, 2002 on or by May 31, 2002;
 - For the period April 1, 2002 – September 30, 2002 on or by November 30, 2002;
 - For the period October 1, 2002 – March 31, 2003 on or by May 31, 2003;
 - For the period April 1, 2003 – September 30, 2003 on or by November 30, 2003.
9. The Charlotte Hungerford Hospital is not required to seek further approvals from OHCA to initiate Echocardiography and Stress Testing Services within its Cardiac Rehabilitation program if Charlotte Hungerford Hospital determines such services are necessary at this location.
10. This Modification Order issued under Docket Number 01-540R fully supercedes the previous CON Order issued under Docket Number 97-513. Any change of ownership of the health care services provided by The Charlotte Hungerford Hospital, any addition or termination of health care services or major capital project by The Charlotte Hungerford Hospital at the Winsted Health Center location will require a new Certificate of Need process pursuant to Sections 19a-638 and/or 19a-639 of the Connecticut General Statutes by The Charlotte Hungerford Hospital. This same provision also applies to any addition or termination of health care services or major capital project by any health care facility or institution as specifically defined by Section 19a-630 of the Connecticut General Statutes.

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