

## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicants:** DePaul Health Services Corporation  
and Saint Raphael Healthcare System

**Docket Number:** 01-569

**Project Title:** Establish a Shoreline Ambulatory Surgery and  
Endoscopy Center in Branford

**Statutory Reference:** Sections 19a-638 and 19a-639 of the Connecticut  
General Statutes

**Filing Date:** May 20, 2002

**Hearing Date:** June 12, 2002

**Presiding Officer:** Raymond J. Gorman, Commissioner

**Decision Date:** June 26, 2002

**Default Date:** August 18, 2002

**Staff Assigned:** Harold M. Oberg  
Laurie Greci  
Steven Lazarus

**Project Description:** DePaul Health Services Corporation and Saint Raphael Healthcare System propose to establish a shoreline ambulatory surgery and endoscopy center to be located in leased building space at 788 East Main Street in Branford, Connecticut. The total capital expenditure associated with the proposed ambulatory surgery and endoscopy center is \$2,176,417.

**Nature of Proceedings:** On May 20, 2002, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application of DePaul Health

Services Corporation and Saint Raphael Healthcare System (“Applicants”) for the establishment of a shoreline ambulatory surgery and endoscopy center in Branford, at a total capital expenditure of \$2,176,417. The Applicants are health care facilities or institutions as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

A public hearing regarding the CON application was held on June 12, 2002. The Applicants 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 *New Haven Register* and also in the *Northeast Minority News*. 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) and Sections 19a-638 and 19a-639, C.G.S.

Yale New Haven Ambulatory Services Corporation (“Intervenor”) petitioned for intervenor status in the proceeding and was granted intervenor status with limited rights of participation by the Presiding Officer.

The Presiding Officer heard testimony from witnesses for the Applicants and the Intervenor and in rendering this decision, considered the entire record of the proceeding. OHCA’s authority to review and approve, modify or deny this proposal is established by Sections 19a-638 and 19a-639, 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 fully considered by OHCA in its review.

## **Findings of Fact**

Each finding of fact included in this Final Decision has been taken from the CON application and related CON filings, public hearing documents and testimony, or from other external sources of information. A source reference is included with each finding of fact. All CON applicants must attest to the accuracy and correctness of the information submitted to OHCA as part of the CON application process.

### **Clear Public Need**

#### **Impact of the Proposal on the Applicants’ Current Utilization Statistics Proposal’s Contribution to the Quality of Health Care Delivery in the Region Proposal’s Contribution to the Accessibility of Health Care Delivery in the Region**

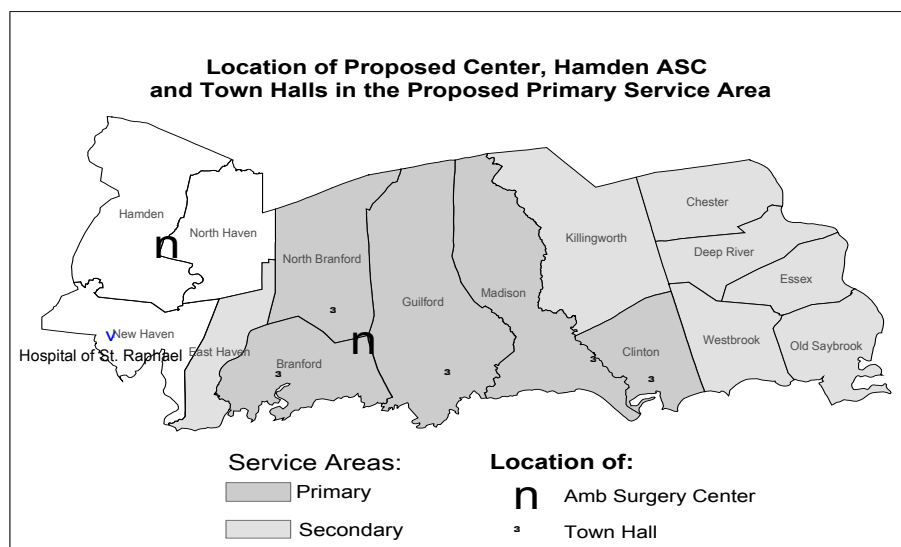
1. Saint Raphael Healthcare System, Inc. (“SRH System”) is a tax-exempt, not for profit corporation. It is the parent corporation of several corporate subsidiaries including DePaul Health Services Corporation and the Hospital of Saint Raphael. (*Hospital of Saint Raphael, FY 2002 Twelve Months Actual Filing, Schedule AFF*)
2. DePaul Health Services Corporation (“DePaul”), a corporate subsidiary of SRH System and a corporate affiliate of Hospital of Saint Raphael, is the tax-exempt, not

for profit holding company of Hamden Surgery Center, LLC, (“Hamden ASC”) a freestanding ambulatory surgery center located at 2080 Whitney Avenue in Hamden, as well as an MRI Partnership and Saint Raphael Dialysis Partnership. (*Hospital of Saint Raphael, FY 2001 Twelve Months Actual Filing, Schedule AFF*)

3. Hospital of Saint Raphael (“Hospital”) is an acute care general hospital located at 1450 Chapel Street in New Haven. (*April 5, 2002, CON Application, Cover Letter*)
4. The Applicants propose to establish a freestanding, not for profit, multi-specialty ambulatory surgery and endoscopy center (“proposed Center”) at 788 East Main Street in Branford, as Phase I of a project to create a comprehensive multidisciplinary health campus at this location. (*April 5, 2002, CON Application, page 2*)
5. Phase I of the project, which is the focus of the CON application filed under Docket Number 01-569, is the establishment of the proposed Center. Phase II of the project, which will be addressed in a second CON application to be filed in the future, will include the consolidation and integration of the Hospital of Saint Raphael’s Occupational Health, Outpatient Rehabilitation and Cardiac Rehabilitation services. (*April 5, 2002, CON Application, page 1*)
6. The Applicants will develop other potential services to be located at the same site such as outpatient laboratory, Sports Medicine/Fitness and other services in conjunction with shoreline physicians, which will be included as part of Phase II of the project. (*April 5, 2002, CON Application, page 1*)
7. SRH System owns the land located at 788 East Main Street in Branford and anticipates that the proposed Center will lease space in a new office building to be constructed at this site by a private developer. (*April 15, 2002, Completeness Responses, pages 2 and 3*)
8. The Applicants propose to lease approximately 13,000 square feet of space for the proposed Center to be located in a two-story general medical office building containing approximately 60,000 total square feet. (*May 20, 2002, Completeness Responses, page 1*)
9. SRH System expects to be one of many tenants of this building, and also expects that the remaining space in the building would be made available for lease to physicians for medical offices and for other health and medical programs including Phase II of the project. While the Applicants have had preliminary discussions with the developers, they have not entered into contract negotiations regarding the leasing of space for the CON proposal, contingent upon CON approval from OHCA. (*May 20, 2002, Completeness Responses, pages 1 and 2*)
10. The proposed Center will include two multi-purpose operating rooms, two endoscopy procedure rooms, a post anesthesia care unit and a patient registration and waiting area. The CON proposal also includes space for a business office support area, staff

lockers and lounge area, equipment storage, instrument processing and short-term medical records storage. *(May 20, 2002, Completeness Responses, page 1)*

11. The Applicants submitted a preliminary schematic design for the proposed Center projected to open October 1, 2003. *(May 20, 2002, Completeness Responses, pages 7 and 10)*
12. The proposed Center will be used primarily by gastroenterologists and the following types of surgeons: general surgeons, ophthalmologists, otolaryngologists, orthopedic surgeons, podiatrists and plastic surgeons. In addition, other types of physicians and surgeons may utilize the proposed center. *(May 20, 2002, Completeness Responses, page 12)*
13. It is anticipated that the organizational structure for the proposed Center will be a newly formed limited liability corporation, which will be a joint venture between DePaul and selected physicians or physician investors. The ownership level of physician investors will be limited to no greater than 49% of the total shares of the new joint venture limited liability corporation. *(April 5, 2002, CON Application, pages 4 and 15)*
14. The Applicants' primary service area for the CON proposal includes the five towns of Branford, Clinton, Guilford, Madison and North Branford, and the secondary service area includes the seven towns of Chester, Deep River, East Haven, Essex, Killingworth, Old Saybrook and Westbrook. *(April 5, 2002, CON Application, page 4)*
15. The following map indicates the relative locations of the Hospital, the proposed Center and the Hamden ASC. The town halls of those towns within the primary service area are also identified. *(April 5, 2002, CON Application, pages 11 and 22)*



16. The distances in miles between each primary service area town and the proposed Center, the Hamden ASC, and the Hospital are given below. The location of the

town hall of each town is used as the point of reference. *(April 5, 2002, CON Application, page 11 and www.expedia.com)*

<b>Town</b>	<b>Proposed Center</b>	<b>Hamden ASC</b>	<b>Hosp. Of St. Raphael</b>
Branford	4	12	8
Clinton	17	28	24
Guilford	8	19	15
Madison	14	25	21
North Branford	5	13	9

17. The Applicants designated North Branford as a primary service area town for the Hamden ASC. *(May 19, 1999, Final Decision, Docket Number 98-552, page 3)*
18. The Applicants state that the need for the proposal is due to several factors: *(April 5, 2002, CON Application, page 5)*
- The growing demand for ambulatory surgery;
  - The need to enable SRH System to provided access to necessary medical care in the appropriate setting;
  - The need to better serve its growing patient population along the shoreline east of New Haven; and
  - The desire to increase partnership opportunities with its physicians.
19. The CON proposal is intended to provide ambulatory surgical services to the 158,468 residents of the twelve-town service area. The service area population is expected to increase by 2.5% between 2001 and 2006. The greatest rates of population growth are projected to occur among adults ages 45 to 54 (11.0% of the increase) and senior citizens ages 65 and older (5.3% of the increase). *(April 5, 2002, CON Application, page 4)*
20. The population of the service area can also be characterized as older than that of Connecticut residents as a whole. A comparison of the proportion of the population ages 65 and older shows that this segment of the population represents 15.4% of the 2001 service area population, compared to only 13.8% of the population of Connecticut. The expected increase in population among older adults ages 45 and older should have a positive effect on the future demand for health care services, as older adults have a significantly higher utilization rate of health care services than the rest of the population. *(April 5, 2002, CON Application, page 4)*
21. The population for the five primary service area towns is given below: *(January 25, 2002, CON Application, Yale New Haven Ambulatory Services Corporation, page 8)*

<b>Town</b>	<b>Population</b>	<b>% of Total Population</b>
Branford	27,444	29.9%

North Branford	15,017	16.4%
Guilford	20,226	22.1%
Madison	16,079	17.5%
Clinton	12,927	14.1%
<b>Total</b>	<b>91,693</b>	<b>100.0%</b>

22. In recent years there has been a growing demand for surgery, especially for inpatient surgery, at the Hospital of Saint Raphael. Surgical case volume has increased significantly over the past five years and operating room availability is limited due to current caseloads. *(April 5, 2002, CON Application, page 6)*
23. The Hospital of Saint Raphael has experienced sustained growth in the demand for outpatient surgery, where ambulatory surgeries have increased 50% between FY 1992 (7,160 cases) and FY 2001 (10,731 cases). Ambulatory surgery cases as a percent of total surgical cases have also risen, increasing from 50% of all surgical cases in FY 1992 to 55% by FY 2001. *(April 5, 2002, CON Application, page 7)*

24. A comparison of the Hospital of Saint Raphael’s operating room overtime hours, overtime man minutes and overtime salary costs incurred during the first six month period for the last three fiscal years is as follows: *(April 5, 2002, CON Application, page 6)*

<b>Six Months Ended March 31st</b>	<b>Operating Room Overtime Hours</b>	<b>Operating Room Overtime Man Minutes</b>	<b>Operating Room Overtime Salaries</b>
FY 2000	6,134.01	66,810	\$215,900
FY 2001	6,002.25	135,090	\$229,770
FY 2002	7,549.60	145,781	\$290,070
3 Year Change	1,415.59	78,971	\$ 74,170
3 Year % Change	23.1%	118.2%	34.4%

25. The Applicants stated that their inpatient market share along the East Shoreline has increased. However, their analysis of ambulatory surgery market share data indicates that although total ambulatory surgery cases have increased, the Hospital’s total ambulatory surgery market share in the East Shoreline primary service area towns has declined. *(April 5, 2002, CON Application, page 10)*

26. The Applicants’ ambulatory surgery market share analysis for the East Shore towns of Branford, Clinton, Guilford, Madison and North Branford using FY 1997 through FY 2000 CHIME data is as follows: *(April 5, 2002, CON Application, page 10)*

<b>East Shore Towns - Ambulatory Surgery</b>	<b>FY 1997</b>	<b>FY 1998</b>	<b>FY 1999</b>	<b>FY 2000</b>
Total East Shore Amb. Surgery Cases	4,780	5,383	5,964	6,838
St. Raphael East Shore Amb. Surgery Cases	1,466	1,514	1,741	1,669
St. Raphael East Shore Amb. Surgery Market Share	30.7%	28.1%	29.2%	24.4%

27. Between FY 1997 and FY 2000, total East Shore ambulatory surgery cases increased by 2,057 cases or 43.0%. Although the SRH System’s ambulatory surgery cases increased by 203 cases or 13.8%, the SRH System’s market share decreased by 6.3% or 20.4% overall between FY 1997 and FY 2000. *(April 5, 2002, CON Application, page 10)*

28. The Applicants’ analysis of ambulatory surgery cases as a percent of total Hospital ambulatory surgery cases using FY 1999 through FY 2001 Hospital data for the East Shoreline towns in the proposed primary and secondary service areas, discloses that the Hospital’s total service area actual ambulatory surgery cases were 2,633 cases or 29.8% in FY 1999, 2,675 cases or 28.2% in FY 2000, and 2,570 cases or 28.6% in FY 2001. Between FY 2000 and FY 2001, the Hospital’s total ambulatory surgery cases from the East Shoreline towns in the proposed primary and secondary service areas decreased by 105 cases or 1.2%. *(April 5, 2002, CON Application, page 11)*

29. In the May 20, 2002 filing of completeness responses, the Applicants stated, “It has recently come to our attention that CHIME ambulatory surgery market share data

presented on page 10 of the CON application does not accurately capture all of the Hospital’s shoreline ambulatory surgery volume.” The Applicants also stated, “Data submitted by the Hospital of Saint Raphael does not include ambulatory cases such as endoscopy or cardiology.” *(May 20, 2002, Completeness Responses, page 4)*

30. The Applicants further stated in the May 20, 2002 filing of completeness responses, “In accordance with CHIME’s ambulatory surgery definition, revised patient origin data, corrected for the additional Hospital ambulatory surgery volume is presented in Attachment 4.” The Applicants also stated, “This data shows the Hospital of Saint Raphael’s FY 2000 ambulatory surgery market share was 36.2%, not 24.4% as previously reported”, and that “Based on six months annualized FY 2001 data, the Hospital’s shoreline market share is estimated to have increased slightly from the prior year.” *(May 20, 2002, Completeness Responses, page 4)*

31. The Applicants submitted a revised ambulatory surgery market share analysis for the East Shore towns of Branford, Clinton, Guilford, Madison and North Branford using CHIME data and the Hospital’s internal records for FY 2000 and FY 2001 based on annualized data from the first six months as follows: *(May 20, 2002, Completeness Responses, page 14)*

<b>East Shore Towns – Ambulatory Surgery</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>Change</b>	<b>% Change</b>
Total East Shore Amb. Surgery Cases	8,105	8,374	269	3.3%
St. Raphael East Shore Amb. Surgery Cases	2,937	3,040	103	3.5%
St. Raphael East Shore Amb. Surgery Market Share	36.2%	36.3%	0.1%	0.2%

32. The Applicants subsequently submitted a further revised shoreline ambulatory surgery case volume patient origin analysis as follows: *(June 5, 2002, Prefile Testimony, page 25)*

<b>East Shoreline Service Area Towns</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>% Change</b>
Primary Shoreline Service Area Towns	3,039	3,278	7.9%
Secondary Shoreline Service Area Towns	1,829	1,786	-2.4%
<b>Total Shoreline Service Area</b>	<b>4,868</b>	<b>5,064</b>	<b>4.0%</b>



33. The Applicants' projected volume of ambulatory surgery cases and operating rooms and endoscopy cases and procedure rooms during the first five years of operation of the proposed Center is as follows: *(May 20, 2002, Completeness Responses, page 12)*

<b>Description</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Plastic Surgery	25	35	45	55	65
Gen., ENT., Other Surgery	125	213	333	402	502
Ortho., Pod., Ophthalmic	600	950	1,310	1,670	2,020
<b>Total Amb. Surgery Cases</b>	<b>750</b>	<b>1,198</b>	<b>1,688</b>	<b>2,127</b>	<b>2,587</b>
Operating Rooms	1	1	2	2	2
<b>Total Endoscopy Cases</b>	<b>1,500</b>	<b>2,000</b>	<b>2,300</b>	<b>2,645</b>	<b>3,042</b>
Procedure Rooms	1	2	2	2	2
<b>Total Center Cases</b>	<b>2,250</b>	<b>3,198</b>	<b>3,988</b>	<b>4,772</b>	<b>5,629</b>
Total Center Rooms	2	3	4	4	4

34. The monitoring and evaluation of quality for the ambulatory surgery ("Short Term") service at the Hospital of Saint Raphael is conducted under the overall Hospital "Plan for Excellence in Patient Care, Quality Improvement Plan." In addition, each Hospital department develops a department-specific quality improvement plan. The Applicants submitted a copy of the Quality Improvement Plan for the Hospital's Short Term surgery service. *(April 15, 2002, Completeness Responses, page 2 and pages 10 - 21)*

35. The Applicants' Hamden ASC has received a Certificate of Accreditation from the Accreditation Association for Ambulatory Health Care, Inc. *(April 15, 2002, Completeness Responses, pages 3, 22 and 23)*

36. The location of the proposed Center at 788 East Main Street in Branford is on Connecticut State Route 1, is on a major east-west travel route throughout Southern Connecticut, and as such will be easily accessible from all major travel routes. Ample parking will be provided on site. The proposed Center is expected to operate Monday through Friday during the hours of 7:00 a.m. and 5:30 p.m. *(May 20, 2002, Completeness Responses, page 12)*

37. At the present time, there are no hospitals or multi-specialty ambulatory surgical facilities located in the East Shore towns. In order to access sophisticated or complex health care services, residents must travel up to 20 miles or more to reach existing out-of-area facilities. *(April 5, 2002, CON Application, page 12)*

38. The Applicants believe that with the reconstruction of the Quinnipiac River Bridge ("Q-Bridge"), the issue of access to health care facilities and services for the East Shore area will become more critical due to the anticipated significant traffic congestion during the proposed multiple-year reconstruction period set forth for the Q-Bridge by the Department of Transportation. *(April 5, 2002, CON Application, page 12)*

39. The Hamden ASC was authorized by OHCA to initially open with two fully equipped operating rooms and one endoscopy procedure room. Two additional operating rooms were also authorized. OHCA required the Applicants to file in writing verification as to when each of the remaining two operating rooms became fully equipped and operational. On July 20, 2001, OHCA was notified that the third operating room was opened and functioning on a full-time basis. *(May 19, 1999, Final Decision, Docket Number 98-552 and Correspondence received July 20, 2001)*

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

40. The Applicants' breakdown of the proposed total capital expenditure of \$2,176,417 for the CON proposal is as follows: *(April 5, 2002, CON Application, page 16)*

<b>Description</b>	<b>Amount</b>
Fixed Equipment (Purchase)	\$ 567,177
Movable Equipment (Purchase)	1,289,708
Architect, Legal, Consulting. Costs	150,000
Contingency Fund	169,532
<b>Total Capital Expenditure</b>	<b>\$2,176,417</b>

41. The CON proposal's total capital expenditure will be funded through an equity contribution of \$2,176,417 from SRH System's funded depreciation. *(April 5, 2002, CON Application, page 16 and April 15, 2002 Completeness Responses, page 4)*

42. The Applicants project the following incremental total operating revenue, total operating expense and revenue over/(under) expense during the first three years of operation of the proposed Center: *(May 20, 2002, Completeness Responses, page 9)*

<b>Description</b>	<b>FY 2004</b>	<b>FY2005</b>	<b>FY 2006</b>
Total Operating Revenue	\$1,550,652	\$2,261,846	\$2,898,688
Total Operating Expense	2,092,637	2,558,557	2,784,915
<b>Revenue Over/(Under) Expense</b>	<b>\$ (541,985)</b>	<b>\$ (296,711)</b>	<b>\$ 113,773</b>

43. The projected payer mix associated with the CON proposal is as follows: *(April 5, 2002, CON Application, page 18)*

<b>Payer</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Medicare	25.4%	24.5%	23.7%
Medicaid	0.5%	0.4%	0.4%
TriCare	0.0%	0.0%	0.0%
<b>Total Government</b>	<b>25.9%</b>	<b>24.9%</b>	<b>24.1%</b>
Commercial Insurers	56.8%	57.1%	57.4%
Self-Pay	0.0%	0.0%	0.0%
Workers Compensation	17.3%	18.0%	18.5%
<b>Total Non-Government</b>	<b>74.1%</b>	<b>75.1%</b>	<b>75.9%</b>
Uncompensated Care	0.0%	0.0%	0.0%
<b>Total Payer Mix</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

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

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

44. There is no State Health Plan in existence at this time. *(April 5, 2002, CON Application, page 2)*

45. The Applicants have adduced evidence that this proposal is consistent with the Applicants' long-range plans. *(April 5, 2002, CON Application, page 2)*

46. The Applicants have no current teaching and research responsibilities that would be affected as a result of the proposal. *(April 5, 2002, CON Application, page 14)*

47. There are no distinguishing or unique characteristics of the patient/physician mix related to the Applicants' proposal. *(April 5, 2002, CON Application, page 14)*

48. The Applicants have implemented various activities to improve productivity and contain costs. *(April 5, 2002, CON Application, page 14)*

49. The Applicants have sufficient technical, financial and managerial competence to provide efficient and adequate service to the public. *(April 5, 2002, CON Application, Appendix B, pages 23 - 35)*

## **Rationale**

DePaul Health Services Corporation and Saint Raphael Healthcare System (“Applicants”) propose the establishment of a shoreline ambulatory surgery and endoscopy center (“proposed Center”) to be located in leased building space at 788 East Main Street in Branford, at a total capital expenditure of \$2,176,417. The proposed Center will include two multi-purpose operating rooms and two endoscopy procedure rooms, a post anesthesia care unit and ancillary support space. The Applicants’ establishment of the proposed Center is Phase I of a project to create a comprehensive multi-disciplinary health campus at this location. Phase II of the project, to be addressed in a future CON application filing, would include the consolidation and integration of the Occupational Health, Outpatient Rehabilitation and Cardiac Rehabilitation services of the Hospital of Saint Raphael (“Hospital”) at the same location as the proposed Center.

The CON application presents the Applicants’ preliminary plan to extend the scope of their current services and facilities but the information provided falls far short of supporting those plans. It is implied by the Applicants that the establishment of the proposed Center would improve the availability of the operating rooms in the Saint Raphael Healthcare System (“SRH System”). However, the Applicants present no evidence of the future impact of the Hamden Ambulatory Surgery Center’s four approved operating rooms nor evidence to support the projected migration of ambulatory surgery and endoscopy cases currently being performed at the Hospital in New Haven to the proposed Center. There is no breakdown provided of ambulatory surgeries or endoscopies performed at the Hospital by patient town of origin for the current year, previous years or for the five years projected. No calculations of the projected case volumes or any methodology was provided that was used to estimate the number of ambulatory surgery and endoscopy cases that would migrate to the proposed Center.

There was no discussion by the Applicants of the various options that were considered to alleviate the overtime use of the operating rooms at the Hospital. The lack of any analysis addressing the specific number of new operating rooms required to alleviate the Hospital’s overtime use of operating rooms and staff is of particular concern to OHCA. The Applicants gave OHCA no assurance that only two additional operating rooms is all that is required to alleviate the overtime use of operating rooms at the Hospital. Furthermore, it is unclear how the proposed Center would affect the operations of the Hamden ASC. It appears that the Hamden ASC’s four approved operating rooms have not all become fully operational. One operating suite has yet to be put into service. This fourth operating room may accommodate ambulatory surgery patients currently being provided services at the Hospital. Therefore, with no breakdown by patient town of origin of the number of ambulatory surgeries and endoscopy procedures performed within the overall SRH System provided by the Applicants, an analysis of the impact of the proposed Center in alleviating the Hospital’s use of its operating room overtime cannot be performed.

The Applicants include the towns of Branford, North Branford, Guilford, Madison, and Clinton in the primary area for the proposed Center. North Branford, however, was also designated to be part of the primary service area of the Hamden ASC. Branford is less

than fifteen miles from the Hospital and the Hamden ASC. Without the proposed Center, the residents of North Branford and Branford still have a reasonable choice of accessing ambulatory surgery and endoscopy services at the Applicants' other locations. When the populations of Branford and North Branford are combined, 46.3% of the primary service area is served by ambulatory surgery and endoscopy services currently provided by the Applicants. In addition, East Haven is included in the proposed Center's secondary service area. When viewing the map of the proposed service area, it is very clear that East Haven is within the Hospital's primary service area for ambulatory surgery and endoscopy services, since East Haven is adjacent to New Haven. Therefore, it is very unclear how the migration of ambulatory surgery and endoscopy cases to the proposed Center from the Hospital and the Hamden ASC will affect the overall SRH System.

The Applicants plan to locate the proposed Center in a yet-to-be constructed building to be located on land currently owned by the SRH System in Branford. Although the Applicants have had preliminary discussions with the developers of the new building, there have been no contract negotiations regarding the leasing of space for the proposed Center. Therefore, none of the financial information provided by the Applicants addresses the proposed Center's operating lease costs or the capital costs associated with any necessary leasehold improvements required for the proposed Center.

The Applicants anticipate that the proposed Center will become a joint venture between DePaul and selected physician investors and that the organizational structure for the CON proposal will be a newly formed limited liability corporation. The ownership level of the physician investors will be limited to no greater than 49% of the total shares of the new joint venture limited liability corporation. As such, a complex series of relationships and associated written agreements regarding ownership, operations, and the sharing of the proposed Center's profits and/or losses would exist between DePaul and the investors.

These relationship agreements, required by OHCA to evaluate the financial feasibility of the proposed Center, have neither been discussed nor provided by the Applicants in the CON application. Full disclosure of the financial relationships and associated written agreements is an essential part of the OHCA's review process for the evaluation of the impact of the CON proposal on the Applicants and the other investors in the proposed Center. Therefore, OHCA cannot reach any conclusion regarding the financial feasibility of the proposal due to the paucity of financial information documenting the financial relationships concerning the proposed Center's ownership, operations and profit-sharing arrangements.

OHCA acknowledges that the improvement program for transportation in the area, including the reconstruction of the bridge over the Quinnipiac River, may cause traffic delays. However, the development of the proposed Center in Branford appears to be based upon concern for physician and patient convenience rather than meeting a perceived unmet service area need for health care services or alleviating any forecasted barriers to accessible health care services.

The Applicants' CON application appears to have been submitted prematurely. There is little information concerning the impact of the proposed Center on the operations of the SRH System as a whole, including both the Hospital and the Hamden ASC. There is also little information provided on the organizational structure of the proposed joint venture and the financial feasibility of the project. OHCA concludes that the Applicants have not demonstrated a clear public need for the CON proposal. Furthermore, OHCA finds that the Applicants' assertions that the CON proposal would meet an unmet need for ambulatory surgery and endoscopy services in the proposed service area as well as alleviate barriers to accessible health care are simply not credible and have not been adequately supported in the CON application.

Based upon the foregoing Findings and Rationale, the Certificate of Need application of DePaul Health Services Corporation and Saint Raphael Healthcare System to establish a shoreline ambulatory surgery and endoscopy center to be located in leased building space at 788 East Main Street in Branford, at a total capital expenditure of \$2,176,417, is hereby DENIED.

## **Order**

The proposal of DePaul Health Services Corporation and Saint Raphael Healthcare System to establish a shoreline ambulatory surgery and endoscopy center to be located in leased building space at 788 East Main Street in Branford, at a total capital expenditure of \$2,176,417, 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 Signed:  
June 26, 2002

Signed by:  
Raymond J. Gorman  
Commissioner

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