

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

Raul Pino, M.D., M.P.H.  
Commissioner



Dannel P. Malloy  
Governor  
Nancy Wyman  
Lt. Governor

Office of Health Care Access

### Final Decision

### Modification of a Previously Authorized Certificate of Need

**Applicant:** Middlesex Hospital  
28 Crescent Street, Middletown, CT

**Docket Number:** 17-31985-MDF

**Project Description:** Modification of previous Certificate of Need  
authorization 15-31985-CON

**Procedural History:** On April 20, 2016, the Office of Health Care Access (“OHCA”) issued a Certificate of Need (“CON”) to Middlesex Hospital under Docket Number 15-31985-CON, for the acquisition of non-hospital based linear accelerator. Included with the CON was a requirement that Middlesex Hospital acquire a dedicated CT scanner with simulation capabilities.

On June 29, 2017, OHCA received a Request for Modification from Middlesex Hospital seeking to modify Condition 3.b. of the CON. As required by Conn. Gen. Stat. § 19a-639b(b), OHCA noticed this request on its website for 30 days and notified the other parties involved. OHCA did not receive any written comments or requests for a public hearing. Deputy Commissioner Addo reviewed the entire record in this matter.



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## Findings of Fact

1. The CON issued under Docket Number 15-31985-CON (the “CON”), by way of an Agreed Settlement, required Middlesex Hospital to acquire a dedicated CT scanner with simulation capabilities (“CT scanner 2”) for its shoreline facility located at 250 Flat Rock Place, Westbrook, Connecticut (“Shoreline Facility”).
2. OHCA intended for CT scanner 2 to be used exclusively for cancer patients at the Shoreline Facility.
3. At the time the Agreed Settlement was executed, Middlesex Hospital did not believe that having a “dedicated” scanner meant that it could not use CT scanner 2 as a back-up for the Shoreline Facility’s non-cancer patients if its other CT scanner (“CT scanner 1”) experienced unexpected downtime or to cover overflow.
4. Since the issuance of the CON, OHCA has advised Middlesex Hospital that CT scanner 2 was to be used only for cancer patients at the Shoreline Facility.
5. CT scanner 1 has shown a consistent increase in the number of scans it performs each year. The chart below shows the specific volumes:

Shoreline CT	Year	2012	2013	2014	2015	2016
	Actual Shoreline CT Volume	5995	6296	6554	7365	7854

## Discussion

Connecticut General Statutes § 4-181a (b) provides in relevant part: “On a showing of changed conditions, the agency may reverse or modify the final decision, at any time, at the request of any person or on the agency’s own motion.” Middlesex Hospital has sufficiently demonstrated a change in conditions based upon its interpretation of the language contained in the Agreed Settlement versus OHCA’s interpretation. Additionally, although minimal, the increase in volume for CT scanner 1 also constitutes a change in conditions. It should be noted that the minimal increase in volume would not alone be enough to grant a modification of the original CON. However, in order to increase access for the patients at the Shoreline Facility, OHCA deems it appropriate to approve Middlesex Hospital’s request to allow for the use of CT scanner 2 on all patients, not just cancer patients.

## Order

Based upon the foregoing, the request to modify the CON issued under Docket Number 15-31985-CON is hereby **APPROVED**. Condition 3.b. is hereby revised as follows:

- b. acquire a CT-scanner with simulation capabilities at its Shoreline site for use on cancer and non-cancer patients,

All other conditions entered under Docket Number 15-31985-CON remain in effect.

7/31/2017  
Date

  
Yvonne T. Addo, MBA  
Deputy Commissioner