



M. JODI RELL  
GOVERNOR

STATE OF CONNECTICUT  
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL  
COMMISSIONER

July 28, 2009

**IN THE MATTER OF:**

An Application for a Certificate of  
Need filed pursuant to Section  
19a-638, C.G.S. by

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 08-~~3~~1088-CON

**HealthSouth Corporation**

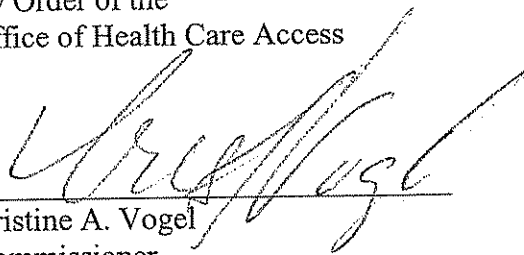
**Termination of Outpatient Rehabilitations  
Services and Closure of the HealthSouth  
Sports Medicine and Rehabilitation Clinic in  
Norwalk**

To: Walter Smith  
State Regulatory Affairs Director  
HealthSouth Corporation  
One HealthSouth Parkway  
Birmingham, AL 35243

Dear Mr. Smith:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter as provided by Section 19a-638, C.G.S. On July 28, 2009, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

By Order of the  
Office of Health Care Access

  
Cristine A. Vogel  
Commissioner

CAV:jah



## Office of Health Care Access Certificate of Need Application

### FINAL DECISION

**Applicant:** HealthSouth Corporation

**Docket Number:** 08-31088-CON

**Project Title:** Termination of Outpatient Rehabilitations Services and Closure of the HealthSouth Sports Medicine and Rehabilitation Clinic in Norwalk

**Statutory Reference:** Section 19a-638 of the Connecticut General Statutes

**Filing Date:** May 26, 2009

**Decision Date:** July 28, 2009

**Default Date:** August 24, 2009

**Staff Assigned:** Jack A. Huber

**Project Description:** HealthSouth Corporation is proposing to terminate outpatient rehabilitation services and close the HealthSouth Sports Medicine and Rehabilitation Clinic, located at 40 Cross Street in Norwalk, Connecticut, at no capital expenditure.

**Nature of Proceedings:** On May 26, 2009, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application of HealthSouth Corporation (“Applicant”) seeking authorization to terminate outpatient rehabilitation services and close the HealthSouth Sports Medicine and Rehabilitation Clinic, located at 40 Cross Street in Norwalk, Connecticut, at no capital expenditure. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

A notice to the public concerning OHCA’s receipt of the Applicant’s Letter of Intent was published in *The Hour* of Norwalk, on February 16, 2009. Pursuant to 19a-638, C.G.S., three individuals or an individual representing an entity with five or more people had until

June 16, 2009, the twenty-first calendar day following the filing of the Applicant's CON Application, to request that OHCA hold a public hearing on the Applicant's proposal. OHCA received no hearing requests from the public by June 16, 2009.

OHCA's authority to review and approve, modify or deny the CON application is established by Section 19a-638, 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 fully considered by OHCA in its review.

## Findings of Fact

### Clear Public Need

#### Impact of the Proposal on the Applicant's 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

#### Financial Feasibility and Cost Effectiveness 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 the Payers for Such Services

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

1. It is found that HealthSouth Corporation ("Applicant") is a for-profit Delaware corporation, headquartered in Birmingham, Alabama. (*June 20, 2008, Initial CON Application Submission, page 2*)
2. On October 31, 2007, under Docket Number ("DN"): 07-30953-CON, the Office of Health Care Access ("OHCA") authorized a Certificate of Need ("CON") granting the termination of 32 Connecticut outpatient rehabilitation centers owned and operated by HealthSouth Corporation and the acquisition and continued operation of the 32 outpatient rehabilitation centers by Select Medical Corporation. (*October 31, 2007, Final Decision, Docket Number: 07-30953-CON*)
3. The Applicant's request is submitted in accordance with condition number 8 of OHCA's order within the CON authorization under DN: 07-30953-CON, which stipulates the following:

*"HealthSouth Corporation shall be required to file either a Certificate of Need Determination Request or a Certificate of Need Letter of Intent to terminate outpatient rehabilitation services at the Norwalk Outpatient Rehabilitation Center, located at 40 Cross Street in Norwalk." (October 31, 2007, Final Decision Order, Docket Number: 07-30953-CON, page 9)*

4. The Applicant contends that Madison Rehabilitation Center, Inc., d/b/a HealthSouth Sports Medicine and Rehabilitation Center of Norwalk ("Norwalk Clinic"), a wholly owned subsidiary of HealthSouth Corporation, closed the Norwalk Clinic on June 30, 2007. The Norwalk Clinic, located in a medical office building at 40 Cross Street, had been in operation under HealthSouth Corporation ownership since 1996, and closed without CON authorization. (*June 20, 2008, Initial CON Application Submission, pages 2 and 6*)

5. The Applicant contends that the Norwalk Clinic provided outpatient rehabilitation services, including but not limited to, spine, back, foot and ankle; hand and upper extremity therapy; industrial rehabilitation; physical therapy; and sports and general orthopedic rehabilitation services. *(June 20, 2008, Initial CON Application Submission, page 2)*
6. The Applicant claims that the closure of its Norwalk Clinic resulted from discussions and agreements reached during the early part of 2007 between the Applicant, the landlord of the 40 Cross Street medical office building (“Landlord”) and Coastal Orthopaedic, PC, (“Coastal PC”), a private orthopedic practice located in the 40 Cross Street medical office building. *(June 20, 2008, Initial CON Application Submission, pages 2 and 3)*
7. The Applicant contends that the lease termination agreement between the Applicant and the Landlord for space occupied at the 40 Cross Street medical office building was signed on June 5, 2007. During the time leading up to this agreement, the Applicant operated under the assumption that it was free to terminate its provision of outpatient rehabilitation services in Norwalk without the need to secure a CON from OHCA. *(June 20, 2008, Initial CON Application Submission, page 3)*
8. On June 6, 2007, under CON determination Report Number: 07-30953-DTR, the Applicant received a determination from OHCA that CON approval was necessary for the transfer of ownership and/or closure of the Connecticut outpatient rehabilitation centers operated by HealthSouth Corporation. *(June 6, 2007, CON Determination, Report Number: 07-30953-DTR, page 4)*
9. The Applicant contends that Coastal Orthopedics Physical Therapy (“Coastal PT”), an affiliate of Coastal PC, now operates its own outpatient rehabilitation clinic at 40 Cross Street in Norwalk with largely the same outpatient rehabilitation services that were previously offered by HealthSouth Corporation. *(June 20, 2008, Initial CON Application Submission, pages 2 through 4)*
10. The Applicant contends that its Norwalk Clinic’s actual service volumes and associated income or (loss) from operations for fiscal years (“FYs”) 2004 through 2007 were as follows:

	<b>Fiscal Year</b>	<b>Actual Visits</b>	<b>Gain or (Loss)</b>
•	FY 2004	10,977 visits	\$143,043
•	FY 2005	8,038 visits	\$119,954
•	FY 2006	5,225 visits	(\$105,558)
•	FY 2007*	880 visits	(\$68,653)

Note: \*partial fiscal year  
*(May 26, 2009, Applicant Completeness Response, pages 2 and 4)*
11. The project has no associated capital expenditure. *(June 20, 2008, Initial CON Application Submission, page 1)*
12. There is no State Health Plan in existence at this time. *(June 20, 2008, Initial CON Application Submission, page 2)*

## Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for Certificate of Need (“CON”) proposals on a case by case basis. CON applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposal.

HealthSouth Corporation (“Applicant”) is seeking CON authorization for terminating outpatient rehabilitation services at the Madison Rehabilitation Center, Inc., d/b/a HealthSouth Sports Medicine and Rehabilitation Clinic in Norwalk (“Norwalk Clinic”). The Applicant provided routine outpatient rehabilitation services at the Norwalk Clinic from 1996 to June 30, 2007, in a medical office building located at 40 Cross Street. The closure of the Norwalk Clinic resulted from discussions and agreements reached during the early part of 2007 between the Applicant, the landlord of the 40 Cross Street medical office building (“Landlord”) and Coastal Orthopaedic, PC, (“Coastal”), a private orthopedic practice, also located in the 40 Cross Street medical office building.

Coastal Orthopedics Physical Therapy (“Coastal PT”), an affiliate of Coastal, now operates its own outpatient rehabilitation clinic (“Coastal PT Clinic”) at 40 Cross Street medical office building site. The Coastal PT Clinic provides largely the same outpatient rehabilitation services that were previously offered by HealthSouth Corporation at the Norwalk Clinic. While Coastal PT maintains outpatient rehabilitation services at the Norwalk location, OHCA was deprived of the opportunity to review the Applicant’s information prior to closure of the Norwalk Clinic. Consequently, OHCA is unable to determine whether patient access was adversely impacted at the time of closing.

The Applicant’s proposal to terminate the Norwalk Clinic has no associated capital expenditure. The Applicant experienced operating losses of (\$105,558) and (\$68,654) in FYs 2006 and 2007, respectively, due to declining patient volumes.

## Order

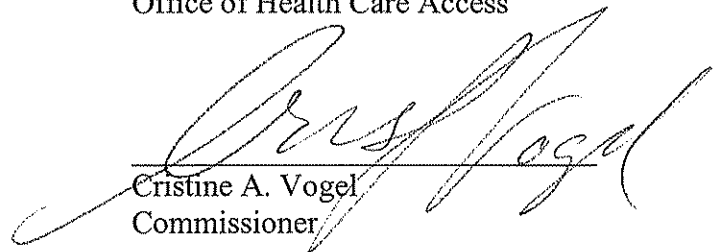
The proposal of HealthSouth Corporation ("Applicant") to terminate its outpatient rehabilitation services and close the Madison Rehabilitation Center, Inc., d/b/a HealthSouth Sports Medicine and Rehabilitation Clinic, at 40 Cross Street, in Norwalk, Connecticut, at no capital expenditure, is hereby GRANTED.

HealthSouth Corporation shall hereafter notify the Office of Health Care Access ("OHCA") of any and all proposed termination of services prior to finalizing any decision to terminate any services or programs. Failure to notify OHCA in advance of any proposed termination of services may be considered as not filing required information and subject HealthSouth Corporation to civil penalties pursuant to Section 19a-653 of the Connecticut General Statutes.

Should the Applicant fail to comply with the aforementioned condition, OHCA reserves the right to take additional action as authorized by law. 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

7-28-09  
Date

  
Cristine A. Vogel  
Commissioner

CAV: jah