

M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL
COMMISSIONER

June 29, 2009

IN THE MATTER OF:

Certified Mail: 7005-0390-0001 3507 0781

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: 08-31239-CON

**Formé Rehabilitation
of Connecticut, Inc.**

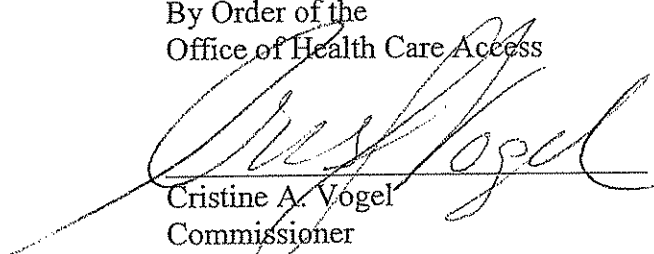
**Establishment of Multi-Specialty
Rehabilitation Outpatient Clinic
in Norwalk**

To: Peter Montepelier
Formé Rehabilitation, Inc.
1075 Central Park Avenue
Scarsdale, NY 10583

Dear Mr. Montepelier:

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 June 29, 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

Enclosure

CAV: agf



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Formé Rehabilitation of Connecticut, Inc.

Docket Number: 08-31239-CON

Project Title: Establishment of Multi-Specialty Rehabilitation
Outpatient Clinic in Norwalk

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

Filing Date: March 5, 2009

Decision Date: June 29, 2009

Default Date: July 3, 2009 (30 day time extension)

Staff Assigned: Alexis G. Fedorjaczenko

Project Description: Formé Rehabilitation of Connecticut, Inc. proposes to establish an outpatient clinic in Norwalk providing multi-specialty rehabilitation services to children with physical and cognitive impairments, at an estimated total capital expenditure of \$78,240.

Nature of Proceedings: On March 5, 2009, the Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application from Formé Rehabilitation of Connecticut, Inc. ("Applicant") seeking to establish an outpatient clinic in Norwalk providing multi-specialty rehabilitation services to children with physical and cognitive impairments, at an estimated total capital expenditure of \$78,240. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

Pursuant to Section 19a-638, C.G.S., a notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published in *The Hour* (Norwalk) on September 30, 2008. OHCA received no responses from the public concerning the Applicant's proposal. Pursuant to 19a-638 C.G.S., three individuals or an individual representing an entity with five or more people had until March 26, 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.

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

1. It is found that Formé Rehabilitation of Connecticut, Inc. ("Applicant") is a Connecticut Stock Corporation. *(December 9, 2008, Initial CON Application, pages 6, 9)*
2. It is found that the Applicant shares common owners and officers with Formé Rehabilitation, Inc. ("Formé-NY"), a New York corporation that provides physical and occupational therapy and a variety of wellness programs in Scarsdale and Eastchester, New York. *(December 9, 2008, Initial CON Application, page 11 and February 24, 2009, Completeness Response, pages 2- 3)*
3. The Applicant proposes to provide services at 235 Main Avenue in Norwalk, Connecticut. *(June 17, 2009, Additional Submission)*
4. The proposal's target population is children and adolescents with (i) autism-spectrum disorder, and (ii) complex physical, emotional and cognitive impairments. *(December 9, 2008, Initial CON Application, page 11)*
5. The Applicant proposes to offer an integrated, multidisciplinary approach to special needs children and adolescents and their families, by providing the following services:
 - Physical therapy, occupational therapy, and speech and language pathology;
 - Arrangement of liaison relationships with schools;
 - Coordination of services with the child's pediatrician;
 - Parent coaching, information, and family counseling;
 - Physical fitness, weight management, and nutritional counseling; and
 - Custom orthotics and prosthetics.*(December 9, 2008, Initial CON Application, pages 12 & 14-15)*
6. The Applicant contends that many children in the target population receive some degree of supportive services through programs operated by state and local agencies and local school districts, which may have developed mandated Individualized Education Plans ("IEP") for their educational needs. Further, the Applicant contends that these services

are largely educationally-oriented and subject to stringent resources, and parents and caregivers often seek additional services for their children to supplement those provided in the IEP. *(December 9, 2008, Initial CON Application, pages 11-12 and 14)*

7. The Applicant contends that for children on the autism spectrum, being able to obtain a full range of integrated, multidisciplinary services in one location results in better compliance and better outcomes. *(December 9, 2008, Initial CON Application, page 15)*
8. OHCA finds that the Applicant failed to provide documentation to support the benefits of integrated, multidisciplinary services.
9. The Applicant contends that it conducted a survey of providers of similar services within 20 miles of its proposed Norwalk location, and identified the following providers that offer any of the individual components of the Applicant's program.

Table 1: Existing Providers of Similar Special Needs Pediatric Services

Provider Name	Town	Physical Therapy	Occupational Therapy	Speech Therapy
Rehab Associates	Westport	Yes	Yes	Yes
Premier Physical Therapy and Wellness	Norwalk	Yes	No	No
Integrated Rehabilitation Services	Norwalk	Yes	No	No
OT Works for Kids	Norwalk	No	Yes	No
Theresa Hasselrot Physical Therapy	New Canaan	Yes	No	No
AHLBIN Rehab Center	Southport	Yes	Yes	No
Center for Pediatric Therapy	Fairfield	Yes	Yes	Yes

(December 9, 2008, Initial CON Application, pages 4, 13, 14 and 22)

10. It is found that existing providers are located in the area, and although their approach may be different from the Applicant's proposal, OHCA cannot conclude that access will be improved.
11. To project the number of clients for the first three years of operations, the Applicant used school enrollment data to estimate an overall population of 40,000 children aged 18 and under in Norwalk, Wilton, Westport, New Canaan, and Darien. The Applicant cited research indicating that 16% of Connecticut children have special health care needs, and estimated that 5.5% of these children would be potential clients for Formé's services. The Applicant also assumed a Year 1 market share of 25%; Year 2 market share of 35%; and Year 3 market share of 50%.

Table 2: Projected Units of Service Years 1-3

	Number of Clients		
	Year 1	Year 2	Year 3
Number of Clients	550	770	1,100
Average Visits per Client Annually	12	12	12
Annual Units of Service	6,600	9,240	13,200

(December 9, 2008, Initial CON Application, page 20, and February 24, 2009, Completeness Response, pages 2- 3)

12. The Applicant contends that their assumptions for the projected number of patients and visits for the proposal's first three years of operations are consistent with Formé-NY's development curve in its New York operations. *(February 24, 2009, Completeness Response, page 2)*
13. The Applicant contends that local schools and state agencies will be a significant source of patient referrals, but will not pursue formal relationships until CON authorization. *(February 24, 2009, Completeness Response, page 2)*
14. The Applicant contends that discussions with local health care providers – both local hospitals and local physician groups – helped determine that there was need for a multidisciplinary outpatient service targeting children and adolescents with special needs. *(December 9, 2008, Initial CON Application, page 11)*
15. The Applicant failed to provide evidence that local hospitals and physicians are in support of the proposal and believe there is a need for this service.

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

16. The project's total capital expenditure of \$78,240 is for the purchase of medical equipment. *(December 9, 2008, Initial CON Application, page 7)*
17. The proposal will be financed through operating funds. *(December 9, 2008, Initial CON Application, page 8)*
18. Formé Rehabilitation of Connecticut, Inc. will bill for the proposed service. *(December 9, 2008, Initial CON Application, page 7)*
19. The Applicant's projected incremental revenue from operations, total operating expense and gain from operations associated with the CON proposal are as follows:

Table 3: Financial Projections Incremental to the Project

Description	FY 2009	FY 2010	FY 2011
Incremental Revenue from Operations	\$899,500	\$1,234,300	\$2,011,500
Incremental Total Operating Expense	\$933,478	\$1,226,441	\$1,904,982
Incremental Gain from Operations	(\$33,978)	\$7,859	\$106,518

(December 9, 2008, Initial CON Application, pages 93-99)

20. The Applicant expects a loss during start-up, due to the need to hire licensed professional staff in anticipation of service utilization and the time that it takes for a referral base to become established. *(December 9, 2008, Initial CON Application, page 15)*

21. The Applicant provided the following three-year projected payer mix for the proposed service, based on Gross Patient Revenue:

Table 4: Three-Year Projected Payer Mix

Description	Year 1	Year 2	Year 3
Medicare*	3%	3%	3%
Medicaid*	7%	7%	7%
CHAMPUS and TriCare	--	--	--
Total Government	10%	10%	10%
Commercial Insurers*	50%	50%	50%
Uninsured/Self Pay	40%	40%	40%
Workers Compensation	--	--	--
Total Non-Government	90%	90%	90%
Total Payer Mix	100%	100%	100%

* Includes managed care activity.

(December 9, 2008, Initial CON Application, page 9)

22. The Applicant contends that most rehabilitation outpatient services are subject to significant limits (e.g., a number of sessions or therapy per annum), and that they anticipate that services will be paid in accordance with caps and that many services beyond these will be self-pay. The Applicant indicated that this is consistent with their experience providing similar programs to a demographically-similar population in Westchester County, New York. (December 9, 2008, Initial CON Application, page 15 and February 24, 2009, Completeness Response, page 3)
23. The Applicant estimated an average rate of \$70 per rehabilitative services visit, assuming variation for Medicaid clinic and contracted network rates. (December 9, 2008, Initial CON Application, pages 15, 93-99)
24. There is no State Health Plan in existence at this time. (December 9, 2008, Initial CON Application, page 2)
25. The Applicant contends that the proposal is consistent with its long-range plan. (December 9, 2008, Initial CON Application, page 2)
26. As a new entity, the Applicant has not yet improved productivity and contained costs. (December 9, 2008, Initial CON Application, page 5)

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.

Formé Rehabilitation of Connecticut, Inc. (“Applicant”) is a Connecticut Stock Corporation that shares common owners and officers with Formé Rehabilitation, Inc., (“Formé-NY”) a New York corporation that provides physical and occupational therapy and a variety of wellness programs in Scarsdale and Eastchester, New York. The Applicant proposes to establish an outpatient clinic located at 235 Main Avenue in Norwalk, Connecticut, to provide multi-specialty rehabilitation services to children with autism-spectrum disorder or complex physical, emotional and cognitive impairments.

The Applicant proposes to offer an integrated, multidisciplinary approach to serving special needs children and adolescents and their families. However, the Applicant failed to support their assertions that a full range of integrated, multidisciplinary services in one location will serve an unmet need for children and adolescents with physical and cognitive impairments. The Applicant did not provide documentation supporting the benefits of the proposed service compared to the existing providers located in the area. Furthermore, although the Applicant contends that local hospitals and physician groups helped determine that there is a need for the proposed service, the Applicant did not provide evidence supporting this. Although the projected number of patients and visits may be consistent with the Applicant’s New York operation, OHCA finds that the existence of a patient base in the Connecticut service area has not yet been established. Accordingly, OHCA concludes that the Applicant has failed to demonstrate that a clear public need exists for the proposed service.

The proposal’s capital expenditure total of \$78,240 is for the purchase of medical equipment, and will be financed through operating funds. The Applicant projects an incremental loss of (\$33,978) in FY 2009, and incremental gains of \$7,859 and \$106,518 in FYs 2010 and 2011, respectively. Based upon the lack of evidence demonstrating need for the proposal, OHCA is unable to conclude that the Applicant’s financial projections, and volumes upon which they are based, are reasonable and achievable, or that the project is financially feasible.

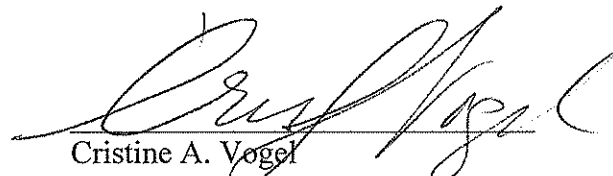
Order

Based on the foregoing Findings and Rationale, the Certificate of Need application of Formé Rehabilitation of Connecticut, Inc., for the establishment of an outpatient clinic in Norwalk providing multi-specialty rehabilitation services to children with physical and cognitive impairments, at an estimated total capital expenditure of \$78,240, is hereby DENIED.

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

By Order of the
Office of Health Care Access

6-29-09
Date


Cristine A. Vogel
Commissioner

CAV:agf