

M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL
COMMISSIONER

June 26, 2009

IN THE MATTER OF:

An Application for a Certificate of
Need filed pursuant to Sections 19a-
638 and 19-639, C.G.S. by:

Notice of Final Decision
Office of Health Care Access
Docket Number: 08-31279-CON

Bridgeport Hospital

**Purchase of an Existing Radiation
Therapy Practice and Acquisition of a
Replacement Linear Accelerator to
Establish a Hospital Satellite Radiation
Therapy Facility in Trumbull**

To: Augusta Mueller
Director of Planning
267 Grant Street
Bridgeport, CT 06610

Dear Ms. Mueller:

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 and 19a-639, C.G.S. On June 26, 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.

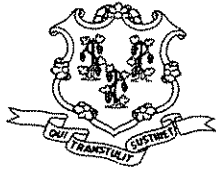
By Order of the
Office of Health Care Access



Cristine A. Vogel
Commissioner

Enclosure

CAV: lkg



Office of Health Care Access Certificate of Need Application

Final Decision

Hospital: Bridgeport Hospital

Docket Number: 08-31279-CON

Project Title: Purchase of an Existing Radiation Therapy Practice and Acquisition of a Replacement Linear Accelerator to Establish a Hospital Satellite Radiation Therapy Facility in Trumbull

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

Filing Date: May 29, 2009

Presiding Officer: Cristine A. Vogel, Commissioner

Decision Date: June 26, 2009

Default Date: August 27, 2009

Staff Assigned: Laurie K. Greci

Project Description: Bridgeport Hospital ("Hospital") proposes to purchase an existing radiation therapy practice located at 15 Corporate Drive, Trumbull, and acquire a replacement linear accelerator to establish a hospital satellite radiation therapy facility. The total capital expenditure associated with the proposal is \$7,021,098.

Nature of Proceedings: On May 29, 2009, the Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application of the Hospital seeking authorization to purchase an existing radiation therapy practice located at 15 Corporate Drive, Trumbull, and acquire a replacement linear accelerator to establish a hospital satellite radiation therapy facility. The total capital expenditure associated with the proposal is \$7,021,098. The Hospital 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 regarding OHCA's receipt of the Hospital's Letter of Intent to file its CON Application was published in the *Connecticut Post* (Bridgeport) on December 5, 2008. OHCA received no responses from the public concerning the Hospital's proposal.

Pursuant to Sections 19a-638 and 19a-639, C.G.S., three individuals, or an individual representing an entity with five or more people, had until June 19, 2009, the twenty-first calendar day following the filing of the Hospital's CON application, to request that OHCA hold a public hearing on the Hospital's proposal. OHCA received no hearing requests from the public.

OHCA's authority to review and approve, modify or deny this proposal 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 on the Hospital's Current Utilization Statistics Contribution of the Proposal to the Accessibility and Quality of Health Care Delivery in the Region

1. It is found that Bridgeport Hospital ("Hospital") is an acute care general hospital located at 267 Grant St., Bridgeport, Connecticut. *(February 17, 2009, Initial CON Submission, page 108)*
2. It is found that Radiation Oncology of Southern Connecticut, LLC ("ROSC") is a limited liability company owned by Susan Dunbar, M.D. and Paul Berger, M.D. Under the proposal, the practice location will become an outpatient department of the Hospital. *(February 17, 2009, Initial CON Submission, page 30)*
3. It is found that the Hospital currently offers radiation therapy services on the hospital's main campus at 267 Grant Street in Bridgeport through the use of a single linear accelerator. *(February 17, 2009, Initial CON Submission, page 21)*
4. According to the Hospital, ROSC has been providing radiation therapy services at the site for over fifteen years through referrals from Bridgeport Hospital medical staff and has provided treatment to over 700 patients for each of the past three years. *(February 17, 2009, Initial CON Submission, pages 22 and 27)*
5. Drs. Berger and Dunbar, the current owners of ROSC, provide radiation oncology services at both sites. Thus, the purchase of the practice represents a continuation of a longstanding relationship of the Hospital with the practice and the referring community physicians. *(February 17, 2009, Initial CON Submission, page 108)*

6. According to the Hospital, patients receive a referral from their medical or surgical oncologist to a radiation oncologist. The population to be served includes any patient who has received a radiation oncology referral and is a candidate for treatment. The Hospital's medical and surgical oncologists refer their patients to either the radiation therapy service at the Hospital or ROSC for treatment. *(February 17, 2009, Initial CON Submission, page 108)*
7. The Hospital contends that the existing provider of radiation therapy services in the area is Saint Vincent's Medical Center ("SVMC"), 2800 Main Street in Bridgeport. The two physicians who provide the services are Deborah Fang, M.D. and Christopher Iannuzzi, M.D. According to the Patient Census Report published by Connecticut Hospital Association, there were 10,522 visits to SVMC for radiation therapy services in the most recent 12 month period. *(February 17, 2009, Initial CON Submission, page 108)*
8. The Hospital asserts that this proposal will have no impact related to patient volume or quality of care on the radiation therapy service at St. Vincent's Medical Center. *(February 17, 2009, Initial CON Submission, page 108)*
9. The following table summarizes the Hospital's market share for inpatient oncology services with its primary service area:

Table 1: Hospital's Market Share for Inpatient Oncology Services

Town	Fiscal Year		
	2006	2007	2008
Bridgeport	41.4%	36.5%	38.1%
Fairfield	29.0%	23.7%	26.5%
Milford	13.0%	13.7%	15.0%
Monroe	26.4%	25.2%	29.2%
Shelton	21.1%	19.4%	28.0%
Stratford	50.0%	47.6%	50.3%
Trumbull	29.2%	31.9%	27.5%
Total Market Share in Primary Service Area	33.7%	31.0%	32.8%

Source: CHIME, based on ICD9 principal diagnoses 02: neoplasms
(April 2, 2009, Completeness Response, page 204)

10. The Hospital contends that the number of distinct patients treated at the Hospital and at ROSC are those reported in the table below:

Table 2: Number of Patients by Fiscal and Calendar Year

Location	Reporting Basis	2006	2007	2008	2009
Bridgeport Hospital	Fiscal Year *	347	458	390	68**
Bridgeport Hospital	Calendar Year	393	461	319	57***
ROSC	Calendar Year	769	714	605	141***

* October 1 to September 30

** 10/1/2008 to 2/28/2009.

*** 1/1/2009 to 2/28/2009

Sources: Bridgeport Hospital Budget & Reimbursement Information System and
Radiation Oncology of South Connecticut, LLC

*(February 17, 2009, Initial CON Submission, pages 25 and 26
and April 2, 2009, Completeness Response, page 200)*

11. According to information published by the American Cancer Society, the probability of developing invasive cancer (all sites) for males is 44.94 out of 100 males and for females it is 37.52 of 100 females. When the rates applied to the service area population according to sex, the Hospital contends that approximately 160,000 individuals have the probability of developing invasive cancer. Radiation is used as treatment in 60% of cancer patients. Therefore, combined with its 33% market share of inpatient oncology services, the Hospital expects continued demand for its outpatient radiation therapy services. *(February 17, 2009, Initial CON Submission, page 108 and April 2, 2009, Completeness Submission, pages 204 and 205)*
12. The Hospital stated that its radiation therapy service at the Hospital is projected to remain flat on the next three fiscal years. The Hospital has based the projections for services provided on its campus on the actual number of distinct radiation patients of 390 treated in FY 2008. *(February 17, 2009, Initial CON Submission, page 26)*
13. The Hospital based its projections on the Trumbull location using the actual number of patients treated at the ROSC during CY 2008. ROSC contends that its patient volumes grew by an average of 9.74% per year from 2004 to 2007. The Hospital projects that the volume will increase at a more conservative rate of 4.87% annually. Additionally, the Hospital contends that there will be increases in cancer patient volumes due to the aging of the population. *(February 17, 2009, Initial CON Submission, page 26 and April 2, 2009, Completeness Submission, page 201)*

14. The following table reports the Hospital's projected volumes by type of visit for the Hospital and the proposed Trumbull location.

Table 3: Projected Radiation Patients and Visits by Fiscal Year

Number of:		Fiscal Year							
		2009		2010		2011		2012	
		Patients	Visits	Patients	Visits	Patients	Visits	Patients	Visits
Location	Type								
Hospital	Inpatient	50	302	50	302	50	302	50	302
Hospital	Outpatient	340	5,100	340	5,100	340	5,100	340	5,100
Hospital	Total	390	5,402	390	5,402	390	5,402	390	5,402
Trumbull	Outpatient	634	9,510	665	9,975	698	10,470	732	10,980
Combined	Outpatient	974	14,610	1,005	15,075	1,038	15,570	1,072	16,080
Combined	Total	1,024	14,912	1,055	15,377	1,088	15,872	1,122	16,382

Source: Bridgeport Hospital Department of Radiology.

(April 2, 2009, Completeness Response, pages 197, 198, 202 and 203)

15. OHCA recognizes that there has been a fluctuation in the number of patients treated by ROSC in the past three years. OHCA finds it reasonable for the Hospital to begin its projections for the Trumbull location with the lowest volume and increase by the 4.87% per year.
16. OHCA finds that the physician referral patterns will not be altered and therefore the existing patient base will continue to be served with expected growth to be naturally occurring within the population.
17. The Hospital contends that the operation of the radiation therapy service will be undertaken in accordance with the American College of Radiology guidelines and in a manner consistent with the operation of the existing radiation therapy service on the Hospital's campus. *(February 17, 2009, Initial CON Submission, page 28)*
18. The Hospital contends that it will be contracting with the Yale School of Medicine and Yale-New Haven Hospital to manage the radiation therapy service at both the new Trumbull location and the existing Bridgeport Hospital site. *(February 17, 2009, Initial CON Submission, page 28)*
19. The Hospital proposes to replace the practice's existing linear accelerator that has been in use since 1996. Under Certificate of Need Determination Report Number 96-G1, Bridgeport Radiology Associates ("BRA") received notice from OHCA that CON authorization was not required to replace their existing linear accelerator. At that time Dr. Berger was a member of BRA. BRA operated the linear accelerator in partnership with Trumbull Oncology Associates that BRA controlled. Both practices were located at 15 Corporate Drive, Trumbull. *(May 26, 2009, Supplemental Information, page 299)*

20. The Hospital claims that the linear accelerator located in Trumbull is a Varian Model 600C manufactured in 1994. The linear accelerator provides only low energy photons for cancer treatment and is reaching the end of its useful life. *(May 26, 2009, Supplemental Information, page 207)*
21. The Hospital proposed to acquire a new Varian Trilogy Silhouette (“Silhouette”) linear accelerator that can provide image-guided radiation therapy (IGRT), intensity-modulated radiation therapy (IMRT) and 3D conformal radiation therapy capability. The Silhouette is a more clinically advanced, and safer, machine than the existing one in Trumbull or the Hospital. *(May 26, 2009, Supplemental Information, page 300)*

**Financial Feasibility of the Proposal and its Impact on the Hospital’s
Rates and Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care
Services and Payers for Such Services
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines**

22. The CON proposal consists of the following total capital expenditure:

Table 4: Capital Expenditure Components

Description	Amount
Linear Accelerator	\$3,184,603
Physics Equipment	140,752
Major Medical Equipment	170,800
Medical equipment	100,600
Non-medical Equipment	41,000
IT Connectivity to Bridgeport Hospital	65,000
Renovations to Accommodate the Linear Accelerator	630,743
Intangible Asset – Goodwill	2,687,600
Total Capital Expenditure	\$7,021,098

(February 17, 2009, Initial CON Submission, page 32)

23. The proposal, except for the linear accelerator, will be funded through operating funds of the Hospital. The Hospital proposed to finance the purchase of the Silhouette. *(February 17, 2009, Initial CON Submission, page 33 and May 26, 2009, Supplemental Information, page 300)*
24. The proposed site in Trumbull will require renovations to the treatment room that houses the vaults, installation of new flooring, new cabinets, a fire protection system, and upgrades to the HVAC and electrical systems. *(May 26, 2009, Supplemental Information, page 300)*
25. The Hospital contends that it will establish a new cost center for the Trumbull location and will bill for the technical portion of the service. *(February 17, 2009, Initial CON Submission, page 31)*

26. The proposal will increase the Hospital's number of Full-time Equivalents by 10.3.
 (February 17, 2009, Initial CON Submission, page 37)
27. The Hospital projects the following incremental gain from operations for FYs 2010, 2011, and 2012 with the proposal:

**Table 5: Projected Incremental Gain in Operating Revenue
 by Fiscal Year and Reported in Thousands of Dollars**

		FY 2010	FY 2011	FY 2012
Net Patient Revenue	Medicare	\$1,193	\$1,252	\$1,314
	Medicaid	\$1	\$1	\$1
	Non-Government	\$2,506	\$2,630	\$2,762
	Total Net Patient Revenue	\$3,700	\$3,883	\$4,077
Operating Expenses	Salaries	\$1,100	\$1,199	\$1,308
	Professional Services	\$767	\$786	\$799
	Supplies and Drugs	\$198	\$209	\$208
	Lease Expenses	0	0	0
	Depreciation/Amortization	\$438	\$438	\$438
	Interest Expense	\$219	\$192	\$162
	Bad Debt	0	0	0
	Other	\$162	\$143	\$119
	Total Operating Expenses	\$2,884	\$2,967	\$3,034
Projected Incremental Gain in Operating Revenue		\$816	\$916	\$1,043

(May 26, 2009, Supplemental Information to CON Application, page 361)

28. The Hospital reported the following payer mix for the first three years of operation of the proposal based on the proposal's patient population:

Table 6: Projected Payer Mix

Payer Description	FY 2010	FY 2011	FY 2012
Medicare (including managed care)	39.0%	39.0%	39.0%
Medicaid (including managed care)	0.5%	0.5%	0.5%
Total Government	39.5%	39.5%	39.5%
Commercial Insurers	59.0%	59.0%	59.0%
Uninsured	1.5%	1.5%	1.5%
Total Non-Government	60.5%	60.5%	60.5%
Total Payer Mix	100%	100%	100%

(April 2, 2009, Completeness Response, page 235)

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.

Bridgeport Hospital (“Hospital”) proposes to purchase an existing radiation therapy practice, including a replacement linear accelerator, for the establishment of a hospital satellite radiation therapy facility, located at 15 Corporate Drive, Trumbull, CT. The Hospital currently offers radiation therapy services on the hospital’s main campus at 267 Grant Street in Bridgeport through the use of a single linear accelerator.

Radiation Oncology of Southern Connecticut, LLC (“ROSC”) is a limited liability company owned by Susan Dunbar, M.D. and Paul Berger, M.D. ROSC has been providing radiation therapy services at the site for over fifteen years. Under the proposal, the practice location would become an outpatient department of Bridgeport Hospital. The population to be served includes any patient who has received a radiation oncology referral and is a candidate for treatment. The Hospital’s medical and surgical oncologists refer their patients to either the radiation therapy service at the Hospital or ROSC for treatment. Drs. Berger and Dunbar, the current owners of ROSC, provide radiation oncology services at both sites. Thus, the purchase of the practice represents a continuation of a long standing relationship between the hospital, the practice, and the referring community physicians. OHCA finds that the physician referral patterns will not be altered and therefore the existing patient base will continue to be served with expected growth to be naturally occurring within the population.

The Hospital also proposes to replace the existing linear accelerator currently in use at ROSC with a new Varian Trilogy Silhouette (“Silhouette”) linear accelerator that can provide image-guided radiation therapy (IGRT), intensity-modulated radiation therapy (IMRT), and 3D conformal radiation therapy capability. The Silhouette is a more clinically advanced, and safer, machine than the existing one in Trumbull or the Hospital. OHCA finds that the proposed practice acquisition, along with the replacement linear accelerator, will maintain access to quality radiation therapy services for patients of the Hospital.

The CON proposal is financially feasible. Hospital operating funds will be used to purchase the practice and the associated equipment and financing will be used to purchase the replacement linear accelerator. The total capital expenditure for the Hospital’s proposal is \$7,021,098. The Hospital projects excess revenues of \$816,000, \$916,000, and \$1,043,000 for FYs 2010, 2011, and 2012, respectively. OHCA finds that the volume projections and the revenues from operations on which they are based seem both reasonable and achievable. The payers for the radiology services will be the same as the Hospital’s current payer mix. Therefore, the Hospital’s proposal is in the best interests of consumers and payers.

Order

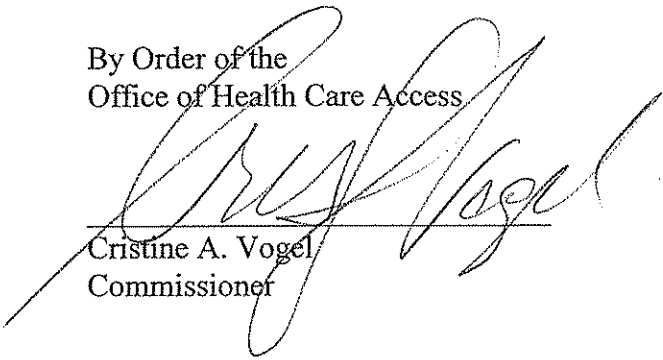
Based on the foregoing Findings and Rationale, the Certificate of Need application of Bridgeport Hospital ("Hospital") to purchase an existing radiation therapy practice located at 15 Corporate Drive, Trumbull, and acquire a replacement linear accelerator to establish a hospital satellite radiation therapy facility, at a total capital expenditure of \$7,021,098, is hereby GRANTED, subject to the following conditions:

1. This authorization shall expire June 26, 2010. Should the Hospital's project not be completed by that date, the Hospital must seek further approval from OHCA to complete the project beyond that date.
2. The Hospital shall not exceed the approved capital expenditure of \$7,021,098. In the event that the Hospital learns of potential cost increases or expects that the final project costs will exceed those approved, the Hospital shall notify OHCA immediately.
3. With respect to the acquisition of the replacement linear accelerator, the Hospital shall submit to OHCA in writing the following information by no later than one month after the new scanner becomes operational:
 - a) The name of the equipment manufacturer;
 - b) The model name and description of the equipment; and
 - c) The initial date of the operation of the equipment.
4. This authorization requires the removal, such as sale or salvage, outside of and unrelated to the Hospital's Connecticut service locations, for the existing linear accelerator located at 15 Corporate Drive, Trumbull. Furthermore, the Hospital shall provide evidence to OHCA of the disposition of the linear accelerator identified above to be removed by no later than six months after the new linear accelerator has become operational.
5. Should the Hospital propose any change in the array of health care services offered at the Trumbull location or a change in its complement of existing medical equipment, the Hospital shall file with OHCA appropriate documentation regarding its change, including either a Certificate of Need Determination Request or a Certificate of Need Letter of Intent.

Should the Hospital fail to comply with any of the aforementioned conditions, 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


Cristine A. Vogel
Commissioner

6-26-09
Date

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