



M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL
COMMISSIONER

June 5, 2009

IN THE MATTER OF:

A modification of a previous Certificate of
Need authorization as allowed by
Section 4-181a(b), Connecticut General Statutes

Notice of Modification Final Decision
Office of Health Care Access
Docket Number 09-30510-MDF

Connecticut Oncology & Hematology, LLP

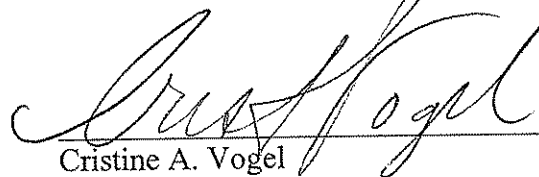
A request to modify Docket Number
05-30510-CON

To: Ms. Lisa Shomsky
Business Administrator
Connecticut Oncology & Hematology, LLP
200 Kennedy Drive
Torrington, CT 06790

Dear Ms. Shomsky:

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 4-181a(b), C.G.S. On June 5, 2009, this Modification was rendered as the revised order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

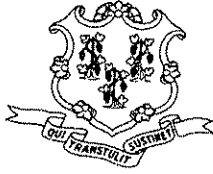
By Order of the
Office of Health Care Access



Cristine A. Vogel
Commissioner

CAV:kr

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Office of Health Care Access

A Request for Modification of a Previously Authorized Certificate of Need

Applicant: Connecticut Oncology & Hematology, LLP

Modification Docket Number: 09-30510-MDF

Modification Project Title: A modification of a previous Certificate of Need authorization in order to allow the Applicant to enter into a contractual arrangement with The Charlotte Hungerford Hospital for CHH to utilize COH's existing position emission tomography scanner one day a week until December 31, 2009

Original Project Docket Numbers and Title: Docket Number 05-30510-CON:
The Acquisition and Operation of a Fixed Positron Emission Tomography (PET) Scanner in Torrington

Statutory Reference: Sections 4-181a(b), Connecticut General Statutes

Filing Date: April 8, 2009

Decision Date: June 5, 2009

Staff: Karen Roberts

Project Description: Connecticut Oncology & Hematology, LLP ("COH") proposes a modification of the Certificate of Need ("CON") authorization issued under Docket Number 05-30510-CON in order to enter into a contractual arrangement with The Charlotte Hungerford Hospital ("CHH" or "Hospital") for CHH to utilize COH's existing position emission tomography ("PET") scanner one day a week. The CON under Docket Number 05-30510-CON authorized Northwestern Connecticut Oncology/Hematology Associates, LLP to acquire a Positron Emission Tomography Scanner ("PET") and establish a PET scanning service to be located at 200 Kennedy Drive, Torrington. Northwestern Connecticut Oncology/Hematology Associates, LLP changed its name to Connecticut Oncology & Hematology, LLP subsequent to the initial CON approval.

Findings of Fact

1. On May 22, 2006, under Docket Number 05-30510-CON, the Office of Health Care Access (“OHCA”) granted a Certificate of Need (“CON”) pursuant to Section 19a-638 of the Connecticut General Statutes to Northwestern Connecticut Oncology/Hematology Associates, LLP to acquire a Positron Emission Tomography Scanner (“PET”) and establish a PET scanning service to be located at 200 Kennedy Drive, Torrington¹. Conditions #3 and #4 of the CON authorization under Docket Number 05-30510-CON set forth the following conditions regarding the use of this PET scanner:
 - “3. *The Applicant may only provide the PET scanning service to its own patients. Patients from other providers may not be referred to Northwestern Connecticut Oncology/Hematology Associates, LLP for the specific and sole purpose of receiving a PET scan. If the Applicant intends to change the population served, a CON determination shall be filed with OHCA.*”
 - “4. *Only physicians who are partners of Northwestern Connecticut Oncology/Hematology Associates, LLP may utilize the PET scanning service for their patients. The Applicant may not contract with other physician practices or specialty groups to perform PET scanning services.*”
2. In a Certificate of Need Determination proposal filed by CHH under Report Number 08-31285-DTR, CHH requested the use of the fixed PET scanner located at 220 Kennedy Drive, Torrington, and owned by COH, on an “*expedited and temporary basis*”. In CHH’s filing to OHCA, it stated that they “*would need 9-12 months to determine the future course of our diagnostic PET service so that we may fully determine its impact and role in the overall cancer care delivery system in Northwest Connecticut.*” As noted by CHH in its CON Determination request under Report Number 08-31285-DTR, CHH’s PET scanning service was provided by Alliance Imaging, Inc. and Alliance Imaging had notified the Hospital that it would no longer be providing PET scanning services to patients of CHH after December 8, 2008.
3. On March 6, 2009, OHCA received a Form 2020 CON Determination request from Connecticut Oncology & Hematology, LLC regarding COH’s intent to enter into a contractual arrangement with CHH in order for CHH to utilize (lease) COH’s existing PET scanner one day a week. The CON Determination submitted by COH requested that “*OHCA either determine that Certificate of Need approval is not necessary or, in the alternate, modify the aforementioned conditions of the Order to accommodate this limited arrangement.*” On April 3, 2009, OHCA informed COH that OHCA considers this matter a request for modification of the CON authorized under Docket Number 05-30510-CON.

¹ Connecticut Oncology & Hematology, LLP’s business address is 200 Kennedy Drive in Torrington. The PET scanner is located in a building next door on the same campus, at 220 Kennedy Drive in Torrington.

4. Further information was filed by COH with OHCA on April 8, 2009. In the April 8, 2009 submission, COH indicates that the known terms of its intended arrangement with CHH will include the following:
- i) The arrangement will be for one day a week.
 - ii) CHH will have domain over the space for that day.
 - iii) CHH will lease the PET scanner from COH for that day.
 - iv) CHH will bill for the PET service as a hospital service.
 - v) CHH will bear professional responsibility for the PET service.
 - vi) All patients will be registered as CHH patients.
 - vii) CHH will contract with COH to provide various elements of the PET service as allowed under applicable federal law and Medicare regulations. This may involve leasing the following from COH:
 - a) A qualified technician;
 - b) Physician supervision; and
 - c) Other necessary staff.

COH further indicates that the term for this arrangement is one year with the option to renew. COH indicates that it hopes that *“the arrangement not be strictly temporary”*.

Discussion

OHCA has reviewed this matter and finds that, as the nature of this modification will be temporary and time limited, the modification will not permanently alter the CON decision under Docket Number 05-30510-CON or the relationship of that CON authorization to the criteria set forth in Section 19a-637, C.G.S. Charlotte Hungerford Hospital indicated to OHCA during the CON Determination process under Docket Number 08-31285-DTR that it anticipated this arrangement to be on a temporary basis only. CHH stated that it needed 9 months to a year *“to determine the future course of our diagnostic PET service so that we may fully determine its impact and role in the overall cancer care delivery system in Northwest Connecticut.”* As such, OHCA determines it to be a reasonable approach to take into account CHH’s need for use of a PET scanner on a temporary basis as stated to OHCA and OHCA modifies COH’s request to grant the request but allow the arrangement to be time limited only. CHH has already had several months since the expiration of the vendor contract to determine the long term plan for PET or PET/CT services for its community. This temporary modification will allow patients access to PET services and will allow CHH sufficient time to file an LOI and a CON application.

Order

Based on the above discussion, OHCA hereby grants a modification of the CON under Docket Number 05-30510-CON in order to allow Connecticut Oncology & Hematology, LLP to enter into a contractual arrangement with The Charlotte Hungerford Hospital ("CHH" or "Hospital") for CHH to utilize COH's existing position emission tomography ("PET") scanner one day a week. OHCA specifically allows this arrangement only until December 31, 2009. OHCA incorporates a new condition #8 below into the CON Order in this matter:

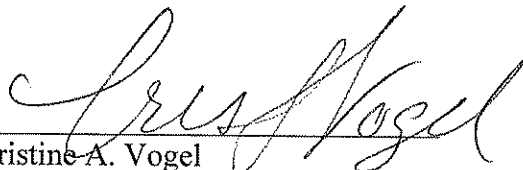
8. Notwithstanding the specific requirements set forth in Conditions #3 and #4 of the CON Order under Docket Number 05-30510-CON, OHCA allows Connecticut Oncology & Hematology, LLP to enter into a contractual arrangement with Charlotte Hungerford Hospital which allows Charlotte Hungerford Hospital to utilize the COH PET scanner from June 5, 2009 to December 31, 2009. This condition is only specific to Charlotte Hungerford Hospital and does not apply to any other person or provider. This condition specifically expires as of the end of the day on December 31, 2009.

All other conditions set forth in the CON authorization issued under Docket Number 05-30510-CON will remain in full effect.

By Order of the
Office of Health Care Access

Date

6-5-09


Cristine A. Vogel
Commissioner

CAV/kr