

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF COMMISSIONER

December 16, 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: 09-31307-CON

**PTSMA, Inc., d/b/a
Select Physical Therapy**

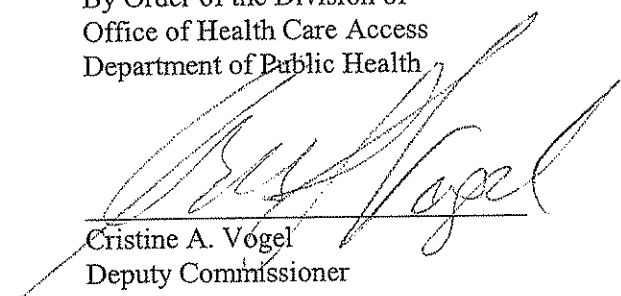
**Proposal to Establish an Outpatient
Rehabilitation Center in Ellington, CT**

To: Melanie B. Zinn
Manager of Regulatory Affairs
Select Medical Corporation
PTSMA, Inc., d/b/a Select Physical Therapy
4714 Gettysburg Road
Mechanicsburg, PA 17055

Dear Ms. Zinn:

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 December 16, 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 Division of
Office of Health Care Access
Department of Public Health

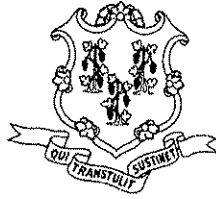


Cristine A. Vogel
Deputy Commissioner

CAV: jah

Enclosure





**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Final Decision

Applicant: PTSMA, Inc., d/b/a Select Physical Therapy

Docket Number: 09-31307-CON

Project Title: Proposal to Establish an Outpatient Rehabilitation Center in Ellington, CT

Statutory Reference: Section 19a-638, Connecticut General Statutes

Filing Date: September 2, 2009

Hearing Date: September 22, 2009

Decision Date: December 16, 2009

Staff: Jack A. Huber

Project Description: PTSMA, Inc., d/b/a Select Physical Therapy proposes to establish an outpatient rehabilitation center at 89 West Road in Ellington, Connecticut. The proposed center will offer outpatient rehabilitation services for pediatric, adolescent, adult and geriatric patients. Services to be offered at the center will include orthopedic screenings, orthotic services, cane and crutch fitting and wellness programs. The capital cost of the proposal is \$108,000, which represents the fair market value of office space to be leased for the center's operation.

Nature of Proceeding: On May 29, 2009, the Office of Health Care Access ("OHCA") received PTSMA, Inc., d/b/a Select Physical Therapy's ("Applicant's") Certificate of Need ("CON") application seeking authorization to establish an outpatient rehabilitation center at 89 West Road in Ellington, Connecticut. The proposed center will offer outpatient rehabilitation services for pediatric, adolescent, adult and geriatric patients. Services to be offered at the center will include orthopedic screenings, orthotic

services, cane and crutch fitting and wellness programs. The capital cost of the proposal is \$108,000, which represents the fair market value of office space to be leased for the service. 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 *Journal Inquirer*, on February 24, 2009. OHCA received no responses from the public concerning the Applicant’s proposal. Pursuant to Section 19a-638, 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 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.

On August 25, 2009, pursuant to Section 19a-638, C.G.S., OHCA denied the Applicant’s CON application for the establishment of an outpatient rehabilitation center at 89 West Road in Ellington, Connecticut. On September 2, 2009, in accordance with Section 19a-643-85(c)(1) of the Regulations of Connecticut State Agencies, the Applicant requested a public hearing be held regarding its CON application. Pursuant to Section 19a-638, C.G.S., a public hearing regarding the CON application was held on September 22, 2009. On September 4, 2009, the Applicant was notified of the date, time, and place of the hearing. On September 7, 2009, a notice to the public announcing the hearing was published in the *Journal Inquirer*. Cristine A. Vogel served as Presiding Officer. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-638, C.G.S.

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

Contribution of the Proposal to the Quality and Accessibility of Health Care Delivery in the Region Impact on the Applicant’s Current Utilization Statistics

1. It is found that PTSMA, Inc., d/b/a Select Physical Therapy (“Applicant”) is a wholly-owned subsidiary of Select Physical Therapy Holdings, Inc., which in turn is a wholly-owned subsidiary of Select Medical Corporation. (*February 18, 2009, Letter of Intent, page 5a*)

2. On October 31, 2007, in an agreed settlement issued under Docket Number: 07-30953-CON, the Office of Health Care Access (“OHCA”) approved a Certificate of Need (“CON”) authorizing HealthSouth Corporation to terminate its Connecticut Outpatient Rehabilitation Division through the sale of all its Connecticut outpatient rehabilitation centers to Select Medical Corporation, at a total capital cost of \$14,459,087. *(October 31, 2007, Agreed Settlement Order, Docket Number: 07-30953-CON)*
3. It is found that the Applicant operates 28 outpatient rehabilitation centers in Connecticut. The centers provide outpatient rehabilitation care that include physical therapy, occupational therapy, care for sports injuries and conditions and work related injuries. *(April 9, 2009, Initial CON submission, page 7 and May 29, 2009, Completeness responses, page 268)*
4. At the September 22, 2009 public hearing the Applicant testified that Select Medical Corporation currently operates 88 long-term care hospitals, 5 free-standing rehabilitation hospitals and 1,100 outpatient rehabilitation centers as well as provides contract therapy services to 417 clients throughout the United States. *(Testimony of Douglas Bowie, Regional Director, Select Physical Therapy at the September 22, 2009, Public Hearing conducted under Docket Number: 09-31307-CON)*
5. It is found that the Applicant has a presence in the area to be served as it provides sports medicine services for the following programs: Ellington Football Co-operative, Somers High School Athletic Department and the Rockville High School Athletic Department in Vernon. At the September 22, 2009 public hearing the Applicant testified that program with the Rockville High School program has existed for ten years. *(April 9, 2009, Initial CON submission, page 8 and Testimony of Douglas Bowie, Regional Director, Select Physical Therapy at the September 22, 2009, Public Hearing conducted under Docket Number: 09-31307-CON)*
6. The Applicant contends that the proposed center will serve individuals residing or working in the towns of Ellington, Somers and Vernon. *(April 9, 2009, Initial CON submission, page 8 and September 16, Applicant Prefile Testimony, page 7)*
7. The Applicant presented evidence that the following number of patients from the following towns have been treated at its Connecticut locations in the last twelve months:

Table 1: Area Residents Treated at the Applicant’s CT Offices

Connecticut Town	Zip Code	Number of Patients Treated
Ellington	06029	101
Somers	06071	79
Vernon	06066	168
TOTAL # of Area Residents Treated		348

(April 9, 2009, Initial CON submission, page 7 and Attachment A, pages 16 through 29)

8. The Applicant contends that the population to be served in the first full year of center operation would be approximately 433 patients. This estimate is based on the Applicant's experience across all of its Connecticut outpatient rehabilitation centers, where approximately 3% percent of the total town population would require outpatient rehabilitation services. When the 3% factor is applied to Ellington's 2007 total population of 14,426 individuals the number of individuals requiring outpatient rehabilitation services in Ellington alone is 433 individuals. *(April 9, 2009, Initial CON submission, page 8 and Attachment A, pages 30 through 34 and May 29, 2009, Completeness responses, pages 269 and 270)*
9. At the September 22, 2009 public hearing the Applicant testified it is likely that the 433 patients to be served in the first full year of center operation is a conservative estimate, since other similar centers, such as those located in East Granby and Sharon have attracted 5 to 7 % of the total town population. When these factors are applied to the Ellington population the number of individuals requiring outpatient rehabilitation services increases in number ranging from 721 to 1,010 individuals. *(Testimony of Douglas Bowie, Regional Director, at the September 22, 2009, Public Hearing conducted under Docket Number: 09-31307-CON and May 29, 2009, Completeness responses, pages 269 & 270 and Attachment K, page 285)*
10. The number of new patients requiring outpatient rehabilitation from Ellington for fiscal year 2009 is estimated to be 213. The Applicant determined this figure by applying a 1.5% factor to Ellington's total 2009 population of 14,426. This percentage was based upon the lowest percentage shown in existing Applicant centers in the two geographically closest towns of Enfield and Windsor, which exhibited the same 1.5% of new patient to population relationship. *(April 9, 2009, Initial CON submission, page 8 and Attachment A, page 32; and May 29, 2009, Completeness responses, pages 268 & 269, Attachment K, page 285)*
11. The Applicant contends that the average number of visits per patient occurrence per year across all of its existing Connecticut outpatient rehabilitation centers is estimated to be 10.19 visits. The Applicant determined this figure by dividing the total number of outpatient visits across all of its Connecticut centers by the total number of new patients. *(May 29, 2009, Completeness responses, pages 268 & 269 and Attachment H, page 276)*
12. The Applicant's first year service volume projections were calculated by applying the estimated 213 new patients from Ellington requiring outpatient rehabilitation for fiscal year 2009 to the 10 visits per patient occurrence estimate. *(May 29, 2009, Completeness responses, pages 268 and 269, Attachment K, page 285, and Attachment H, page 276)*

13. The Applicant projects the following number of patient visits for the proposed outpatient rehabilitation center for each of the first three fiscal years of operation:

Table 2: Projected Patient Visits

Fiscal Year	Number of Patient Visits
1	2,131
2	3,269
3	3,367

Note: The volume increase between FYs 1 and 2 is attributable to start-up operations. The volume increase between FYs 2 and 3 is attributable to an anticipated 3% increase between operating years. (April 9, 2009, Initial CON submission, page 10 and May 29, 2009, Completeness responses, pages 268 and 269)

14. At the September 22, 2009 public hearing the Applicant provided testimony that described the current operating parameters relating to the Centers for Medicare and Medicaid (“CMS”) regulatory requirements, which affect the manner in which outpatient rehabilitation services are provided:
- Referrals that were previously received predominantly from orthopedic surgeons have expanded to other physician disciplines such as internists, chiropractic physicians, neurosurgeons, oncologists and laryngologists.
 - A CMS ruling requires that certified therapists provide one-to-one or “concurrent” care to their patients. This ruling prohibits outpatient rehabilitation centers from providing “continuous” care, which previously enabled physical therapists to treat multiple patients at the same time.
 - The “concurrent” CMS ruling not only instituted changes in the way CMS reimburses for such outpatient services, but has further necessitated the expansion of patient appointment hours at provider facilities, to resolve access issues created by the ruling. Some commercial insurers have adopted “concurrent” care rules in the treatment of their enrollees, with other insurers expected to adopt the “concurrent” care policy.
 - Expanding patient appointment hours at provider facilities has necessitated the formation of smaller service center operations dispersed throughout a given geographic region to accommodate patient visits prior to or after typical work hours for working individuals and mid- to late morning hours for retirees. (Testimony of David J. DeGumbia, Division President, Select Medical, Regional Director, at the September 22, 2009, Public Hearing conducted under Docket Number: 09-31307-CON)
15. The Applicant contends that it will hire 3.0 full-time equivalents for the proposed center. The positions include hours for two therapists and one administrative assistant. The Center’s weekly hours of operation will be Monday through Thursday: 7:00 a.m. to 7:00 p.m. and Friday: 7:00 a.m. to 3:00 p.m. The majority of patient appointments will be scheduled during the early to late morning period and the late afternoon to early evening period. (April 9, 2009, Initial CON submission, pages 9, 13 and Attachment F, page 263)

16. OHCA finds that the Applicant has provided sufficient evidence that the area to be served by the proposal could support the establishment of an outpatient rehabilitation center in Ellington.

**Financial Feasibility 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
Payers for Such Services**

17. The proposal's total capital cost is \$108,000, which is attributable to the fair market value of the leased office space for the proposed center. *(April 9, 2009, Initial CON submission, page 13)*
18. The proposal will be financed through an equity contribution from the Applicant. *(April 9, 2009, Initial CON submission, page 13)*
19. The Applicant projects income from the center's operation of approximately \$21,300, \$123,400, and \$127,900 for fiscal years 1 through 3, respectively. *(April 9, 2009, Initial CON submission, page 14 and Attachment F, page 263)*
20. The Applicant contends that as of September 30, 2008, Select Medical Corporation had net income of \$5,713,000. *(April 9, 2009, Initial CON submission, page 12 and Attachment E, page 98)*
21. The Applicant contends that its proposed rates were determined as an average of the gross revenue per visit as calculated using data from Select Physical Therapy's outpatient rehabilitation centers that operate in proximity to the proposed Ellington center. As a start-up operation, the Applicant calculated 95% of the average rate of the existing centers as the proposed center's rate in the first fiscal year of operation. The rates for FYs fiscal years 2 and 3 were increased by 3%, which is based on the Applicant's standard yearly increase. The calculated average rate for FYs 1 through 3 of the proposed Ellington center is as follows:

Table 3: Proposed Ellington Center Rate

Fiscal Year	Average Rate per Visit
1	\$240
2	\$247
3	\$254

(May 29, 2009, Completeness responses, page 274 and Attachment M, pages 289 through 291)

22. The projected payer mix for fiscal years 1 through 3 of the proposed outpatient rehabilitation center is illustrated below. The payer mix is based on the collective operating experience of all the Applicant's Connecticut outpatient rehabilitation centers and not from the Applicant center sites in the towns closest to the proposed Ellington center:

Table 4: Proposed Payer Mix for the Ellington Center

Payer Description	FY 1	FY 2	FY 3
Medicare	13.97%	13.97%	13.97%
Medicaid	0.13%	0.13%	0.13%
CHAMPUS	0.05%	0.05%	0.05%
Total Government	14.15%	14.15%	14.15%
Commercial Insurers	75.37%	75.37%	75.37%
Self-Pay	0.80%	0.80%	0.80%
Workers Compensation	9.70%	9.70%	9.70%
Total Non-Government	85.87%	85.87%	85.87%
Total Payer Mix	100.00%	100.00%	100.00%

(May 29, 2009, Completeness responses, page 273)

23. At the September 22, 2009 public hearing the Applicant testified that with regard to its general operating policies for its Connecticut outpatient rehabilitation centers, as well as the proposed Ellington Center, Medicaid patients seeking treatment have been and will continue to be accommodated within Select Physical Therapy's established procedures. (*Testimony of Douglas Bowie, Regional Director, Select Physical Therapy at the September 22, 2009, Public Hearing conducted under Docket Number: 09-31307-CON*)
24. The Applicant contends that it has improved productivity and contained costs by employing group purchasing methods in its procurement of supplies and materials and by applying new technological applications with respect to its business operations. (*April 9, 2009, Initial CON submission, pages 11 and 12*)
25. The Applicant contends that there are no distinguishing characteristics of the projected patient/physician mix that differentiates the proposed center from other outpatient rehabilitation facilities. (*April 9, 2009, Initial CON submission, page 11*)

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.

PTSMA, Inc., d/b/a Select Physical Therapy (“Applicant”) proposes to establish an outpatient rehabilitation center at 89 West Road in Ellington, Connecticut. The Center will offer rehabilitative services for pediatric, adolescent, adult and geriatric individuals residing and/or working in Ellington and the towns approximate to Ellington.

The Applicant’s parent, Select Medical Corporation, operates 93 hospitals and 1,100 outpatient rehabilitation centers throughout the country. In Connecticut the Applicant operates 28 outpatient centers that provide physical therapy, occupational therapy, care for sports injuries and conditions, and care for work-related injuries. Within the proposal’s geographical area the Applicant provides sports medicine services for two area high school athletic departments and outpatient rehabilitation services to area residents at their other locations.

The Applicant provided testimony that described the current operating and regulatory environment for outpatient rehabilitation providers, especially with regard to the Centers for Medicare and Medicaid (“CMS”) program requirements and how such requirements have influenced the manner in which outpatient rehabilitation services are provided. A CMS ruling requires that certified physical therapists provide one-to-one or “concurrent” care to their patients. This ruling prohibits outpatient rehabilitation centers from providing “continuous” care, which previously enabled physical therapists to treat multiple patients at the same time. The ruling has necessitated the expansion of patient appointment hours at provider facilities, to resolve potential access issues created by the ruling. Expanding patient appointment hours at provider facilities has influenced the formation of smaller service center operations dispersed throughout a given geographic region to accommodate patient visits prior to or after typical work hours for working individuals and mid-to-late morning hours for retirees. The proposed Ellington Center is modeled in a manner that conforms to present day operating standards of “concurrent” care. OHCA finds that this proposal will improve access to outpatient rehabilitation services.

The proposal’s total capital cost is \$108,000, which is attributable to the fair market value of the leased office space for the proposed center. The proposal will be financed through an equity contribution from the Applicant. OHCA finds that the Applicant possesses the financing to establish the proposed center. Based on the above, OHCA concludes that the establishment of the Applicant’s outpatient rehabilitation center in Ellington is financially feasible.

Order

Based on the foregoing Findings and Rationale, the Certificate of Need application of PTSMA, Inc., d/b/a Select Physical Therapy for the establishment of an outpatient rehabilitation center at 89 West Road in Ellington, Connecticut, at a total capital cost of \$108,000, is hereby GRANTED, subject to the following conditions:

1. The Applicant shall not exceed \$3 million in the capital cost for the project. In the event that the Applicant learns of potential cost increases or expects that the final project costs will exceed \$3 million, the Applicant shall notify OHCA in writing.
2. Should the Applicant propose any change in the array of health care services offered, the Applicant 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 Applicant 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 Division of
Office of Health Care Access,
Department of Public Health

Date

12-16-09


Cristine A. Vogel
Deputy Commissioner

CAV:jah