



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF COMMISSIONER

December 28, 2009

IN THE MATTER OF:

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

The University of Connecticut

Notice of Final Decision
Office of Health Care Access
Docket Number 09-31371-CON

**Proposal to Establish and Operate
an Outpatient Rehabilitation Clinic
in Mansfield (Storrs), CT**

To: Mr. Morgan Hills
Clinic Director
University of Connecticut
843 Bolton Road
Storrs, CT 06269

Dear Mr. Hills:

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 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 Division of the
Office of Health Care Access
Department of Public Health


Cristine A. Vogel
Deputy Commissioner

CAV:lkq





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

Final Decision

Applicant: The University of Connecticut

Docket Number: 09-31371-CON

Project Title: Establishment and Operation of an Outpatient Rehabilitation Clinic in Mansfield (Storrs), Connecticut

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

Filing Date: September 4, 2009

Hearing Date: December 10, 2009

Hearing Officer: Cristine A. Vogel, Deputy Commissioner

Decision Date: December 28, 2009

Default Date: January 2, 2010 (with 30-day extension)

Staff Assigned: Laurie K. Greci

Project Description: The University of Connecticut proposes to establish and operate an outpatient rehabilitation clinic in Mansfield (Storrs), Connecticut, with no associated capital expenditure.

Nature of Proceedings: On September 4, 2009, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from University of Connecticut ("Applicant") proposing to establish and operate an outpatient rehabilitation clinic in Mansfield (Storrs), Connecticut, with no associated capital expenditure.

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 *Chronicle* (Windham) on June 1, 2009. OHCA received no comments from the public concerning the Applicant's proposal.

Pursuant to Section 19a-638, C.G.S., a public hearing regarding the CON application was held on December 10, 2009. On November 23, 2009 the Applicant was notified of the date, time, and place of the hearing. On November 26, 2009, a notice to the public announcing the hearing was published in the *Chronicle*. Deputy Commissioner 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 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 the University of Connecticut ("Applicant") is a State of Connecticut owned higher educational institution located in Mansfield (Storrs), Connecticut. (*April 9, 2009, Letter of Intent, page 13*)
2. The Applicant proposes to establish and operate an outpatient rehabilitation clinic ("Clinic") that will provide physical therapy, occupational therapy, and speech therapy. The Clinic is currently known as the "Nayden Rehabilitation Clinic." The Clinic will be relocated from 14 Dog Lane, Storrs to 843 Bolton Road, Storrs. The location on the south side of the University's campus provides easy access and will be next to the University's Speech and Hearing Clinic. The Clinic will continue to be named the "Nayden Rehabilitation Clinic." (*August 13, 2009, Initial CON Application, pages 4 and 12*)
3. On February 26, 1998, under Agreed Settlement Docket Number: 97-512 ("Agreed Settlement"), OHCA approved Windham Community Memorial Hospital, Inc. ("WCMH") and Applicant to establish and operate an outpatient physical therapy satellite clinic ("PT Satellite Clinic"). UConn employees staff the PT Satellite Clinic that is operated under WCMH. In the same year, UConn upgraded its physical therapy program from a Bachelor of Science degree to a Master of Science degree. (*February 26, 1998, Agreed Settlement, Docket Number 97-512, pages 2 and 5*)
4. In 2006, as part of the process to provide a clinical doctoral degree in physical therapy, the Applicant's physical therapy education program became part of the Neag School of Education that already included the Department of Kinesiology. The Applicant contends

that the merger of the physical therapy program and the Department of Kinesiology under the Neag School of Education would improve education and research collaboration. The merge would also provide opportunities for clinical research and data mining in addition to the primary objectives of clinical education and patient care. *(August 13, 2009, Initial CON Application, page 2, 4, and 5)*

5. The Applicant stated that The Commission to Accredit Physical Therapy Education ("CAPTE") put in place a set of standards placing increased emphasis on clinical education during the didactic curriculum requiring increased hands-on clinical experience prior to clinical residencies. *(August 13, 2009, Initial CON Application, page 4)*
6. The Applicant contends that in January 2007, WCMH informed the Applicant that due to the new internal compliance standards specific to the hospital, the agreement between WCMH and the Applicant would need to be modified or terminated. *(August 13, 2009, Initial CON Application, page 4)*
7. The Applicant contends that moving to an independent clinic will provide to direct, immediate, and appropriate access to patient medical records for purposes of data collection that is critical for clinical research. *(December 3, 2009, Response to Interrogatories, page 101)*
8. The Applicant contends that the data collected from the Clinic will provide opportunities in research, including providing the ability to categorize it and summarize the relationships identified. Further, the information collected will be used to improve patient outcomes, increase revenues and cut costs. *(August 27, 2009, Completeness Letter Responses, page 93)*
9. The Applicant further asserts that the data collected from the Clinic will allow the Applicant to research subjects such as Shoulder Pain and Disability Index ("SPADI") scores pre and post to assess effect size by treatment modality, by age, etc. *(August 27, 2009, Completeness Letter Responses, page 93)*
10. The Applicant contends that the Clinic will be utilized for clinical education and observation for all Dept. of Kinesiology students. The proposed Clinic will provide UConn students with a clinical rehabilitation rotation that will widen their perspective of exercise and deepen their knowledge base for athletes that are returning from injury. *(August 13, 2009, Initial CON Application, page 5)*
11. OHCA finds that this proposal enables the continuation of training and education for students that otherwise would not be available to them.
12. The Applicant contends that there are no clinics in eastern Connecticut that provide advanced wound care with or without sharp debridement and lymphedema treatment in the same facility. *(August 13, 2009, Initial CON Application, page 12)*
13. The Applicant contends that it will provide body weight supported gait service at the Clinic, which is an advanced rehabilitation program utilizing a lift to retrain patients with progressive or acute neurological illness ambulation. Further, the Applicant asserts that

other than the Clinic, the nearest providers of this service are located in Hartford and New London. *(August 13, 2009, Initial CON Application, page 12)*

14. Applicant contends that the proposed Clinic will be the only Commission on Accreditation of Rehabilitation Facilities ("CARF") accredited OP rehabilitation clinic in Eastern Connecticut. *(August 13, 2009, Initial CON Application, page 12)*
15. OHCA finds that the proposed Clinic will offer unique services due to its relationship with an educational facility.
16. Any research conducted by the PT program is subject to the oversight of the Applicant's Internal Review Board ("IRB"). The IRB is responsible for approving and overseeing any research that involves the program's patients. *(December 10, 2009, Hearing Testimony of Mr. Hills)*
17. To be a Center of Excellence site for post-stroke and the neuro programs the Clinic is required to have CARF accreditation, a level of excellence that other facilities may not undertake. *(December 10, 2009, Hearing Testimony of Mr. Hills)*
18. The Applicant testified that in keeping with its goals of education and research, one of the school's faculty members intends to establish a specialty program in stroke care and that CARF accreditation is necessary in order to be a center of excellence site for stroke. *(December 10, 1009, Hearing Testimony of Mr. Hills)*
19. The Applicant testified that in addition to the neuro program, the benefits of CARF accreditation include providing assurance to the community that the center aspires to a level of excellence. *(December 10, 1009, Hearing Testimony of Mr. Hills)*
20. OHCA finds that the through the CARF accreditation and the oversight of IRB, the Applicant's proposed Clinic will ensure the quality of service, unique to a research facility.
21. The Applicant states that the following existing providers are within the greater Mansfield area:

Table 1: Existing Rehabilitation Therapy Providers

Provider Name	Location(s)
SELECT Physical Therapy	Mansfield
Integrated Rehab	Tolland
Pro-Care	Willimantic and Tolland
First Choice Rehabilitation & Sport Medicine	Willimantic
Mansfield Physical Therapy	Mansfield
Mansfield Center Nursing and Rehabilitation	Mansfield
Tolland Physical therapy	Tolland

(August 13, 2009, Initial CON Application, pages 14 and 15)

22. The Applicant provided the following data as historical volume for the existing Clinic between State Fiscal Years (“SFY”) 2004-2008:

Table 2: Historical Physical Therapy Volume at the Clinic

SFY	Patient Visits
2004	3,848
2005	6,307
2006	8,956
2007	8,427
2008	9,456
2009*	9,593

*FY 2009 data based on 4th quarter 2009 annualized
(August 13, 2009, Initial CON Application, page 43)

23. The Applicant asserts that it applied the historical growth of the existing clinic to its projected utilization for SFYs 2010-2012 as follows:

Table 4: Projected Volumes

Therapy	State Fiscal Year		
	2010	2011	2012
Physical	11,263	11,826	12,417
Occupational	800	1,150	1,380
Speech	200	600	800
Total	12,263	13,576	14,597

(August 13, 2009, Initial CON Application, pages 23 and 44)

24. The Applicant is projecting incremental gain in patient visits of 1,000, 1,750, and 2,180 for SFYs 2010-2012, respectively. (August 13, 2009, Initial CON Application, page 37)
25. The Applicant further contends that the projected visits utilized a conservative 5% growth rate based on the following:
- The historical clinical growth has been equal to or greater than 5% for the past 5 years;
 - The proposed Clinic will have double the previous physical space; and
 - The proposed Clinic will have new programs for treating lymphedema, post-stroke and neuromuscular disease that will provide additional volume.
- (August 13, 2009, Initial CON Application, page 12 and August 27, 2009, Completeness Letter Responses, pages 93 and 94)
26. The Applicant contends that the State of Connecticut Department of Public Health does not require a license for the operation of the rehabilitation clinic. (December 3, 2009, Response to Interrogatories, page 100)

27. The Applicant asserts that it has purchased an integrated electronic medical record system ("EMR") and practice management solutions from ALLSCRIPTS. The billing will be done through the EMR and staff will be trained to utilize the system. All collections will be handled by the clinic with oversight from the University's accounting department. *(December 3, 2009, Response to Interrogatories, page 100)*
28. The Applicant contends that it will work with the State of Connecticut Department of Administrative Services to provide services to UConn and state employees receiving rehabilitation under workers compensation ("WC") benefits. *(December 3, 2009, Response to Interrogatories, page 101)*
29. The Applicant contends that it is currently credentialed to provide services to patients with federal or state health insurance. The clinic will have a sliding fee scale for persons who are uninsured or cannot pay for the Clinic's services. The Clinic will provide a critical public service as no patients will be turned away due to the inability to pay. *(December 3, 2009, Response to Interrogatories, page 101)*
30. OHCA finds that the Applicant supported the volume projections due to the introduction of specialized services, such as wound care, lymphedema, and stroke, a workers compensation contract and an existing patient base.

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

31. The Applicant contends that since this is an existing clinic, there is no additional proposed capital expenditure associated with this proposal. *(August 13, 2009, Initial CON Application, page 31)*
32. The Applicant contends that the University has provided all space, equipment, consumables, clinical and office staff and marketing resource for the existing clinic. The existing clinic currently has several bikes, treadmill, parallel bars, and therapy stairs. Each patient has access to exercise balls, foam rollers, bolsters, and assistive devices of all types. Under the proposal, UConn's physical therapy program provides the equipment and treatment rooms in order to follow protocols to treat patients. *(December 3, 2009, Response to Interrogatories, page 102)*
33. Under the Agreed Settlement, net revenues/losses from the PT Satellite Clinic had been distributed to WCMH and the Applicant on a quarterly basis as follows:

Table 5: Division of Quarterly Revenue under the Agreed Settlement

Entity:	Percentage of Quarterly Net Revenue
WCMH	35%
UConn - Center for Health Fitness	25%
UConn - School of Allied Health	40% or the balance
Total:	100%

(February 26, 1998, Agreed Settlement, Docket Number 97-512, page 3)

34. The Applicant contends that the proposed Clinic will see an overall increase in per visit reimbursement, as their contracts rates from Anthem, Cigna, and Aetna are commensurate with the Medicare fee schedule. *(December 3, 2009, Response to Interrogatories, page 102)*
35. The Applicant is projecting a loss from operations for the proposal in SFY 2010 of \$14,340 and gains from operations of \$20,880 and \$40,878 for SFYs 2011 and 2012, respectively. *(August 13, 2009, Initial CON Application, page 37)*
36. The Applicant contends that the following table illustrates the projected payer mix for the proposed Clinic population based on utilization by payer:

Table 6: Projected Patient Population Mix

	State Fiscal Year		
	2010	2011	2012
Medicare	30%	35%	36%
Medicaid*	-	-	-
CHAMPUS & TriCare	-	-	-
Total Government Payers	30%	35%	36%
Commercial*	60%	53%	51%
Uninsured	-	-	-
Workers Compensation	8%	10%	11%
Total Non-Gov't Payers	68%	63%	62%
Other	2%	2%	2%
Total	100%	100%	100%

(August 13, 2009, Initial CON Application, page 33)

37. The PT program, under contract with the State of Connecticut Department of Administrative Services, will provide therapy to state employees under WC benefits for those employees that live in the greater Mansfield area. He expects that the percentage of patients to be treated under WC will be approximately 2% of the total number of patients treated. *(December 10, 2009, Hearing Testimony of Mr. Hills)*

38. The Applicant contends that there will be no change in reimbursement from third-party payers as a result of this proposal. *(December 3, 2009, Response to Interrogatories, page 103)*
39. The proposed Clinic is contracted and credentialed to treat patients under State and Federal health plans. The percentage for Medicaid is less than two percent and was included in the payer mix category of "Other." *(December 10, 2009, Hearing Testimony of Mr. Hills)*
40. The PT program will follow the same clinic guidelines as other UConn clinics. It will accept Medicare, Medicaid, and uninsured patients. There will be a sliding fee scale for those patients that must self-pay. *(December 10, 2009, Hearing Testimony of Mr. Hills)*
41. The Applicant asserted that the proposal will provide UConn's Neag School of Education opportunities to implement new programs and foster research collaborations. *(August 13, 2009, Initial CON Application, page 67)*
42. The Applicant asserted this proposal should streamline the patient documentation, improve productivity, and decrease operating costs. *(August 13, 2009, Initial CON Application, page 67)*
43. The Applicant states that the clinicians who will be providing patient care in the Clinic are faculty clinical instructors, licensed physical therapists, and employees of the Nayden Rehabilitation Clinic, Department of Kinesiology, and Neag School of Education at the University. *(December 3, 2009, Response to Interrogatories, page 101)*
44. Based on the resumes of all key professionals, The Applicant has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(August 13, 2009, Initial CON Application, page 67)*

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.

The University of Connecticut (“Applicant”) and Windham Community Memorial Hospital, Inc. (“WCMH”) currently operate an outpatient physicals therapy satellite clinic. Applicant employees staff the Clinic but it is operated as a satellite location of WCMH. In January 2007, WCMH informed the Applicant that due to the new internal compliance standards specific to the hospital, the agreement between WCMH and the Applicant concerning the PT satellite clinic would need to be modified or terminated. In response, the Applicant proposes to establish and operate an outpatient rehabilitation clinic (“Clinic”) in Mansfield (Storrs), Connecticut, with no associated capital expenditure. The Clinic will provide physical therapy, occupational therapy, and speech therapy. The Clinic is currently known as the “Nayden Rehabilitation Clinic.” The Clinic will be relocated from 14 Dog Lane, Storrs to 843 Bolton Road, Storrs. The Clinic will continue to be named the “Nayden Rehabilitation Clinic.”

During the academic year 2009, the Departments of Physical Therapy and Kinesiology were merged and retain the title of Department of Kinesiology. The merger provides an opportunity for clinical research and data mining in addition to the primary objectives of clinical education and patient care. The Applicant also stated that the Clinic will apply for certification from The Commission to Accredit Physical Therapy Education (“CAPTE”) putting in place a set of standards that emphasizing clinical education and hands-on clinical experience prior to clinical residencies. The Applicant will be able to add wound care, lymphedema treatments, and post-stroke as well as other neuro treatments to its program. The proposed Clinic is unique in that if a therapy application is taught in the physical therapy program that service will be provided to the public in the Clinic. In addition under the auspices of The Applicant’s Internal Review Board, the physical therapy program will be able to use the Clinic’s information to improve patient outcomes, analyze the data from various viewpoints, and research specific diseases. OHCA finds that with accreditation by the Commission on Accreditation of Rehabilitation Facilities and the oversight of the University’s Internal Review Board, the Applicant’s proposed Clinic will ensure the quality of service unique to a research facility. OHCA finds that, in addition to the clinical research, the proposed Clinic will ensure the continuation of training and education for students while also offering specialized services to patients.

The proposal has no associated capital expenditure. The Applicant’s physical therapy program provides the equipment and treatment rooms in order to follow protocols to treat patients. The Applicant will locate the Clinic on the southern part of campus next to the University’s Speech and Hearing Clinic. Therefore the addition of speech therapy, as well as occupational therapy, to the physical therapy program will also provide additional access to care.

The Applicant is projecting a loss from operations in SFY 2010 of \$14,340 and gains from operations of \$20,880 and \$40,878 for SFYs 2011 and 2012, respectively. Based on the above, OHCA concludes that the establishment of the outpatient rehabilitation center by The Applicant is financially feasible.

Order

Based on the foregoing Findings and Rationale, the Certificate of Need application of The University of Connecticut ("Applicant") to establish and operate outpatient rehabilitation center offering physical therapy, speech therapy, and occupational therapy at 843 Bolton Road, Mansfield (Storrs) at no associated capital expenditure, is hereby GRANTED, subject to the following conditions:

1. In the event that the Applicant discovers that a capital expenditure for the proposal becomes necessary, the Applicant shall not exceed \$3 million in the capital expenditure for the project. The Applicant shall notify OHCA in writing of such an event.
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

12-28-09
Date


Cristine A. Vogel
Deputy Commissioner

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