



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

May 26, 2010

IN THE MATTER OF:

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

**Employment Options, LLC d/b/a
Litchfield Hills Retreat, LLC**

Notice of Final Decision
Office of Health Care Access
Docket Number: 09-31500-CON

**Establishment of a Free-Standing
Residential Substance Abuse Facility in
Bethlehem, Connecticut**

To: Michele Zurko-Smith
CEO & Member
Employment Options, LLC
12 Trefoil Road
Oxford, CT 06478

Dear Ms. Zurko-Smith:

In accordance with the Connecticut General Statutes Section 4-179, the Proposed Final Decision dated May 7, 2010 by Hearing Officer Melanie A. Dillon is hereby adopted as the final decision of the Deputy Commissioner of the Office of Health Care Access, Department of Public Health in this matter. A copy of the Proposed Final Decision is attached hereto and incorporated herein.

Sincerely,


Cristine A. Vogel
Deputy Commissioner

CAV:swl

cc: Melanie A. Dillon, Hearing Officer, OHCA/DPH
Michele M. Volpe, Esq., Bershtein, Volpe & McKeon, P.C.
Paul E. Knag, Esq., Murtha Cullina LLP



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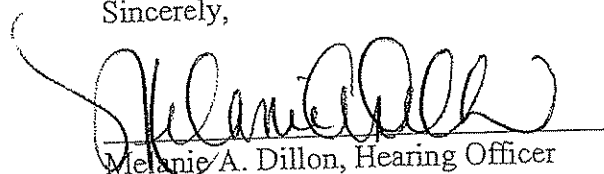
To: Michele Zurko-Smith
CEO & Member
Employment Options, LLC
12 Trefoil Road
Oxford, CT 06478

Dear Ms. Zurko-Smith:

Enclosed please find a copy of my Proposed Final Decision rendered in the above referenced matter.

Pursuant to Connecticut General Statutes Section 4-179, each party adversely affected may file exceptions and present briefs with the Deputy Commissioner of Office of Health Care Access, Department of Public Health within fourteen (14) days from the date of this notice. Any request for oral arguments must be received in writing by May 21, 2010. If no timely request is made, the Office of Health Care Access shall assume these rights to be waived and shall render a Final Decision in this matter.

Sincerely,

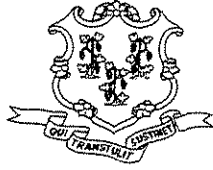


Melanie A. Dillon, Hearing Officer

MAD:swl

cc: Cristine A. Vogel, Deputy Commissioner, DPH
Michele M. Volpe, Esq., Bershtein, Volpe & McKeon, P.C.
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**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Proposed Final Decision

Applicant: Employment Options, Inc.
d/b/a Litchfield Hills Retreat, LLC

Docket Number: 09-31500-CON

Project Title: Establishment of a Free-Standing Residential
Substance Abuse Facility in Bethlehem,
Connecticut

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

Filing Date: March 2, 2010

Hearing Date: April 29, 2010

Decision Date: May 7, 2010

Default Date: May 31, 2010

Staff: Steven W. Lazarus
Laurie Greci

Project Description: Employment Options, Inc., d/b/a Litchfield Hills Retreat, LLC ("Applicant"), is proposing to establish a free-standing residential substance abuse facility in Bethlehem, Connecticut, at a total capital cost of \$2,500,000.

Nature of Proceedings: On March 2, 2010, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from the Applicant regarding a proposal to establish a free-standing residential substance abuse facility in Bethlehem, Connecticut, at a total capital cost of \$2,500,000.

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published on December 11, 2009, in the *Waterbury Republican American*.

On March 18, 2010, and March 22, 2010, OHCA received letters from Silver Hill Hospital, Inc., and High Watch Recovery Center, Inc., requesting that a public hearing be held in this matter.

A public hearing regarding the CON application was held on April 29, 2010. On April 14, 2010, the Applicant was notified of the date, time, and place of the hearing. On April 16, 2010, a notice to the public announcing the hearing was published in *Waterbury Republican American*. Commissioner J. Robert Galvin designated Melanie Dillon, Staff Attorney as the hearing officer in this matter on April 7, 2010. 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.

By petition dated April 22, 2010, Silver Hill Hospital, Inc., requested Intervenor status with full rights of cross-examination regarding the Applicant's CON application. The Hearing Officer approved the Hospital's request for Intervenor status with full rights of cross-examination.

The Hearing Officer heard testimony from the Applicant's and the Intervenor's witnesses and in rendering this proposed final decision, considered the entire record of the proceeding. OHCA's authority to review, 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

1. Employment Options, LLC ("EO" or "Applicant") is a private service agency located at 12 Trefoil Road, Oxford, Connecticut. It was established in 1994 and currently employs 138 people. (*November 20, 2009, Letter of Intent, February 5, 2010, and Initial CON Application, page 6*)
2. Michele Zurko-Smith is the Chief Executive Officer and the sole member owner of EO and Litchfield Hills Retreat, LLC. (*November 20, 2009, Letter of Intent, February 5, 2010 and March 2, 2010, Completeness Letter Responses, page 138*)
3. The Applicant contends that EO has a vocational contract with the Bureau of Rehabilitation Services and is also the largest provider of the Acquired Brain Injury Waiver¹ in the State of Connecticut, offering residential support, independent living skills training, as well as vocational services. (*November 20, 2009, Letter of Intent*)
4. The Applicant is proposing to establish Litchfield Hills Retreat, LLC ("LHR"), a 28 bed residential substance abuse treatment facility located at 64 Double Hill Road, Bethlehem,

¹ A Medicaid Waiver program using person centered planning to provide a range of non-medical home, and community based services to maintain adults who have acquired brain injury (not a developmental or degenerative disorder) in the community.

Connecticut. *(February 5, 2010, Initial CON Application, pages 6 & 122)*

5. The Applicant proposes to locate its facility on sixty two (62) private acres which will offer privacy while ensuring anonymity, as the current building structure is set back from the rural road and not visible from any direction. Further, the proposed facility will offer private rooms. *(November 20, 2009, Letter of Intent and February 5, 2010, Initial CON Application, page 6)*
6. The Applicant asserts that a 7,500 square foot home is located on the property and that two additional buildings would be built for additional beds, office and program space. *(November 20, 2009, Letter of Intent)*
7. The Applicant limited the number of beds to 28 in order to establish the type of individualized, therapeutic environment it desires to offer the specialized population that it intends to serve. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, Acting Director of Litchfield Hills Retreat, page 148)*
8. The Applicant contends that the proposed facility will treat individuals 18 years of age and older, whose high level of public visibility, wealth, and/or social status makes it difficult for them to begin a successful recovery in the existing residential treatment settings. *(February 5, 2010, Initial CON Application, page 6)*
9. The Applicant claims that the proposed LHR facility will be the first licensed facility in Connecticut for the care and treatment of substance abuse and addictive disorders that is specifically tailored to this population. *(February 5, 2010, Initial CON Application, page 25)*
10. The Applicant asserts that the target population for the proposed LHR facility is currently not being served in the state of Connecticut and that these individuals are either required to travel to other states to receive services or they do not seek treatment. *(February 5, 2010, Initial CON Application, page 19)*
11. The Applicant contends that the only providers that are similar to the proposed facility in terms of level of privacy, upscale amenities, treatment modalities, and price point are located out-of-state and any Connecticut resident seeking this type of upscale residential treatment, including but not limited to the proposed target population, must currently travel elsewhere to receive it. *(March 2, 2010, Completeness Letter Responses, page 130)*
12. Mr. Gwozdz testified that in contrast to the existing providers, LHR's program will be structured to provide a supportive and safe setting for adults in the later stages of recovery to make the transition back into the community. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 153)*
13. LHR asserts that it offers a wide variety of therapy options tailored to the recovering individual in a spa-like retreat environment. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 153)*
14. Mr. Gwozdz testified that LHR will complement the existing substance abuse treatment facilities in Connecticut. LHR views the existing substance abuse providers as potential referral sources for the target population and a potential referral destination for those individuals that are not appropriate for LHR. *(April 26, 2010, Prefile Testimony of Mr. Brian*

Gwozdz, page 154)

15. Mr. Gwozdz testified that the need for LHR is based on the significant substance and alcohol dependency that exists in Connecticut, particularly among certain high-income individuals such as physicians, attorneys, executives and other high-earners. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 143)*
16. LHR proposes to serve this high-profile population comprised of physicians, attorneys, executives and other high-earning individuals by offering a setting where individuals with similar backgrounds and status can obtain treatment without being identified and treated as a “special” or “extraordinary” within the facility. Mr. Gwozdz asserts that this is an important aspect in achieving successful recovery. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 145)*
17. Mr. Gwozdz testified that the target populations of high-earners are defined as individuals and families earning over \$200,000 annually. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 146 and April 29, 2010, Public Hearing Testimony)*
18. According to the U.S. Census Bureau estimates for 2006-2008, approximately 2,673,711 adults reside in Connecticut. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Attached Exhibit 7)*
19. The Applicant testified that Substance Abuse and Mental Health Administration (“SAMHSA”) reports that approximately 10% of the population has a substance abuse or dependency problem. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Attached Exhibit 9)*
20. Applying the 10% estimate to Connecticut’s total population, the Applicant estimates that without taking household income into account, approximately 267,371 adults in Connecticut have a substance abuse problem. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Attached Exhibit 9)*
21. The Applicant further testified that according to the U.S. Census Bureau, approximately 8% of the Connecticut population has a household income of \$200,000 or more. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Exhibit 8)*
22. Accordingly, the Applicant asserts that there are 213,896 households in Connecticut with an annual income of over \$200,000. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146)*
23. By applying the SAMHSA percentage of 10% to the estimated 8% of Connecticut’s population with an annual income of \$200,000 or more, the Applicant estimates that there are 21,389 professional or high profile individuals in Connecticut with a substance abuse problem. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Attached Exhibit 9)*
24. In 2008, SAMHSA reported that 45,338 persons sought treatment for a substance abuse problem in Connecticut. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, page 146 and Attached Exhibit 9)*
25. Accordingly, the Applicant determined that out of the estimated 267,317 persons with a

substance abuse problem in Connecticut, approximately 17% sought treatment (45,338/267,317 = 17%). (April 26, 2010, *Prefiled Testimony of Brian Gwozdz, page 147 and Attached Exhibit 10*)

26. Mr. Gwozdz testified that the 45,338 figure is for adults that actually sought substance abuse treatment and therefore, it is a conservative figure because it does not take into account those adults that might need treatment but do not seek treatment. (April 29, 2010, *Public Hearing Testimony of Brian Gwozdz*)
27. Moreover, the Applicant utilized a more conservative rate of 15% instead of the 17% referenced in Finding of Fact 25. (April 26, 2010, *Prefiled Testimony of Brian Gwozdz, page 147 and Attached Exhibit 10*)
28. The following table utilizes the information provided above to summarize the potential patient population based on the estimates from the US Census Bureau and SAMHSA information concerning the prevalence of substance abusers that may utilize the services of LHR:

Table I: Projected Number of Potential LHR Clients

Population	Number	Percent of Population	Number of Potential Clients
Adults, 18 years and older	2,673,711	10%	267,317
Households with Income greater than \$200,000 annually	267,317	8%	21,390
Adults that seek treatment	21,390	17%*	3,636
Adults that seek treatment	21,390	15%**	3,209

(April 26, 2010, *Prefiled Testimony of Brian Gwozdz, pages 147, and 233*)

29. Relying upon various articles and information from the Department of Labor, the Department of Public Health and the American Medical Association, the Applicant also estimated the potential numbers of lawyers, physicians, chief executives and other high level professionals with a substance abuse problem in Connecticut.
30. The Applicant included in its filing an article entitled, "Addiction and Lawyers: Substance Abuse in the Legal Profession," by Ed Jennett and a copy of a brochure from Lawyers for Lawyers Connecticut, as evidence indicating substance abuse is a problem in the legal profession. (February 5, 2010, *Initial CON Application, pages 81-86*)
31. According to the above article, "Addiction and Lawyers: Substance Abuse in the Legal Profession," it is estimated that 20% of lawyers have a substance abuse problem at sometime in their career. (March 2, 2010, *Completeness Letter Responses, page 136*)
32. Mr. Gwozdz testified that according to the Ohio Lawyers Assistance Program, eighteen (18%) to twenty percent (20%) of attorneys suffer from alcoholism. This rate rises to twenty-five percent (25%) after twenty years of practice. (April 26, 2010, *Prefiled Testimony of Mr. Brian Gwozdz, Acting Director of Litchfield Hills Retreat, page p. 144 and Attached Exhibit 5*)
33. Mr. Gwozdz testified that according to Connecticut's Department of Labor, as of the first

quarter of 2009, there were more than eight thousand (8,000) employed attorneys, four thousand seven hundred fifty (4,750) chief executives, and nearly twenty-two thousand (22,000) financial managers, analysts, examiners and other financial specialists. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, Acting Director of Litchfield Hills Retreat, page 144 and Attached Exhibit 3)*

34. The Applicants also included in its filing a report from the American Medical Association, "Report 1 of the Council on Scientific Affairs (A-95), Substance Abuse Among Physicians," highlighting the prevalence of substance abuse among physicians based on survey results originally published in the Journal of American Medical Association. *(February 5, 2010, Initial CON Application, pages 87-103)*
35. Mr. Gwozdz testified that according to Connecticut's Department of Public Health, there are presently more than sixteen thousand (16,000) active licensed physicians in Connecticut. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, Acting Director of Litchfield Hills Retreat, page 143 and Attached Exhibit 3)*
36. Mr. Gwozdz testified that it is conservatively estimated that eight percent (8%) to twelve percent (12%) of physicians will develop a substance abuse problem at some point during their career and that at any given time, as many as seven percent (7%) of practicing physicians are active substance abusers. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, Acting Director of Litchfield Hills Retreat, page 144 and Attached Exhibit 4)*
37. The following table summarizes the Applicant's information provided in Findings of Fact 31-37.

Table II: Projected Number of Potential Clients from Target Population

Target Group	Number	Percent of Population	Number of Potential Clients
Active, licensed Physicians	16,000	7%	1,120
Employed Attorneys	8,000	18%	1,440
Chief Executives, Financial Managers, and Other Similar Occupations	26,750	10%	2,675
Total Number of Potential Clients from Target Population			5,235

(April 27, 2010, Prefiled Testimony of Brian Gwozdz, pages 143-146)

38. The Applicant provided sufficient evidence demonstrating the prevalence of substance abuse among attorneys and physicians.
39. OHCA finds that the Applicant relied upon objective and reliable sources of information and utilized reasonable methodologies to estimate the total number of individuals with a substance abuse problem who may utilize the services provided by LHR.
40. Accordingly, OHCA further finds that the Applicant demonstrated a sufficient need among this relatively small and well-defined population that LHR proposes to serve.
41. The Applicant estimates that its capture rates of those persons from Connecticut seeking

residential treatment to be 2.5%, 5%, and 7% in the first three years of operations. When applied to the number of potential clients of 3,209 (See Finding of Fact 30), the Applicant estimates that it will have 80, 160, and 225 Connecticut admissions in the first three years of operations, respectively. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, pages 147 and 233)*

42. The Applicant assumed that there would be 28 beds available 365 days each year and the length of stay per admission would be 30 days. *(April 26, 2010, Prefiled Testimony of Brian Gwozdz, pages 147 and 148)*
43. The Applicant asserts that, according to the research they conducted, a 30 day stay is the national standard for this type of treatment. This data was gathered from other treatments centers and taken from the Office of Applied Studies SAMHSA, 2001 Treatment Episode Data TEDS 5.31.03. *(March 2, 2010, Completeness Letter Responses, page 131)*
44. The Applicants contend that the following table illustrates the utilization of the proposed LHR for the first three years of service:

Table III: Projected Utilization for LHR

LHR, LLC	Projected Utilization		
	Year 1 (Jan. 1-Dec. 31 2011)	Year 2 (Jan. 1-Dec. 31 2012)	Year 3 (Jan. 1-Dec. 31, 2013)
Total Beds	28	28	28
Total Available Bed Days	10,220	10,220	10,220
Projected Total Occupancy	40%	65%	85%
Projected Bed Days*	4,088	6,643	8,687
Projected Total Admissions (include Out-of-State)**	136	221	290
Connecticut Admission	80	160	225
Out-of-State Admissions***	56	61	65
Total Admission	136	221	290
% of Connecticut Admissions	59%	72%	78%

* The total projected beds was determined by total available beds multiplied the occupancy rate (for example Year 1: 10,220,x.40=4,088)

**The projected total admissions were calculated by taking total bed days divided by an average length of stay of 30 days.

*** Out-of-state admissions were determined by the difference between CT admissions and projected total admissions

(February 5, 2010, Initial CON Application, page 23, March 2, 2010, Completeness Letter Responses, page 130-131, and April 27, 2010, Prefiled Testimony of Brian Gwozdz, Exhibit 11, page 236)

45. The Applicant further testified that its projected total occupancy of 40% in year 1, 65% in year 2 and 85% in year 3 is conservative, particularly in light of the fact that the National Survey of Substance Abuse Treatment Services in 2005 indicated that the average utilization rate for residential facilities was 93%. *(February 5, 2010, Initial CON Application, page 55 and April 26, 2010, Prefiled Testimony of Mr. Gwozdz, pages 147-148 and Attached Exhibit 12)*

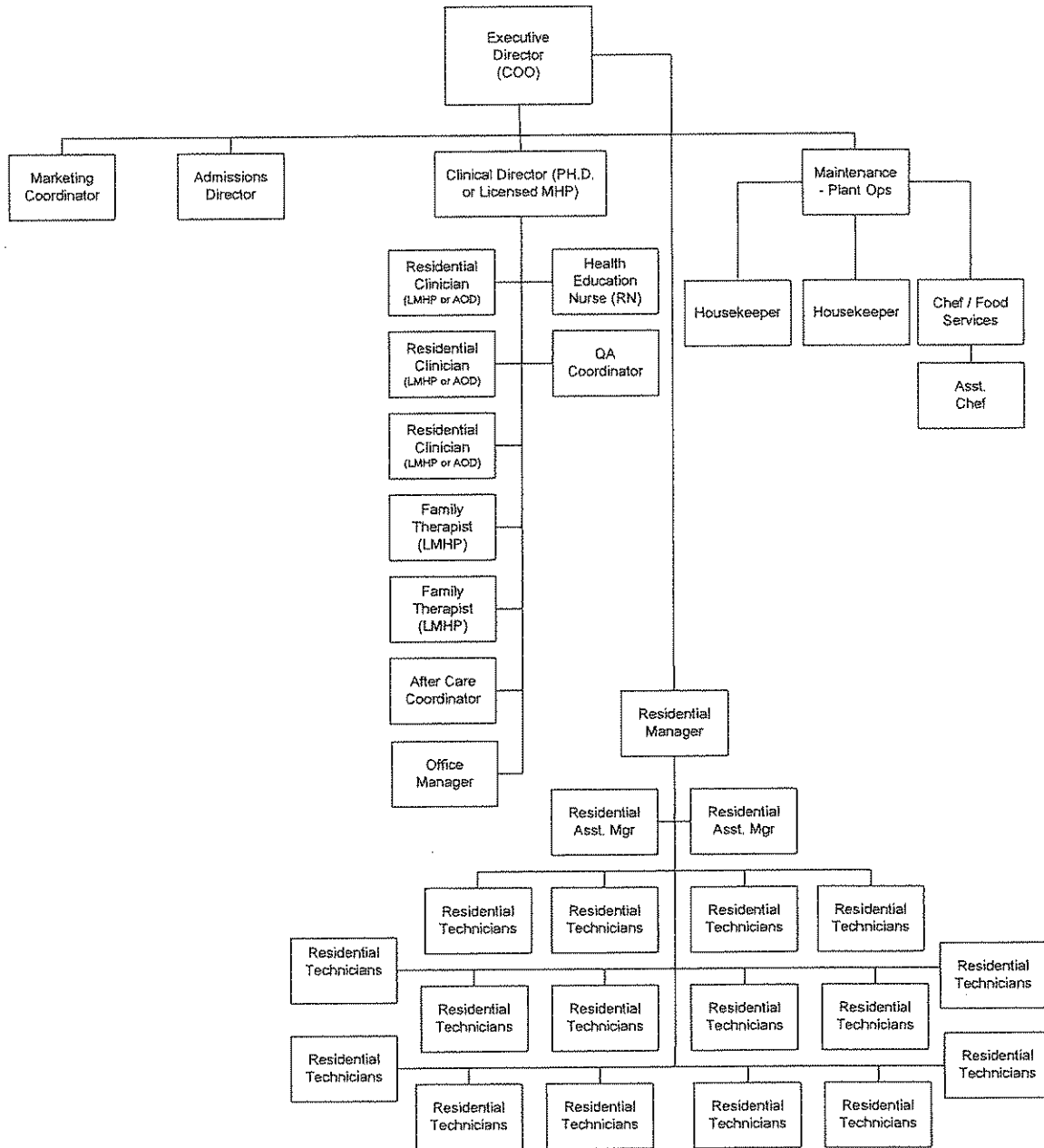
46. OHCA finds that based upon the evidence provided, the Applicant's volume projections are reasonable and achievable.
47. The Applicant contends that there is no impact on any existing providers since currently there is no facility in Connecticut that provides the exact services and setting as the proposed facility. *(February 5, 2010, Initial CON Application, page 19)*
48. The Applicant provided a list of 17 locations in the area that offer similar services. *(February 5, 2010, Initial CON Application, pages 21-22)*
49. The Applicant asserts, however, that the proposed facility is markedly different from other similar providers in the area in that the proposed location is extremely private; the building location is not visible from the road; and LHR will offer private rooms and a broad array of treatment methods. *(March 2, 2010, Completeness Letter Responses, page 131)*
50. LHR proposes to offer several amenities and alternative practices such as equine assisted therapy, massage therapy, reiki, art, music, outdoor recreational activities and other modalities in a manner consistent with substance abuse treatment models. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 153)*
51. The Intervenor, Silver Hill Hospital, Inc. ("Silver Hill"), asserts, however, that it is comparable to the proposed facility in that its target population includes the target population of LHR and it has treated many highly visible and/or wealthy patients with great success in its self-pay 4-week residential substance abuse treatment program. *(April 22, 2010, Prefiled Testimony of Dr. Sigurd Ackerman, page 4)*
52. The Intervenor is licensed as a psychiatric hospital and has the ability to deal with detoxification and a variety of physical and psychiatric issues which often accompany drug or alcohol dependence. *(April 22, 2010, Prefiled Testimony of Dr. Sigurd Ackerman, President and Medical Director of Silver Hill Hospital, page 5)*
53. Dr. Ackerman testified that Silver Hill currently operates 52 beds for residential substance abuse/dual disorders treatment. The cost for this self-pay program is \$26,000 and private rooms are available at a rate of \$49,280. *(April 22, 2010, Prefiled Testimony of Dr. Sigurd Ackerman, page 3)*
54. Dr. Ackerman clarified that all of the rooms in its residential treatment program have two beds; however, an individual can purchase the second bed in the room to make it a private room. *(April 29, 2010, Public Hearing Testimony of Dr. Sigurd Ackerman)*
55. Dr. Ackerman testified that over the last three years, approximately 75 individuals purchased the second bed in the room to convert it to a private room. *(April 29, 2010, Public Hearing Testimony of Dr. Sigurd Ackerman)*
56. The Intervenor asserts that its occupancy rate for residential substance abuse/dual disorders treatment program for FY 2009 and 2010 was 77.7% and 76%, respectively and therefore, there is adequate capacity for such persons at Silver Hill. *(April 22, 2010, Prefiled Testimony of Dr. Sigurd Ackerman, page 3)*
57. The Intervenor asserts that the Applicant failed to prove a need for the proposed service

- and that Silver Hill and other facilities in Connecticut have adequate capacity to serve the Applicant's target population. *(April 22, 2010, Prefiled Testimony of Dr. Sigurd Ackerman, page 4)*
58. OHCA finds that the Intervenor merely asserted that there is excess capacity without producing evidence of the same.
 59. OHCA also finds that the Intervenor failed to produce evidence that the Applicant's projections with respect to the target population were unreasonable or that the information and data upon which those projections were based were unreliable.
 60. Additionally, despite the Intervenor's claims to the contrary, LHR maintains that it will be different, and therefore not competitive with, the existing substance abuse treatment facilities in the state. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 152)*
 61. Although, LHR will obtain the same licensure from DPH as many of the existing treatment facilities, it will be significantly different in that it will be a smaller, more private facility offering individualized care and programs that specifically address the professionals and social characteristics of its mature clients and offer a peer group for client with specific careers. *(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 152)*
 62. Dr. Sack testified that LHR has significant differences from Silver Hill in that it will not be a licensed psychiatric hospital and it will be providing community-based residential treatment services in a homelike environment that is relatively non-institutional. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D., Chief Executive Officer of Elements Behavioral Health Inc., and Promises Treatment Centers)*
 63. As further clarification, Dr. Sack explained that there are individuals whose acuity is such that they will require detoxification services that would not be available at LHR and who will also need some of the services available at a psychiatric hospital such as Silver Hill. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
 64. Dr. Sack also testified that LHR's clients will be comprised of individuals who have already received detoxification treatment and who have been cleared medically by a referring physician. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 249)*
 65. Dr. Sack further testified that individuals should be able to choose where they receive their treatment and from whom they receive their treatment. To that end, Dr. Sack maintained that the LHR proposal will offer greater choice in the selection of services for individuals suffering from substance abuse problems. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
 66. Based upon the evidence provided, OHCA finds that although LHR may be similar in some respects to existing providers of substance abuse treatment, it is not comparable to many of the existing providers in that it will offer private rooms, several amenities and a broad array of residential treatment services in a homelike, non-institutional environment.
 67. Dr. Sack testified that it is well recognized that individuals with substance abuse problems often have a co-occurring disorder such as anxiety or depression and that LHR will be staffed and equipped to deal with this population. *(April 26, 2010, Prefiled Testimony of*

David Sack, M.D., page 249)

68. Although LHR maintains it is a non-medical facility, Dr. Sack testified that it will support the medical needs of its clients through a consulting physician and clients with medical issues that emerge during their stay at LHR will be referred for treatment to a community physician. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 251)*
69. Dr. Sack testified that LHR's sole focus will be substance abuse/dependency treatment. The staff at LHR will ensure that each client will be thoroughly interviewed and assessed prior to acceptance into the program. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 251)*
70. Dr. Sack testified that after the assessment, the Clinical Director, in conjunction with the admissions staff, will make an informed decision regarding whether it is appropriate for the individual to be admitted to the LHR program in accordance with its licensure and treatment models or whether another, higher level of treatment is required for the individual. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 251)*
71. Dr. Sack testified that in cases where a client is not cleared for admission by the Clinical Director, the client will be referred to an alternative facility that offers the specific type of care that is demanded by the individual, whether it is inpatient psychiatric care, detoxification or other specialty care. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 252)*
72. Dr. Sack testified that the Clinical Director will be a licensed Master's level clinician, either a psychologist or a counselor and will be required to have a minimum of three (3) years of experience in drug and alcohol residential treatment programs. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
73. The Clinical Director's primary responsibility would be to design the program, to provide training and supervision to other clinical and non-clinical staff. Responsibilities will also include coordinating admissions and approving appropriateness for the program elements. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
74. LHR will employ licensed master's level therapists to coordinate both the primary therapy and family therapy programs. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
75. LHR will also employ several licensed or certified substance abuse alcohol and drug treatment counselors to provide the psycho-educational programs and individual counseling for drug and alcohol related issues. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
76. Dr. Sack testified that the ratio of counselors to patients will be 1 to 5. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
77. Additionally, LHR will employ several rehabilitation technicians, not necessarily certified or credentialed but experienced to provide direct supervision on a 24-hour basis. Duties may include driving, support services, safety checks, and vital signs monitoring. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*

78. Dr. Sack testified that other positions would include a full-time chef to order and prepare foods, grounds keepers, a consulting physician and possibly a consulting psychiatrist. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
79. Dr. Sack testified that the consulting physician would aid in the examination on admissions and review laboratory tests and the consulting psychiatrist would aid in cases where a client's behavior changes or escalates or if they require additional psychiatric consultation. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
80. Upon request from OHCA, the Applicant submitted in the record a chart of organizational positions for the proposed facility.



(May 3, 2010, Applicant's Late File)

81. Dr. Sack also testified that LHR will follow the specific licensure requirements for the State of Connecticut when it is hiring staff. *(April 29, 2010, Public Hearing Testimony of David Sack, M.D.)*
82. Dr. Sack testified that as LHR proceeds with licensing, it will develop a definitive client activity schedule that describes the frequency and duration of each therapeutic modality. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 249)*
83. Dr. Sack testified that an example of these activities would include the 12 Step Facilitation Therapy, Motivational Interviewing and Cognitive Behavioral Therapy. These treatments will be provided in a range of individual and group psychotherapy sessions that will reinforce the skill acquired. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 250)*
84. Upon request from OHCA, the Applicant submitted a copy of a tentative program schedule for LHR. It is hereto attached as Exhibit I.
85. OHCA finds that the Applicant has produced evidence demonstrating that it is providing an appropriate level of staffing for the services that it proposes to provide.
86. LHR will obtain licensure from the Department of Public Health as a facility for the care and treatment of substance abusive and dependent persons. *(April 26, 2010, Prefiled Hearing Testimony of David Sack, M.D., page 253)*
87. Additionally, LHR will seek accreditation from the Commission on Accreditation of Rehabilitation Facilities ("CARF"). *(April 26, 2010, Prefiled Hearing Testimony of David Sack, M.D., page 253)*
88. Dr. Sack testified that CARF is a private, independent, not-for-profit organization that promotes quality rehabilitation services. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 253)*
89. Dr. Sack testified that he will assist LHR in attaining accreditation from CARF. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 253)*
90. Dr. Sack testified that in order to obtain CARF accreditation, facilities must demonstrate that they substantially meet certain internationally recognized standards applicable to rehabilitation facilities. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 253)*
91. Dr. Sack testified that LHR has established a Quality Assurance Plan ("QAP") and that adherence to this structured QAP will ensure the provision of high-quality substance abuse treatment services to the patients of LHR. *(April 26, 2010, Prefiled Testimony of David Sack, M.D., page 255)*
92. Based upon all of the evidence, OHCA finds that LHR is competent to provide efficient and adequate service to the public.
93. The Applicant contends that the proposed capital expenditure associated with this proposal is \$500,000, the majority of which is for renovations and furnishing. The

property is currently owned by Michele Zurko-Smith, the CEO of LHR and the current market value of the property is \$2 Million. Therefore, the total capital cost associated with this proposal is \$2.5 Million. *(February 5, 2010, Initial CON Application, page 35)*

94. The Applicant contends that the proposal will be funded by Ms. Michele Zurko-Smith herself. *(February 5, 2010, Initial CON Application, page 52)*
95. The Applicant submitted Ms. Zurko-Smith's personal 2008 United States tax filings. *(March 2, 2010, Completeness Letter Responses, page 138)*
96. The Applicant contends that proposed service is 100% private pay. *(February 5, 2010, Initial CON Application, page 36)*
97. The Applicant contends that the cost for the proposed services per client will be \$50,000.
98. The Applicant projects incremental revenue from operations, total operating expenses and loss/gain from operations associated with the first three years of operating this proposal as follows:

Table IV: Incremental Financial Projections for Operating Years 1 through 3

Description	Year 1	Year 2	Year 3
Incremental Revenue from Operations	\$6,450,000	\$11,292,000	\$14,150,000
Incremental Total Operating Expenses	\$5,432,659	\$5,622,659	\$6,854,000

Incremental (Loss)/Gain from Operations \$1,017,341 \$5,669,341 \$7,296,000

(April 26, 2010, Prefiled Testimony of Mr. Brian Gwozdz, page 236 and February 5, 2010, Initial CON Application, page 41)

99. The Applicant contends that Ms. Zurko-Smith as the sole owner of EO, the parent company of LHR, will be responsible for all the costs accrued. *(March 2, 2010, Completeness Letter Responses, page 138)*
100. The Applicant contends that the proposal is cost effective because it is private pay. *(February 5, 2010, Initial CON Application, page 49)*

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.

Employment Options, LLC (“EO” or “Applicant”) is a private service agency that was established in 1994 and currently employs 138 people. Michele Zurko-Smith is the Chief Executive Officer and the sole member owner of EO and Litchfield Hills Retreat, LLC (“LHR”). The Applicant proposes to establish a 28 bed residential substance abuse treatment facility on 62 private acres located at 64 Double Hill Road in Bethlehem, Connecticut.

The Applicant claims that the proposed LHR facility will be the first licensed facility in Connecticut for the care and treatment of substance abuse and addictive disorders that is specifically tailored to treat individuals 18 years of age and older, whose high level of public visibility, wealth, and/or social status makes it difficult for them to begin a successful recovery in the existing residential treatment settings. Specifically, the Applicant claims that it will offer private rooms in a homelike non-institutional environment. The Applicant further claims that it will offer privacy in that its facility is not visible from the road and located on sixty-two acres. LHR proposes to offer several amenities and alternative practices such as equine assisted therapy, massage therapy, reiki, art, music, outdoor recreational activities and other modalities in a manner consistent with substance abuse treatment models.

Utilizing data from the U.S. Census Bureau and SAMHSA, the Applicant determined that there are approximately 3,209 adults in Connecticut with an income of over \$200,000 annually with a substance abuse problem who may utilize the services of LHR. (Finding of Facts 18-28). Additionally, utilizing information from various sources such as the Department of Labor and the Department of Public Health and various articles concerning the prevalence of substance abuse among attorneys, physicians and other high earners, the Applicant determined there are approximately 5,235 attorneys, physicians, chief executives and financial executives with a substance abuse problem who may utilize the services of LHR. (Findings of Fact 30-38). OHCA concluded that these numbers were reasonable and based upon reliable sources of information. (Findings of Fact 38-39). Based upon all of the evidence provided, OHCA finds that the Applicant utilized reasonable methodologies to demonstrate a sufficient need among the relatively small well-defined population that LHR proposes to serve. (Finding of Fact 40).

Relying upon the aforementioned numbers, the Applicant provided volume projections for LHR in the first three years of operation. LHR expects to see a total of 136, 221 and 290 patients in years 1, 2 and 3, respectively. (Findings of Fact 44). Moreover, LHR anticipates that its Connecticut admissions for the same three years will be 80, 160 and 225. (Findings of Fact 44). OHCA finds that these projections are reasonable and achievable based upon the evidence provided. (Findings of Fact 46).

The Intervenor asserted that there is excess capacity for the Applicant's target population without providing evidence of the same. (Findings of Fact 58). Additionally, although the Intervenor claimed that there is no need for the proposal, the Intervenor failed to provide evidence demonstrating that the Applicant's projections concerning its target population were unreasonable or that the information upon which those projections were based was unreliable. (Findings of Fact 59). Finally, even though the Intervenor may offer some services similar to those proposed by the Applicant, LHR provided sufficient evidence differentiating its facility from that of a psychiatric hospital. (Findings of Fact 61-64). Specifically, LHR demonstrated that it is a community rehabilitation facility as opposed to a psychiatric hospital and that it will provide services for individuals that have already received detoxification and who have been medically cleared by a referring physician. (Findings of Fact 64). Furthermore, LHR will provide its services in a relatively non-institutional setting with many amenities and a variety of services for its high end clientele. (Findings of Fact 66). Based upon all of the evidence, OHCA concludes that LHR is a unique facility that will provide services in a setting with certain amenities that are not widely available within the state of Connecticut.

The total capital cost associated with this CON proposal is \$2,500,000. (Findings of Fact 93). Ms. Zurko-Smith as the sole owner of EO, the parent company of LHR, will be responsible for all the costs accrued. (Findings of Fact 99). The Applicant projects an incremental gain from operations of \$1,017,341, \$5,669,341 and \$7,296,000, for fiscal years 1-3. (Findings of Fact 98). OHCA concludes based upon the evidence provided that the Applicant's volumes and financial projections upon which they are based appear to be reasonable and achievable.

Order

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Employment Options, LLC d/b/a Litchfield Hills Retreat, LLC to establish a Free-Standing Residential Substance Abuse Treatment Facility in Bethlehem, Connecticut, at a total capital cost of \$2,500,000, is hereby APPROVED, subject to the following conditions:

1. This authorization shall expire on May 7, 2012. Should the Applicant's proposal not be completed by that date, the Applicant must seek further approval from OHCA to complete the project.
2. The Applicant shall notify OHCA in writing of the commencement date of the proposed facility by no later than one month after the commencement date.
3. Within 30 days of receiving licensure from Connecticut Department of Public Health, the Applicant shall submit a copy of the license to OHCA.
4. Prior to opening its facility, the Applicant shall submit to OHCA a copy of the Certificate of Incorporation for Litchfield Hills Retreat, LLC.

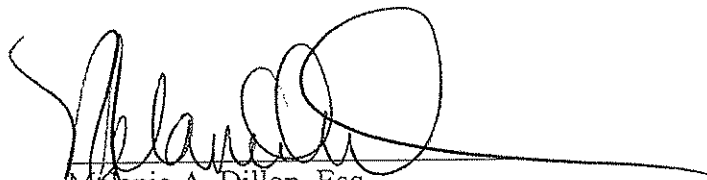
Should the Applicant fail to comply with any of the aforementioned conditions, OHCA reserves the right to take additional action as authorized by law.

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

Based upon the foregoing, I respectfully recommend to the Deputy Commissioner that the application of Employment Options, LLC d/b/a Litchfield Hills Retreat, LLC to establish a free-standing residential substance abuse treatment facility in Bethlehem, Connecticut, be approved.

5-7-10

Date


Melanie A. Dillon, Esq.
Hearing Officer

MAD:swl/lkg

LITCHFIELD HILLS RETREAT PROGRAM SCHEDULE

(All Information and Times Subject to Change)

	MON	TUES	WED	THU	FRI	SAT	SUN
6:00 AM	Optional Wake-Up for 7am 12 Step Mtg	Optional Wake-Up for 7am 12 Step Mtg	Optional Wake-Up for 7am 12 Step Mtg	Optional Wake-Up for 7am 12 Step Mtg	Optional Wake-Up for 7am 12 Step Mtg	Sleep-in	Sleep-in
7:00 AM	Wake up	Wake up	Wake up	Wake up	Wake up		
7:30 AM	Daily Reflection Breakfast & Chores	Daily Reflection Breakfast & Chores	Daily Reflection Breakfast & Chores	Daily Reflection Breakfast & Chores	Daily Reflection Breakfast & Chores	8am Wake up, Daily Reflection, and Chores	8am Wake up, Daily Reflection, and Chores
8:00 AM							
9:00 AM	GYM or Trail Walk 9:00 AM to 10:15 AM	GYM or Trail Walk 9 to 10:15 am or Acupuncture 9 to 10am	GYM or Trail Walk 9:00 AM to 10:15 AM	GYM or Trail Walk 9 to 10:15 am or Acupuncture 9 to 10am	GYM or Trail Walk 9 to 10:15 am	9am Breakfast 10am Big Book Study (Clients only)	9am Breakfast 9:30 or 9:45 am Leave for AA or CA Mtg
10:00 AM							
11:00 AM	11 am to 12:15 pm Insight Oriented Group Psychotherapy	Step1	11 am to 12:15 pm Insight Oriented Group Psychotherapy	Step1	Step1	11:30am Multi-Family Group (Family & Clients)	Lunch
12:00 PM	Lunch	Lunch	Lunch	Lunch	Lunch		
1:30 PM	Meditation	Men's Issues or Women's Issues	VCHC - Service Outing 1:00 PM to 4:00 PM	Mood Regulation Group	Step1		Outing, Massage or Cooking (1pm-5pm)
3:30 PM	Big Book Study	Art Therapy		Psychodrama	Recreational Therapy or Free Time	Saturday Family Visiting (2pm to 5pm)	Dinner and Free Time
5:00 PM	Dinner and Free Time	Dinner and Free Time	Dinner and Free Time	Dinner and Free Time	5:30pm Dinner and Free Time	5:30pm Dinner and Free Time	Dinner and Free Time
6:30 PM	Depart for 12 Step Mtg or 7pm In-House Book Study	Depart for 12 Step Mtg or 7pm In-House Book Study	7:30pm Alumni Meeting	Depart for 12 Step Mtg or 7pm In-House Book Study	Depart for 12 Step Mtg or 7pm In-House Book Study	Depart for Outside Mtg (Or 7pm In-House Mtg)	Gratitude Group
9:30 PM	Wrap-Up (Time may vary)	Wrap-Up (Time may vary)	Wrap-Up (Time may vary)	Wrap-Up (Time may vary)	Wrap-Up (Time may vary)	Wrap-Up (Time may vary)	Free time
							Wrap-Up (Time may vary)

Notes: Service Outing alternates with Equine Assisted Psychotherapy. Individual sessions with Primary Therapists occur 3 times per week during free times. Sessions with Family Therapists occur weekly in addition to the Saturday Family Program. The Alumni Meeting also includes current clients.