



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

May 13, 2010

IN THE MATTER OF:

A Request for Waiver of Certificate of Need Requirements for Replacement Equipment filed pursuant to Section 19a-639c, C.G.S. as amended by P.A.: 09-232, Section 96, by

New Milford Hospital

Notice of Final Decision
Office of Health Care Access
Docket Number: 10-31613-WVR

Request to Waive CON Requirements for the Replacement of an Existing Linear Accelerator with a New Linear Accelerator in New Milford

To: Sally Herlihy, FACHE
Vice President, Regulatory Compliance
New Milford Hospital
21 Elm Street
New Milford, CT 06776

Dear Ms. Herlihy:

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-639c, C.G.S. as amended by P.A. 09-232, Section 96. On May 13, 2010, 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



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

Final Decision

Applicant: New Milford Hospital

Docket Number: 10-31613-WVR

Project Title: Request to Waive CON Requirements for the Replacement of an Existing Linear Accelerator with a New Linear Accelerator in New Milford

Statutory Reference: Section 19a-639c of the Connecticut General Statutes as amended by Public Act: 09-232, Section 96

Filing Date: May 6, 2010

Decision Date: May 13, 2010

Staff: Jack A. Huber

Project Description: New Milford Hospital requests a waiver of Certificate of Need requirements for replacement equipment for the purpose of replacing its existing linear accelerator with a new linear accelerator to be located on the Hospital's main campus, 21 Elm Street in New Milford, Connecticut. The total capital cost associated with the replacement equipment project is \$2,975,355.

Nature of Proceedings: On May 6, 2010, the Office of Health Care Access ("OHCA") received the completed waiver of Certificate of Need ("CON") request for replacement equipment from New Milford Hospital ("Hospital"). The Hospital proposes to replace its existing linear accelerator with a new linear accelerator to be located on the Hospital's main campus, 21 Elm Street in New Milford, Connecticut. The total capital cost associated with the replacement equipment project is \$2,975,355. The Hospital is a health care facility or institution as defined in Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

OHCA's authority to review and approve, modify or deny the requested waiver of CON requirements for replacement equipment is established by Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96. 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. On June 11, 1997, under Docket Number: 96-548, New Milford Hospital ("Hospital") received Certificate of Need ("CON") authorization from the Office of Health Care Access ("OHCA") for the acquisition of a linear accelerator in conjunction with the establishment of a hospital-based radiation therapy service. (*May 6, 2010, CON Waiver Form 2040, page 2 and Attachment A, pages 6 through 23*)
2. Pursuant to Section 19a-639c of the Connecticut General Statutes ("C.G.S.") as amended by Public Act: 09-232, Section 96, a proposal may be eligible for a waiver of replacement equipment from the CON process when a provider previously received a CON for the equipment to be replaced, and the expenditure or value of the replacement equipment is less than \$3 million. (*Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96*)
3. The total capital cost for the replacement equipment proposal is \$2,975,355 and is attributable to \$2,722,405 for the new linear accelerator and \$252,950 in other project costs. (*May 6, 2010, CON Waiver Form 2040, page 2*)
4. The replacement equipment value is below the \$3 million threshold used to determine whether a request is eligible to receive a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96. (*Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96*)

Rationale

New Milford Hospital ("Hospital") is requesting a waiver of Certificate of Need ("CON") requirements for replacement equipment pursuant to Section 19a-639c of the Connecticut General Statutes ("C.G.S.") as amended by Public Act: 09-232, Section 96. The Hospital is seeking to replace its existing linear accelerator with a new linear accelerator to be located on the Hospital's main campus, 21 Elm Street in New Milford, Connecticut.

On June 11, 1997, under Docket Number: 96-548, the Hospital received CON authorization from the Office of Health Care Access for the acquisition of a linear accelerator in conjunction with the establishment of a hospital-based radiation therapy service.

The replacement equipment cost for the proposed linear accelerator is \$2,722,405, which is below the \$3 million threshold for determining eligibility for a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96.

Order

Based on the foregoing Findings and Rationale, the Office of Health Care Access ("OHCA") has determined that the request of New Milford Hospital ("Hospital") for a waiver of Certificate of Need ("CON") requirements in order to replace its existing linear accelerator with a new linear accelerator to be located on the Hospital's main campus, 21 Elm Street in New Milford, Connecticut, at a replacement equipment cost of \$2,722,405, meets the requirements for waiver of the CON process pursuant to Section 19a-639c of the Connecticut General Statutes as amended by Public Act: 09-232, Section 96, and is hereby **approved**, subject to the following condition.

1. This authorization requires the removal of the Hospital's existing linear accelerator for certain disposition, such as sale or salvage, outside of and unrelated to the Hospital's Connecticut service locations by no later than six months after the replacement linear accelerator has become operational.

Should the Hospital fail to comply with the aforementioned condition, 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

5-13-10
Date


Cristine A. Vogel
Deputy Commissioner

CAV:jah