

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

August 25, 2010

**IN THE MATTER OF:**

An Application for a Certificate of Need  
filed Pursuant to Sections 19a-638 and  
19a-639, C.G.S. by:

**Surgery Center of Fairfield county, LLC**

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 10-31638-CON

**Termination of a Multi-Specialty Outpatient  
Surgical Center in Bridgeport and  
Establishment of a Multi-Specialty Outpatient  
Surgical Center in Trumbull**

To: Faith S. Kycia  
Administrator  
Surgery Center of Fairfield, LLC  
4920 Main Street  
Bridgeport, CT 06606

Dear Ms. Kycia:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter, as provided by Sections 19a-638 and 19a-639, C.G.S. On August 25, 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.

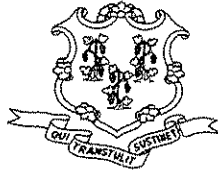
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Kimberly R. Martone  
Director of Operations

cc: Jennifer L. Groves, Updike, Kelly & Spellacy, P.C.

Enclosure  
KRM:agf





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

**Final Decision**

**Applicant:** Surgery Center of Fairfield County, LLC

**Docket Number:** 10-31638-CON

**Project Title:** Termination of a Multi-Specialty Outpatient Surgical Center in Bridgeport and Establishment of a Multi-Specialty Outpatient Surgical Center in Trumbull

**Project Description:** The Surgery Center of Fairfield County, LLC (“Applicant” or “Center”) proposes to terminate a multi-specialty outpatient surgical center in Bridgeport and establish a multi-specialty outpatient surgical center in Trumbull at a total capital expenditure of \$5,554,967.

**Nature of Proceedings:** On June 18, 2010, under CON Determination Report No.: 10-31638-DTR, the Office of Health Care Access (“OHCA”) waived the Letter of Intent (“LOI”) requirement, pursuant to Section 19a-638(b) C.G.S. A notice to the public concerning OHCA’s receipt of the Applicant’s LOI was published in *The Connecticut Post* on June 28, 2010.

On July 9, 2010, OHCA received the completed Certificate of Need (“CON”) application for the above-referenced project. 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 19a-638 and 19a-639, C.G.S., three individuals or an individual representing an entity with five or more people had until July 30, 2010, 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.

OHCA’s authority to review and approve, modify or deny the CON application is established by Sections 19a-638 and 19a-639, C.G.S. The provisions of these sections 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. The Applicant is a for-profit entity operating a multi-specialty outpatient surgery center at 4920 Main Street in Bridgeport, Connecticut. *(July 9, 2010, Initial CON Application, pages 4 and 23)*
2. The current center in Bridgeport has the following ownership: 66.5% - SunSurgery, LLC, which is a wholly owned subsidiary of Surgical Care Affiliates, LLC ("SCA") which, in turn, is a wholly owned subsidiary of ASC Acquisition, LLC; and 33.5% - 26 physician investors. *(July 9, 2010, Initial CON Application, page 4)*
3. The Center is licensed by the Department of Public Health ("DPH") as an outpatient surgical facility. *(June 7, 2010, Letter of Intent)*
4. The Center was established pursuant to CON Docket No. 82-532, as superseded by Docket No. 84-533. ASC Acquisition, LLC acquired the Center from HealthSouth Corporation in 2007 as part of the termination of HealthSouth's ambulatory surgery division in Connecticut and the acquisition of four ambulatory surgery centers by ASC Acquisition, LLC. *(January 3, 1983, Final Decision under Docket Number 82-532-CON, December 7, 1984, Final Decision under Docket Number 84-533-CON, August 16, 2007, Final Decision under Docket Number 07-30955-CON)*
5. The Center received approval to relocate from Bridgeport to Fairfield under CON Docket No. 09-31398. *(January 1, 2010, Final Decision under Docket Number 09-31398-CON)*
6. The developer for the property the Applicant had intended to lease in Fairfield has been unable to obtain financing for the project and the company recently advised the Applicant that it will be unable to build the replacement facility as proposed. *(July 9, 2010, Initial CON Application, page 5)*
7. The Applicant has identified a new location for the center at 90 Quarry Road in Trumbull. The property is owned and will be developed by Quarry Medical Associates, LLC, an affiliate of Robert D. Scinto, Inc. ("Scinto"). *(July 9, 2010, Initial CON Application, page 5)*
8. Scinto intends to build a 75,000 square foot medical office building and lease the top floor to the Center. *(July 9, 2010, Initial CON Application, page 5)*
9. The top floor consists of 17,500 usable square feet and will include 4 operating rooms and one procedure room. *(July 9, 2010, Initial CON Application, page 5)*
10. The lease on the current facility expires in February of 2012. In connection with lease renewal negotiations, a survey of the physical plant was commissioned from the Burell Group, P.C. and CRS Engineering of Birmingham Alabama to determine whether and to what extent the facility meets state and local building codes. The survey identified numerous issues including those dealing with compliance with the Americans with Disabilities Act ("ADA") and the National Fire Protections Association ("NFPA"), HVAC functionality, sprinkler and fire alarm systems, lighting and storage, and it

recommended steps to bring the Applicant's facility into code compliance. (*July 9, 2010, Initial CON Application, pages 4 and 18, and Exhibit M*)

11. Letters from DPH dated October 23, 2006 and April 30, 2008 cite physical standards violations related to blockage of an exit corridor, smoke barrier walls with penetrations, lack of documentation for inspection of electrical receptacle outlets, lack of a policy for cleaning the ORs, equipment that was rusted or had peeling paint, and a fire-rated door that failed to close. The Applicant required no waivers from DPH. (*July 9, 2010, Initial CON Application, Exhibit N*)
12. Although renovating the current center would be slightly less costly than building a new facility, the new construction will remedy problems that cannot be completely addressed at the current facility (i.e. insufficient parking and storage space and patient confidentiality issues). (*July 9, 2010, Initial CON Application, page 22*)
13. The operating and procedure rooms in the replacement facility will be supported with all of the ancillary functional space program areas required by the applicable American Institute of Architects ("AIA") Guidelines for Design and Construction of Healthcare Facilities and the State of Connecticut. (*July 9, 2010, Initial CON Application, page 5*)
14. The replacement facility will include more private intake, prep and recovery areas, an examination room, and ample storage space. It will also be fully ADA compliant with accessible and sufficient parking. (*July 9, 2010, Initial CON Application, page 5*)
15. OHCA finds that the Applicant has demonstrated that the proposed replacement facility will bring the Applicant's facility into compliance with applicable building codes and will improve the Applicant's ability to provide high-quality surgical services.
16. The proposed replacement facility will retain the same physicians and medical staff, and will offer services in the same surgical specialties, as follows: Gastroenterology (ENT); General Surgery; Gynecology; Ophthalmology; Oral Surgery; Orthopedic; Otolaryngology; Pain Management; Plastic Surgery; Podiatry; and Urology. (*July 9, 2010, Initial CON Application, page 4*)
17. The current center in Bridgeport has four (4) operating rooms ("ORs") and one (1) procedure room, and the proposed facility in Fairfield will maintain the same complement of operating and procedure rooms. (*July 9, 2010, Initial CON Application, page 4*)

18. The Applicant does not anticipate any changes in patient origin as a result of the relocation, and provided data demonstrating that Bridgeport, Fairfield, and Trumbull provided the highest patient volume to the facility in FY 2009.

**Table 1: Patient Town of Origin, Current Center, 2009**

		2009 Discharges	2009 % of Total Discharges
<b>Service Area</b>	Bridgeport	1,070	19%
	Fairfield	718	13%
	Trumbull	668	12%
	Stratford	546	10%
	Shelton	478	9%
	Milford	218	4%
	Monroe	218	4%
	Westport	128	2%
	Easton	113	2%
	Norwalk	102	2%
	Seymour	79	1%
	Ansonia	60	1%
	Derby	57	1%
	Oxford	57	1%
	Wolcott	46	1%
	Stamford	42	1%
	Weston	38	1%
	<b>Total</b>	<b>4,638</b>	<b>84%</b>
<b>Extended CT</b>	Total	772	14%
<b>Out of State</b>	--	106	2%
<b>Grand Total</b>		<b>5,516</b>	<b>100%</b>

(July 9, 2010, Initial CON Application, pages 4, 17, and 36)

19. The proposed relocation of the facility to a new location in close proximity to the existing center will not result in any access issues for surgical patients. The Applicant plans to publish notice of the proposed relocation in *The Connecticut Post*. Surgeons will advise their patients of the new location when they are considering where to schedule their procedures. (July 9, 2010, Initial CON Application, page 9)
20. The Applicant will notify the DPH Division of Building & Fire Safety and is working with representatives of the division to obtain pre-approval of plans for the Center, as required by the Public Health Code. The Applicant will apply for a new outpatient surgical license for the Trumbull location at least 90 days prior to the anticipated date of occupancy and the Bridgeport license will be returned to DPH once services are no longer provided at that location. (July 9, 2010, Initial CON Application, page 23)

21. The proposed replacement facility will generate no incremental volume, and the Applicant based its volume projections on the historical rate of change by specialty.

**Table 2: Total Historical & Projected Procedures**

	Hist.			Proj.				
	2007	2008	2009	2010	2011	2012	2013	2014
<b>TOTAL</b>	6,052	6,128	6,320	6,540	6,786	7,064	7,370	7,565

Notes: The Center's fiscal year is January 1 to December 31. Unit of service for this table is operative procedure. (July 9, 2010, Initial CON Application, page 25 and exhibit F)

22. OHCA finds that the Applicant's projected volumes appear to be reasonable and achievable.
23. The Applicant provided a copy of an article published in the journal of the International Anesthesia Research Society which described an OR simulation designed to explore the different factors that must be considered in determining optimum utilization. With the goal being to minimize both patient delay and overtime, the authors concluded that 85% is the maximum utilization that can be achieved, with more complex OR suites, cases of different duration, changes in the variability of case duration, emergencies, cancellations, and other factors further decreasing optimum utilization. (Tyler, Donald C, Caroline A. Pasquariello, and Chn-Hung Chen. "Determining Optimum Operating Room Utilization." *Anesthesia & Analgesia* 96:1114-21, 2003 and July 9, 2010, Initial CON Application, pages 8-106)
24. To maintain a utilization rate below 85%, the Applicant will increase hours at the Center in 2013, and when the Center approaches 85% capacity in 2015, the Applicant will consider adding an additional room. The footprint of the proposed replacement facility contains adequate space for expansion if necessary, and the Center has drafted its new proposed lease to include expansion rights for other floors in the new building.

**Table 3: Projected Utilization**

2010	2011	2012	2013	2014	2015	2016
70%	73%	77%	74%	79%	83%	89%

Notes: It was assumed that there will be 254 work days/year, and that in 2010 through 2012 the four ORs will be available 8 hours/day and the procedure room will be available 9 hrs/day. In 2013 ongoing, the OR hours were increased to 9 hrs/day. (July 9, 2010, Initial CON Application, pages 5 and 48-49)

25. The proposal has the following expenses:

**Table 4: Capital Expenditures & Costs**

Medical Equipment Purchase	\$1,289,493
Non-Medical Equipment Purchase	\$96,096
Construction/Renovation	\$4,175,378
<b>Total Capital Expenditure</b>	<b>\$5,554,967</b>

(July 9, 2010, Initial CON Application, page 24)

26. Pursuant to the terms of the lease agreement between the Center and Quarry Road Medical, LLC, the Applicant will pay for the interior fit out work that is in excess of the standard building work as defined in the terms of the agreement. (July 9, 2010, Initial CON Application, Exhibit C, pages 135-138)

27. The following is a breakdown of the expenses associated with the interior renovations:

**Table 5: Itemized List of Interior Construction Costs**

Total Design/Consulting Fees	\$ 300,000
Interior Build Out Construction Costs	\$3,783,500
Project Management	\$ 91,878
<b>Total Design &amp; Construction</b>	<b>\$4,175,378</b>

(July 9, 2010, Initial CON Application, page 34)

28. The Applicant will finance the proposal with loans from its parent company. (July 9, 2010, Initial CON Application, page 2, Exhibit O and Exhibit R)

29. The proposed construction of a replacement facility results in no incremental volume or revenue, and limited incremental expenses associated with construction. The Applicant's projected incremental revenue from operations, total operating expense, and loss from operations associated with the proposal are presented in the table below:

**Table 6: Incremental Financial Projections with the Project**

Description	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Incremental Revenue from Operations	\$0	\$0	\$0	\$0	\$0
Incremental Total Operating Expense	\$34,672	\$188,934	\$446,769	\$419,726	\$392,683
Incremental Loss from Operations	(\$34,672)	(\$188,934)	(\$446,769)	(\$419,726)	(\$392,683)

(July 9, 2010, Initial CON Application, page 25 & Exhibit S)

30. The proposal does not result in any increase in patient charges, and current rates are sufficient to cover the proposal's expenses. (July 9, 2010, Initial CON Application, pages 25-26)

31. The Applicant's projected overall gain from operations with the CON proposal is presented in the table below:

**Table 7: Total Facility Gain / Loss from Operations with the Project**

Description	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Gain / Loss from Operations	\$1,841,039	\$1,779,080	\$1,566,526	\$1,710,529	\$1,865,766

(July 9, 2010, Initial CON Application, Exhibit S)

32. OHCA concludes that the CON proposal is financially feasible.

33. There is no incremental volume or revenue associated with the proposal. (July 9, 2010, Initial CON Application, pages 25-26)

34. The Applicant has realized cost savings through its relationship with SCA, which owns 130 facilities and leverages its buying power to obtain the best prices on medical and office supplies, services, and equipment. (July 9, 2010, Initial CON Application, page 27)



35. The proposal is consistent with the Center's long-term objectives of remaining a high-quality, cost-effective surgical facility that maintains its value in the community by demonstrating superior patient outcomes, unrivaled patient satisfaction and enhanced physician efficiency. The proposed facility is able to meet the changing needs of the medical community and its patients, and is a key tool to achieving the Center's objectives. *(July 9, 2010, Initial CON Application, page 27)*
36. The Center's patient population mix will not change with the proposal, as indicated in the table below.

**Table 8: Current & Three-Year Projected Patient Population Mix**

Payer Description	Current FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Medicare *	17.9%	17.9%	17.9%	17.9%	17.9%
Medicaid *	4.4%	4.4%	4.4%	4.4%	4.4%
CHAMPUS and TriCare	0%	0%	0%	0%	0%
<b>Total Government</b>	<b>22.3%</b>	<b>22.3%</b>	<b>22.3%</b>	<b>22.3%</b>	<b>22.3%</b>
Commercial Insurers *	69.4%	69.4%	69.4%	69.4%	69.4%
Uninsured	2.0%	2.0%	2.0%	2.0%	2.0%
Workers Compensation	6.4%	6.4%	6.4%	6.4%	6.4%
<b>Total Non-Government</b>	<b>77.8%</b>	<b>77.8%</b>	<b>77.8%</b>	<b>77.8%</b>	<b>77.8%</b>
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\* Includes managed care activity.  
*(July 9, 2010, Initial CON Application, page 27)*

37. The Applicant provided resumes of key staff demonstrating sufficient technical, managerial, and clinical competence and expertise to provide efficient and adequate service to the public. *(July 9, 2010, Initial CON Application, page 22 & Exhibit P)*

## Rationale

OHCA approaches community and regional need for 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 Applicant is a for-profit entity operating a multi-specialty outpatient surgery center at 4920 Main Street in Bridgeport, Connecticut. Based on evidence showing limitations of the current physical space in Bridgeport including lack of compliance with the Americans with Disabilities Act and applicable building codes, the Center received approval to relocate to Fairfield under CON Docket No. 09-31398. However, the developer for the previously authorized relocation has been unable to obtain financing for the project and the company recently advised the Applicant that it will be unable to build the replacement facility as proposed. The Applicant has identified a new location for the center at 90 Quarry Road in Trumbull. The new center will occupy approximately 17,500 usable square feet on a single floor of a 75,000 square foot medical office building. OHCA finds that the Applicant has demonstrated that the proposed replacement facility will bring the Applicant's facility into compliance with applicable building codes and will improve the Applicant's ability to provide high-quality surgical services.

The Applicant does not anticipate any changes in patient population as a result of the relocation, and projects that there will be no incremental volume associated with the proposal. OHCA finds that the Applicant's projected volumes appear to be reasonable and achievable. The Applicant also indicated that the proposed replacement facility will retain the same physicians and medical staff, will offer services in the same surgical specialties, and will continue to maintain the same complement of operating procedure rooms as are currently offered at the existing facility. Based on the above, OHCA finds that the proposed relocation will preserve access and improve the quality of outpatient surgical services for the Applicant's current patient population.

The project's total capital expenditure of \$5,544,967 will be financed with a loan from the Applicant's parent company, SCA. The proposed replacement facility results in no incremental revenue and limited incremental expenses associated with construction. With the proposal, the Applicant projects incremental losses from operations in FYs 2010-2014, yet for the total facility overall, the Applicant projects continued gains from operations during the same period. Based on the above, OHCA concludes that the CON proposal is financially feasible.

## Order

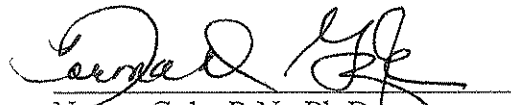
Based on the foregoing Findings and Rationale, the Certificate of Need application of the Surgery Center of Fairfield County for their proposal to terminate a multi-specialty outpatient surgical center in Bridgeport and establish a multi-specialty outpatient surgical center in Trumbull at a total capital expenditure of \$5,554,967 is hereby GRANTED.

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

8.25.10

Date

  
Norma Gyle, R.N., Ph.D.  
OHCA Deputy Commissioner

NG:agf

