



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

December 22, 2010

**IN THE MATTER OF:**

An Application for a Certificate of Need

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 10-31653-CON

**Charlotte Hungerford Hospital**

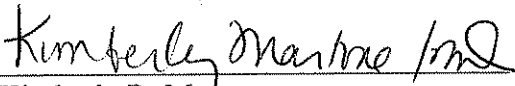
**Acquisition and Operation of a One-Day  
Per Week Mobile Positron Emission  
Tomography-Computed Tomography  
Scanner in Torrington**

To:

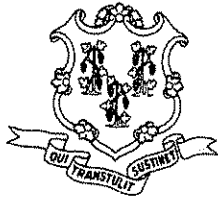
John Capobianco  
Vice President, Patient Care Services & Administration  
Charlotte Hungerford Hospital  
540 Litchfield Street  
Torrington, CT 06790

Dear Mr. Capobianco:

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 Public Act 09-3 § 10. On December 22, 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.

  
Kimberly R. Martone  
Director of Operations

KRM: cgc  
Enclosure



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

**Final Decision**

**Applicant:** Charlotte Hungerford Hospital

**Docket Number:** 10-31653-CON

**Project Title:** Acquisition and Operation of a One-Day Per Week Mobile Positron Emission Tomography-Computed Tomography Scanner in Torrington

**Project Description:** Charlotte Hungerford Hospital (“Applicant”) is proposing to acquire and operate a one day per week mobile Positron Emission Tomography - Computed Tomography (“PET-CT”) scanner to be located at 540 Litchfield Street, Torrington, CT.

**Procedural History:** On November 17, 2010, the Office of Health Care Access (“OHCA”) received a Certificate of Need (“CON”) application for the above-referenced project. A notice to the public concerning OHCA’s receipt of the Applicant’s Letter of Intent was published in the *Register Citizen* on August 3, 2010. OHCA received no responses from the public concerning the Applicant’s proposal and no hearing requests were received from the public per Public Act 09-3 § 10.

**FINDINGS OF FACT**

1. The Applicant is a not-for profit hospital located at 540 Litchfield Street, Torrington, Connecticut. July 22, 2010, Letter of Intent, page 1.
2. Under Docket Number 01-509, the Applicant received authorization to offer PET services as part of a six hospital mobile PET consortium operated by Alliance Imaging, Inc. August 16, 2010, CON application, page 5.
3. In December 2008, Alliance Imaging ceased providing the mobile PET services to the six hospital consortium. See 08-31285-DTR..
4. The Applicant currently utilizes the Positron Emission Tomography (“PET”) scanner owned by a private practice group of medical oncologists, Connecticut Oncology and

Hematology ("COH"), to provide PET services to its patients one day per week from 8:00 a.m. to 2:00 p.m. The COH PET scanner is the only PET scanner currently available in the service area.<sup>1</sup> August 16, 2010, CON application, p. 5-6; Docket Numbers 09-30510-MDF; 09-30510-MD2.

5. The Applicant is proposing the acquisition of a one-day per week mobile PET-CT scanner from 8:00 a.m. to 5:00 p.m. at the main hospital campus in Torrington. August 16, 2010, CON application, p. 5.
6. The service area is comprised of the following towns: Torrington, Winsted, Harwinton, Litchfield, New Hartford, Norfolk, Sharon, Goshen, Thomaston, Canaan, Barkhamsted, Morris, and Northfield. August 16, 2010, CON application, p. 6.
7. There is no PET-CT scanner in the Applicant's service area. August 16, 2010, CON application, p. 6.
8. The proposed PET-CT scanner would allow Applicant's cancer patients easier and more precise location of tumor mass not only for staging but also for treatment decisions. Additionally, the proposed scanner will provide patients access to this advanced technology in the service area. August 16, 2010, CON application, p. 9.
9. A CT scanner is the easiest and highest-resolution tomographic modality to integrate into PET imaging. The combination of the two offers the best of both worlds in an integrated data set and thus improves diagnostic accuracy and localization of many lesions. Landis K. Griffith, MD, PhD "Use of PET/CT Scanning in Patients: Technical and Practical Considerations." BUMC Proceedings 18:321-330, 2005; August 16, 2010, CON application, p. 37u.
10. The acquisition of a PET-CT scanner will provide access to advanced technology and improve the quality of care provided to patients in the Applicant's service area.
11. The Applicant works closely with its medical oncology group, COH, on the planning of cancer services for its patients. November 17, 2010, 2<sup>nd</sup> Completeness Responses, p. 45.
12. The Applicant's cancer program consists of inpatient and outpatient care including chemo, infusion, and radiation therapy. Each year the Applicant enters approximately 350 new cases into their cancer registry. September 23, 2010, Completeness Responses, p. 39
13. The Applicant's cancer program has averaged over 10,000 radiation therapy treatments annually for the past three years. November 17, 2010, 2<sup>nd</sup> Completeness Responses, p. 46.

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<sup>1</sup> The agreement between the Applicant and COH that allows the utilization of the COH PET scanner one day per week expired on October 1, 2010. A modification request to extend the agreement by COH is pending until a decision is rendered in this matter.

14. The Applicant’s historical PET scan volume and the projected PET-CT scan volume is as follows:

**Table 1: Historical, Current, and Projected Volume by Scanner**

Scanner	Actual Volume (Last 3 Completed FYs)			CFY Volume Annualized**	Projected Volume*** (First 3 Full Operational FYs)		
	FY 2007	FY 2008	FY 2009*	FY 2010	FY 2011	FY 2012	FY 2013
PET	129	153	22	65			
PET -CT					114	120	126

Note: The Applicant’s fiscal year runs from October 1 through September 30.

\* FY 2009 had less than 3months of operation because the Applicant was not delivering PET services as they were establishing the service with COH.

\*\* FY 2010 volume is 10 months annualized to 12.

August 16, 2010, CON application, pp. 7&9; September 23, 2010, Completeness Responses, p. 39.

15. The Hospital projects 114 PET-CT scans in FY 2011 based on its FY 2007 and 2008 PET scanner volume and assumed a 5% per year growth for FYs 2012 and FY 2013. August 16, 2010, CON application, p. 9; September 23, 2010, Completeness Responses, p. 39 and November 17, 2010, 2nd Completeness Responses, p. 46.
16. The projected PET-CT scanner volumes for a one-day per week mobile scanner are reasonable and achievable based upon the Applicant’s historical PET scanner volumes.
17. The total capital expenditure associated with the proposal is \$509,251. November 17, 2010, 2<sup>nd</sup> Completeness Responses, p. 47.
18. The total cost associated with the 18 months contract for the proposed acquisition of the PET-CT scanner is \$249,600. September 23, 2010, Completeness Responses, p. 40.
19. The Applicant projects that there will be incremental gains from operations associated with this proposal as follows:

**Table 2: Applicant’s Financial Projections Incremental to the Project**

Description	FY 2011	FY 2012	FY 2013
Incremental Revenue from Operations	\$333,137	\$407,781	\$369,198
Incremental Total Operating Expense	\$166,400	\$169,728	\$173,123
<b>Incremental Gains from Operations</b>	<b>\$166,737</b>	<b>\$238,053</b>	<b>\$196,075</b>

Note: The Applicant’s fiscal year runs from October 1 through September 30.

August 16, 2010, CON application, pp. 7&22; November 17, 2010, 2<sup>nd</sup> Completeness Responses, p. 51.

20. The proposal is financially feasible based upon the Applicant’s projections with respect to incremental operating gains.

21. The Applicant reported the following payer mix based on patient population as follows:

**Table 3: Current & Three-Year Projected Payer Mix**

Payer	Current FY 2010**	FY2011	FY2012	FY2013	FY2014
Medicare*	34.10%	34.10%	34.10%	34.10%	34.10%
Medicaid*	15.40%	15.40%	15.40%	15.40%	15.40%
CHAMPUS & TriCare	0.04%	0.04%	0.04%	0.04%	0.04%
<b>Total Government</b>	<b>49.90%</b>	<b>49.90%</b>	<b>49.90%</b>	<b>49.90%</b>	<b>49.90%</b>
Commercial Insurers*	44.00%	44.00%	44.00%	44.00%	44.00%
Uninsured	5.50%	5.50%	5.50%	5.50%	5.50%
Workers Comp.	0.60%	0.60%	0.60%	0.60%	0.60%
<b>Total Non-Government</b>	<b>50.10%</b>	<b>50.10%</b>	<b>50.10%</b>	<b>50.10%</b>	<b>50.10%</b>
<b>Total Payer Mix</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

Note: The Applicant's fiscal year runs from October 1 through September 30.

\*Includes managed care activity

\*\*FY 2010 volume is 10 months annualized to 12.

August 16, 2010, CON application, p. 11.

22. The proposal is consistent with the Applicant's long-range plan to stay current with technological advancements. August 16, 2010, CON application, p. 12

## Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in Public Act 08-14 §1, and the Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995); *Bridgeport Ambulance Serv. v. Connecticut Dept. of Health Serv.*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Steadman v. SEC*, 450 U.S. 91, 101 S.Ct. 999, *reh'g den.*, 451 U.S. 933 (1981); *Bender v. Clark*, 744 F.2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. FCC*, 627 F.2d 240, 243 (D.C. Cir. 1980).

The Applicant is a not-for profit hospital that has been providing PET scanning services, through a one day per week, mobile PET scanner from 2001 through 2008 and a PET scanner owned by COH from June 2009 to the present. FF2-4. COH's PET scanner is the only PET scanner in the service area. FF4. There is no PET-CT scanner in the Applicant's service area. FF7. The Applicant is requesting approval to acquire a one-day per week mobile PET-CT scanner from 8:00 to 5:00 p.m. at the main hospital campus. FF6.

The proposed PET-CT scanner will allow the Applicant to easily and more precisely localize the tumor mass not only for staging but also for treatment decisions. FF8. The proposed acquisition of the PET-CT scanner will provide access to advanced technology thereby improving the quality of care provided to patients in the Applicant's service area. FF8-10. The Applicant works closely with its medical oncology group, COH, on the planning of cancer services for its patients. FF11. The Applicant's cancer services consist of inpatient and outpatient care including chemo, infusion and radiation therapy services. FF12. The Applicant

enters approximately 350 new cases into their cancer registry each year and has averaged over 10,000 radiation therapy treatments annually for the last three years. FF12-13. The Applicant based its projected utilization for the proposed PET-CT scanner on its historical PET scanner volume. FF16. The proposed one-day per week mobile PET-CT volumes are reasonable based upon the Applicant's historical PET scanner volumes. FF19. Moreover, the Applicant has demonstrated a need for a PET-CT scanner in its service area.

The total capital expenditure associated with this proposal is \$509,251. FF22. The Applicant projects that there will be incremental gains from operations associated with this proposal. FF25. Accordingly, OHCA finds that the proposal is financially feasible.

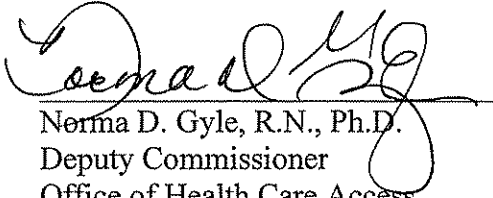
## Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Charlotte Hungerford Hospital for the acquisition of a mobile PET-CT scanner to be located at 540 Litchfield Street, Torrington, Connecticut with an associated total capital expenditure of \$509,251 is hereby APPROVED.

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

By Order of

12.22.10  
Date

  
Norma D. Gyle, R.N., Ph.D.  
Deputy Commissioner  
Office of Health Care Access

NDG: MD: cgc