

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

January 20, 2011

IN THE MATTER OF:

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

Notice of Final Decision
Office of Health Care Access
Docket Number: 10-31673-CON

**Hartford Hospital &
Constitution Eye Surgery Center, LLC**

**Change of Ownership and Control of
Constitution Eye Surgery Center, LLC to
Hartford Hospital**

To:

Karen Goyette
Vice President, Planning & Business Development
Hartford Hospital
80 Seymour Street
P.O. Box 5037
Hartford, CT 06102-2127

Dwayne Kertanis
Administrator, SVP Operations
Constitution Eye Surgery Center, LLC
505 Willard Avenue
Newington, CT 06111

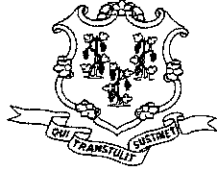
Dear Ms. Goyette & Mr. Kertanis:

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 January 20, 2011, 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.

A handwritten signature in black ink, appearing to read "Kimberly R. Martone".

Kimberly R. Martone
Director of Operations

Enclosure
KRM:lmg



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

Final Decision

Applicants: Hartford Hospital and
Constitution Eye Surgery Center, LLC

Docket Number: 10-31673-CON

Project Title: Change of Ownership and Control of Constitution Eye
Surgery Center, LLC to Hartford Hospital

Project Description: Hartford Hospital (“Hospital”) and Constitution Eye Surgery Center, LLC (“CESC”) (together herein referred to as “Applicants”) are proposing to change the ownership and control of CESC through the purchase of CESC’s assets by the Hospital with an associated total capital expenditure of \$27,500,000.

Procedural History: On December 9, 2010, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application.

The Applicants published notice their intent to file the CON Application in *The Hartford Courant*, on October 21, 22, and 23, 2010. OHCA received no responses from the public concerning the Applicants’ proposal and no hearing requests were received per General Statutes § 19a-639a (e), as amended by Public Act 10-179.

FINDINGS OF FACT

1. The Hospital is an acute care non-profit hospital located at 80 Seymour Street and 200 Retreat Avenue, Hartford, Connecticut. Ex.A, pp. 9, 101.
2. CESC is an ambulatory surgery center that is located at 505 Willard Avenue, in Newington. It is a for-profit, limited liability corporation that has been existence for approximately twelve years. Ex. A, pp. 4, 9.
3. The Applicants propose to transfer ownership and control of CESC to the Hospital through an asset purchase agreement. Ex. A, p. 4, 43.

4. CESC is performs eye surgery and related procedures and the Applicants do not anticipate any changes to the scope or quality of clinical services as result of this proposal. Ex. A, pp. 6-7.
5. CESC is comprised of thirty (30) eye surgeons, all of whom desire to collaborate with the Hospital in the provision of care. Ex. A, p. 5.
6. CESC has approximately 14,000 square feet, including four operating rooms and operates Monday through Thursday at 70% of its surgical capacity. Ex. A, pp. 4, 6.
7. CESC employs approximately 40 full and part-time non-physician employees, all of whom will be offered employment with the Hospital. Ex. A, p. 4.
8. CESC is in need of maintenance and upgrades to the physical plant and requires the addition of advanced technology and the implementation of an electronic medical record (“EMR”) system. Ex. A, p. 5.
9. The proposal will not only provide the capital necessary to implement an EMR system and upgrade the physical plant, but it will also provide CESC with access to the Hospital’s extensive infrastructure of clinical and administrative resources, group purchasing agreements and established vendor relationships. Ex. A, p. 5.
10. As a result of these improvements, the quality of the services provided to CESC patients will be maintained, if not strengthened. Ex. A, p. 4.
11. The Hospital intends to operate CESC as a department of the Hospital. Ex A, pp. 8, 43.
12. As a department of the Hospital, the Hospital’s policies and procedures will apply to CESC, including quality and patient satisfaction measures, clinical protocols and operational guidelines. Ex. A, p. 4.
13. More than 70% of the cases treated at CESC involve cataracts and the average age correlates with the incidence of this disease among the elderly. As a result, the payor mix is 62% for Medicare, 4% for Medicaid and 33% for commercial insurance. CESC presently accepts all patients, regardless of ability to pay. This will not change under the Hospital’s ownership. Ex. A, p. 7.
14. The following table reports the CESC’s historical surgical volume and the projected volume:

Table 2: Historical Surgical & Non-Surgical Volumes at CSEC

FY 2007	FY 2008	FY 2009	FY 2010*
11,271	11,176	10,871	10,603

Ex. C, p. 127.

15. The following table reports the projected surgical volume by location. The Hospital does not expect any short-term increase at either facility as a result of this proposal.

Table 3: Projected Utilization by Location

	FY 2011*	FY 2012	FY 2013
Hospital	694	694	694
Center	8,153	10,871	10,871
Total	8,847	11,565	11,565

*9 month data for the Center
Ex. C, p. 127.

16. The Hospital will continue to perform approximately 600 ambulatory eye surgeries each year at its main campus, as these surgeries are not appropriate for an ambulatory surgery center due to medical co-morbidity or other clinical risk factors. Ex. A, p. 5.
17. The proposed capital expenditure is \$27,500,000. Ex. A, p. 10.
18. The Hospital has increased its line of credit with Bank of America, its primary lending institution, and intends to use those funds for the initial financing of this proposal. Additionally, the Hospital will be restructuring all of its debt this year and this project will be part of those funds. Ex. C, p. 128; Ex. D.
19. In FY 2009, CESC reported a gain from operations of \$3,910,820. Under Hospital ownership, CESC is expected to generate the following incremental revenues and expenses from operations:

Table 5: Projected Incremental Operating Gains (in thousands)

	Fiscal Year (October 1 to September 30)			
	2011*	2012	2013	2014
Revenue from Operations	\$14,232,000	\$19,215,000	\$19,467,000	\$19,718,641
Total Operating Expenses	\$8,910,026	\$12,162,732	\$12,449,674	\$12,726,616
Gain from Operations	\$5,321,974	\$7,052,268	\$7,017,326	\$6,992,025

* January 1 to September 30 assuming operations transition to the Hospital on January 1, 2011.

Note: Volume and expense projections are based upon what CESC experienced in 2009. No increase in volume is anticipated, and reimbursement is based on the Hospital's present contracts. Salaries and benefits have been adjusted to Hospital rates, and it is expected that there will be no change in FTEs as a result of the change in ownership. These figures include an assumption of 5% interest expense for 15 years related to the loan

Ex. A, p. 111.

20. For FY 2009, the Hospital reported \$5,362,513 profit from income from operations, and \$164,603,489, in unrestricted net assets or equity. Office of Health Care Access' FY 2009, 12 Month Actual Filing.
21. The Applicants report the following current and projected payer mix based on population receiving eye surgery at either CESC or the Hospital:

Table 6: Patient Population Mix

	CESC FY 2010* (Current)	Hospital FY 2010** (Current)	Proposal Year 1 FY 2011	Proposal Year 2 FY 2012	Proposal Year 3 FY 2013
Medicare*	62%	16%	61%	61%	61%
Medicaid*	4%	26%	4%	4%	4%
CHAMPUS & TriCare					
Total Government	66%	42%	65%	65%	65%
Commercial Insurers*	33%	58%	35%	35%	35%
Uninsured	1%				
Workers Compensation					
Total Non-Government	34%	58%	35%	35%	35%
Total Payer Mix	100%	100%	100%	100%	100%

* Based on CESC's actual mix in FY 2009

** Based the first 6 months of FY 2010. Subsequent years are based on a blend of the Hospital and the Center.

Ex. A, p. 11.

22. Following the transfer of ownership, the Hospital will bill a facility fee to CESC patients using the Hospital's provider number; payments will be consistent with the Hospital's existing managed care contracts. Ex. C., p. 128.
23. This proposal will provide the Hospital an opportunity to expand its medical staff by adding all the CESC physicians to its medical staff. Ex. A, p. 5; Ex. C, p. 129.
24. The acquisition of CESC will also have a positive impact on the Hospital's financial performance. Ex. A., p. 11.
25. Ownership of CESC by the Hospital should result in cost savings for equipment due to the Hospital's relationship with vendors and volume discounts. Efficiencies will also be realized in the areas of finance and accounting, management, information systems, human resources and employee benefits. Ex. A., pp. 4, 12.
26. As a not-for-profit entity, the Hospital, however, will invest CESC's profits back into CESC and other essential healthcare services that are not financially self-sustaining. Ex. A, p. 12, Ex. D.
27. This proposal will improve the financial strength of the Hospital and the health care system by ensuring the availability of a lower cost, high quality alternative to inpatient eye surgery for the residents of the region. Ex. A, pp. 10-11.

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 19a-639 (a), as amended by Public Act 10-179 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 Applicants propose to transfer ownership and control of CESC to the Hospital. FF3. CESC will benefit from this proposal as it will gain access to capital for necessary maintenance and upgrades to the physical plant and for the implementation of an EMR system. FF8-9. This proposal will result in the Hospital gaining additional eye specialty surgeons for its medical staff as well as a business entity that is profitable, resulting in a positive impact on the Hospital's finances. FF23-24. The proposal will benefit the Applicants and allow CESC to continue to provide needed ophthalmologic services in the area. Additionally, the proposal will positively impact the quality of care provided at CESC.

The total capital expenditure associated with this proposal is \$27,500,000. FF17. There will be incremental gains from operations associated with this proposal. FF19. The Hospital, which had increased income from operations in FY2009, will finance the proposal initially through an extension of its line of credit with Bank of America and through a restructuring of its debt later in the year. FF18, 20. This proposal will positively impact the financial strength of the Hospital and the health care system, as the Hospital will invest any financial gains from CESC back into CESC and other essential healthcare services that are not financially self-sustaining. FF26. Additionally, the proposal will maintain a lower cost, high quality alternative to inpatient eye surgery for the residents of the service area. FF27.

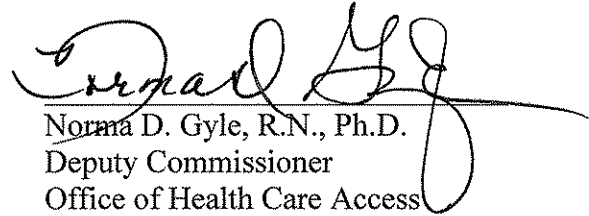
Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of Hartford Hospital and Constitution Eye Surgery Center for the change of ownership and control of Constitution Eye Surgery Center, LLC to Hartford Hospital with an associated total capital expenditure of \$27,500,000 is hereby APPROVED.

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

1-20-11
Date

By Order of


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

NDG: lg