



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

April 24, 2015

IN THE MATTER OF:

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

Notice of Final Decision
Office of Health Care Access
Docket Number: 15-31982-MDF

**Northeast Regional Radiation Oncology
Network, Inc.**

**Requested Modification of Previous
Certificate of Need authorizations
95-534 and 08-31114-CON**

To: Dennis McConville
Chairman
Northeast Regional Oncology Network, Inc.
71 Haynes Street
Manchester, CT 06040

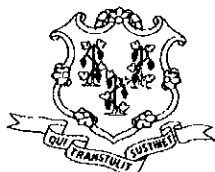
Dear Mr. McConville:

This letter will serve as notice of the decision of the Office of Health Care Access in the above matter, in accordance with Connecticut General Statutes § 4-181a(b). A copy of the decision is attached hereto for your information.

Kimberly R. Martone
Director of Operations

Enclosure
KRM:KH:bko

C: Barbara A. Durdy



**State of Connecticut
Department of Public Health
Office of Health Care Access**

Final Decision

**Requested Modification of a Previously
Authorized Certificate of Need**

Applicant: Northeast Regional Radiation Oncology Network, Inc.
100 Haynes Street, Manchester, CT 06040

Docket Number: 15-31982-MDF

Project Description: Requested Modification of Previous Certificate of Need
authorizations 95-534 and 08-31114-CON

Procedural History: On January 17, 1997, the Office of Health Care Access (“OHCA”) granted a Certificate of Need (“CON”) to Northeast Regional Radiation Oncology Network, Inc. (“NRRON”), by way of an Agreed Settlement issued under Docket Number 95-534, for the establishment of a regional radiation therapy program with two freestanding centers located in Manchester and Enfield, each with its own linear accelerator (Agreed Settlement”). Thereafter, on November 13, 2008, NRRON received CON authorization to acquire a second linear accelerator at its Manchester location by way of a Final Decision issued under Docket Number 08-31114-CON (“Final Decision”).

On February 23, 2015, OHCA received a Request for Modification from NRRON seeking to modify Condition Number 2 of the Agreed Settlement and Condition Number 4 of the Final Decision. Deputy Commissioner Brancifort has reviewed the entire record in this matter.

Findings of Fact

1. NRRON provides radiation therapy at two nonhospital based locations: 100 Haynes Street, Manchester, Connecticut and 142 Hazard Avenue, Enfield, Connecticut.
2. Condition #2 of the Agreed Settlement provides as follows: "The Co-Applicants agree to locate a 6 MeV linear accelerator unit at each of the two approved sites."
3. Condition #4 of the Final Decision provides as follows:

Should the Applicant propose any change in the array of health care services offered or a change in its complement of existing major medical or imaging equipment, the Hospital shall file with OHCA appropriate documentation regarding its change, including either a Certificate of Need Determination Request or a Certificate of Need Letter of Intent.
4. NRRON complied with Condition #2 of the Agreed Settlement by locating the appropriate linear accelerators at each of its two radiation therapy centers in Manchester and Enfield, Connecticut.
5. NRRON is requesting that Condition #2 be modified as follows:

The Co-Applicants agree to locate a linear accelerator unit at each of the two approved sites and will replace the linear accelerator units as necessary to ensure patients maintain access to radiation therapy services at both of the approved sites. The Co-Applicants agree to notify OHCA of the date on which a unit is replaced and the disposition of the replaced unit.
6. NRRON is requesting that Condition #4 of the Final Decision be modified as follows:

Should the Applicant propose any change in the array of health care services offered or a change in its complement of existing major medical or imaging equipment, the Applicant shall file with OHCA appropriate documentation regarding its change, including, as applicable, a Certificate of Need Determination Request, an Application for a Certificate of Need, or any other required notification.
7. Prior to October 1, 2010, CON requirements could be waived for the replacement of linear accelerators that received prior CON authorization.
8. Currently, Connecticut General Statutes § 19a-638(a)(11) requires certificate of need authorization for the acquisition of nonhospital based linear accelerators.

Discussion

Connecticut General Statutes § 4-181a (b) provides in relevant part: "On a showing of changed conditions, the agency may reverse or modify the final decision, at any time, at the request of any person or on the agency's own motion." NRRON asserts that the change in the CON laws constitutes a change in conditions warranting a modification of the Agreed Settlement and Final Decision. Specifically, NRRON claims that it was unnecessary to stipulate that the approved linear accelerators could be replaced without CON authorization because the laws at the time did not require a CON for such replacement. Currently, Connecticut General Statutes § 19a-638(a)(11) requires certificate of need authorization for the acquisition of nonhospital based linear accelerators. Connecticut General Statutes § 19a-638(b)(18) allows for the replacement of imaging equipment without CON approval so long as the imaging equipment being replaced previously received CON authorization. However, a linear accelerator is not considered imaging equipment. Consequently, OHCA concludes that the stated change in law does not constitute a change in conditions.

Order

Based upon the foregoing, NRRON's request to modify Condition #2 of the Agreed Settlement and Condition #4 of the Final Decision is hereby **DENIED**.

April 24, 2015
Date

Janet M. Brancifort
Janet M. Brancifort, MPH
Deputy Commissioner