

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

Raul Pino, M.D., M.P.H.  
Commissioner



Dannel P. Malloy  
Governor  
Nancy Wyman  
Lt. Governor

Office of Health Care Access

### Certificate of Need Final Decision

**Applicants:** Saint Mary's Hospital, Inc.  
56 Franklin Street  
Waterbury, CT 06706

Trinity Health-New England, Inc.  
1000 Asylum Avenue  
Hartford, CT 06105

**Docket Number:** 16-32139-CON

**Project Title:** Transfer of Ownership of The Harold Leever Regional Cancer Center to Trinity Health-New England, Inc.

**Project Description:** Saint Mary's Hospital, Inc. ("Saint Mary's") proposes transferring its 50% ownership interest in The Harold Leever Regional Cancer Center ("HLRCC") to Trinity Health-New England, Inc. ("TH-NE"), with no associated capital expenditure.

**Procedural History:** The Applicants published notice of their intent to file a Certificate of Need ("CON") application in *Republican-American* (Waterbury) on October 1, 2 and 3, 2016. On December 9, 2016, the Office of Health Care Access ("OHCA") received the CON application from the Applicant for the above-referenced project and deemed the application complete on March 2, 2017. OHCA received no responses from the public concerning the proposal and no hearing requests were received from the public per Connecticut General Statutes ("Conn. Gen. Stat.") § 19a-639a(e). Deputy Commissioner Addo considered the entire record in this matter.



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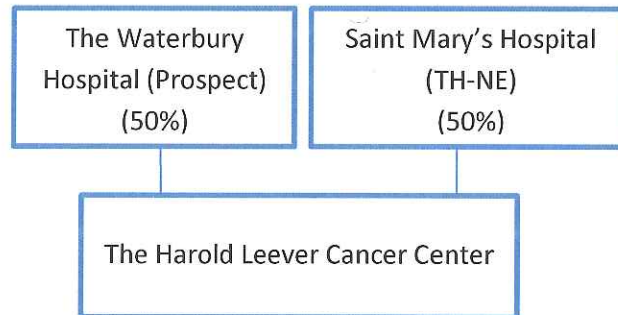
*Affirmative Action/Equal Opportunity Employer*



## Findings of Fact and Conclusions of Law

1. HLRCC is a not-for-profit joint venture, located at 1075 Chase Parkway in Waterbury, CT, that provides diagnostic and radiation oncology services with two linear accelerators and a PET/CT Scanner. Its current ownership consists of two members: The Waterbury Hospital, and Saint Mary's, a subsidiary of TH-NE.

### HLRCC'S OWNERSHIP/MEMBERSHIP STRUCTURE

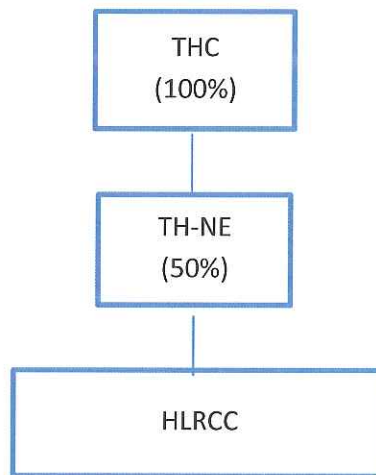


Ex. A, p. 263.

2. In July 2016, Saint Mary's received authorization (OHCA Docket 15-32045-CON) to be acquired by and transfer substantially all assets to TH-NE. As a result of the overarching ownership change, Saint Mary's is requesting authorization to transfer its 50% ownership interest in HLRCC to TH-NE. Ex. A, p. 11.
3. Saint Mary's is a not-for-profit, Catholic Care health care system and wholly owned subsidiary of TH-NE. Ex. A, p. 63, 263.
4. TH-NE is the parent company of other health care facilities in Connecticut, including Saint Francis Hospital and Medical Center in Hartford. Trinity Health Corporation ("THC") is a Catholic health care system with 88 hospitals, 126 continuing care facilities, home health and hospice programs across 21 states. It is the sole shareholder of TH-NE. Docket Number 15-32045-CON.

5. The proposed organizational chart for the Saint Mary's-controlled portion of HLRCC is as shown below:

**HLRCC & APPLICANT'S PROPOSED MEMBERSHIP STRUCTURE**



Ex. A, p. 263.

6. No clinical services offered by HLRCC will be added, modified or terminated as a result of the change in ownership. There are no anticipated changes in operations or services as a result of the proposal. Ex. A, pp. 12, 13, 263.
7. The transaction will be structured in a manner to comply with state law requiring the independence of HLRCC's physicians and avoiding the corporate practice of medicine. Ex. A, p. 264.
8. HLRCC's service area consists of the following towns: Beacon Falls, Bethlehem, Cheshire, Middlebury, Morris, Naugatuck, Oakville, Oxford, Plantsville, Plymouth, Prospect, Seymour, Southbury, Southington, Terryville, Thomaston, Torrington, Waterbury, Watertown, Wolcott and Woodbury. Ex. A, p. 11.
9. There is no anticipated change to the patient population to be served by HLRCC. Ex. A, p. 16.
10. Prior to executing the transfer, HLRCC will update its website and post signage in the lobby of the facility for 30 days notifying patients of the change in ownership. Ex. C, p. 266.
11. As part of the TH-NE system, HLRCC will have access to the system's infrastructure, performance-based measurement tools and professional development opportunities. THC implements a Unified Clinical Organization program, offering data and evidence-based infrastructure aimed at maintaining safety, quality and patient satisfaction. It also incorporates information sharing across the system through its Trinity Health Clinical Leadership Council that coordinates clinical improvement teams to exchange comparative data and best practices. Ex. A, pp. 18-19.

12. Historical utilization volumes are shown in the table below:

**TABLE 1  
 HISTORICAL UTILIZATION BY SERVICE**

Service	Actual Volume			
	FY 2013	FY 2014	FY 2015	FY 2016*
PEC/CT Scan	747	785	704	787
Radiation Oncology	10,595	11,742	11,118	12,587
<b>Total</b>	<b>11,342</b>	<b>12,527</b>	<b>11,822</b>	<b>13,374</b>

\* Annualized based on data 10 months of data  
 Ex. A, pp. 30, 37; Ex. C, p. 266.

13. Projected utilization volumes, based on historic utilization, are expected to remain constant and are shown in the table below:

**TABLE 2  
 PROJECTED UTILIZATION BY SERVICE**

Service	Projected Volume		
	FY 2017	FY 2018	FY 2019
PEC/CT Scan	787	787	787
Radiation Oncology	12,587	12,587	12,587
<b>Total Visits</b>	<b>13,374</b>	<b>13,374</b>	<b>13,374</b>

Ex. A, p. 30.

14. Currently, 9% of HLRCC's PET/CT patient population is comprised of Medicaid patients. The Applicants do not anticipate any changes in payer mix as a result of this proposal.

**TABLE 3  
APPLICANT'S CURRENT & PROJECTED PET/CT PAYER MIX**

Payer	FY 2015		Projected							
			FY 2016		FY 2017		FY 2018		FY 2019	
	Patients	%	Patients	%	Patients	%	Patients	%	Patients	%
Medicare*	261	41%	261	41%	261	41%	261	41%	261	41%
Medicaid*	59	9%	59	9%	59	9%	59	9%	59	9%
CHAMPUS	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Total Government</b>	<b>320</b>	<b>50%</b>	<b>320</b>	<b>50%</b>	<b>320</b>	<b>50%</b>	<b>320</b>	<b>50%</b>	<b>320</b>	<b>50%</b>
Commercial Insurers	310	50%	310	50%	310	50%	310	50%	310	50%
Uninsured	0	0%	0	0%	0	0%	0	0%	0	0%
Workers Compensation	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Total Non-Government</b>	<b>310</b>	<b>50%</b>	<b>310</b>	<b>50%</b>	<b>310</b>	<b>50%</b>	<b>310</b>	<b>50%</b>	<b>310</b>	<b>50%</b>
<b>Total Payer Mix</b>	<b>630</b>	<b>100%</b>	<b>630</b>	<b>100%</b>	<b>630</b>	<b>100%</b>	<b>630</b>	<b>100%</b>	<b>630</b>	<b>100%</b>

Ex. A, p. 31

15. Currently, 9% of HLRCC's radiation oncology patient population is comprised of Medicaid patients. The Applicants do not anticipate any changes in the payer mix as a result of this proposal.

**TABLE 4  
APPLICANT'S CURRENT & PROJECTED RADIATION ONCOLOGY PAYER MIX**

Payer	FY 2015		Projected							
			FY 2016		FY 2017		FY 2018		FY 2019	
	Patients	%	Patients	%	Patients	%	Patients	%	Patients	%
Medicare	315	62%	315	62%	315	62%	315	62%	315	62%
Medicaid	47	9%	47	9%	47	9%	47	9%	47	9%
CHAMPUS	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Total Government</b>	<b>362</b>	<b>71%</b>	<b>362</b>	<b>71%</b>	<b>362</b>	<b>71%</b>	<b>362</b>	<b>71%</b>	<b>362</b>	<b>71%</b>
Commercial Insurers	144	29%	144	29%	144	29%	144	29%	144	29%
Uninsured	0	0%	0	0%	0	0%	0	0%	0	0%
Self Pay	0	0%	0	0%	0	0%	0	0%	0	0%
Workers Compensation	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Total Non-Government</b>	<b>144</b>	<b>29%</b>	<b>144</b>	<b>29%</b>	<b>144</b>	<b>29%</b>	<b>144</b>	<b>29%</b>	<b>144</b>	<b>29%</b>
<b>Total Payer Mix</b>	<b>506</b>	<b>100%</b>	<b>506</b>	<b>100%</b>	<b>506</b>	<b>100%</b>	<b>506</b>	<b>100%</b>	<b>506</b>	<b>100%</b>

Ex. A, p. 31.

16. There are no incremental revenues or expenses as a result of this proposal and there are no associated capital expenditures. Ex. A, p. 29.

17. HLRCC projects operational losses of \$2,354,000, \$541,000 and \$617,000 for FY 2016 through FY 2018 as a result of fluctuating expenses for fringe benefits, supplies and drugs and other operating costs unrelated to implementation of the proposal.

**TABLE 5  
HAROLD LEVER REGIONAL CANCER CENTER PROJECTED LOSS FROM OPERATIONS**

	FY 2016	FY 2017	FY 2018
Revenue from Operations	\$8,077,000	\$8,151,000	\$8,151,000
Total Operating Expenses	\$10,431,000	\$8,692,000	\$8,768,000
Gain/Loss from Operations	(\$2,354,000)	(\$541,000)	(\$617,000)

Ex. A, pp. 23, 257.



18. Given its 50% ownership interest, TH-NE would assume half of HLRCC's losses. Ex. A, p. 263.
19. TH-NE, previously known as Saint Francis Care, Inc., reported FY2015 total revenues of more than \$821 million from operations on a consolidated basis and \$46.8 million in cash from operations in its audited financial statements. Both Moody's and S&P issued stable outlook ratings for TH-NE in 2015. Docket No. 15-32045-CON.
20. The transfers of ownership will not result in any additional health care costs and no additional facility fees will be imposed as a result of the proposal. Ex. A, p. 21.
21. On February 1, 2017, the HLRCC Finance Committee approved the adoption of a charity care policy similar to that implemented at Saint Mary's Hospital and Waterbury Hospital. Ex. C, pp. 266-269
22. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations not yet adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1)).
23. The proposal is consistent with the Statewide Health Care Facilities and Service Plan. (Conn. Gen. Stat. § 19a-639(a)(2)).
24. The Applicants have established that there is a clear public need for the proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
25. The Applicants have demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4)).
26. The Applicants have satisfactorily demonstrated that the proposal will maintain quality, accessibility and cost effectiveness of health care delivery in the region. (Conn. Gen. Stat. § 19a-639(a)(5)).
27. The Applicants have shown that there would be no change in the provision of health care services to the relevant populations and payer mix, including access to services by Medicaid recipients and indigent persons. (Conn. Gen. Stat. § 19a-639(a)(6)).
28. The Applicants have satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7)).
29. The Applicants' historical provision of services in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).
30. The Applicants have satisfactorily demonstrated that this proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9)).

31. The Applicants have demonstrated that access to services will be maintained for Medicaid recipients and improved for indigent persons. (Conn. Gen. Stat. § 19a-639(a)(10)).
32. The Applicants have demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the region. (Conn. Gen. Stat. § 19a-639(a)(11)).
33. The Applicants have satisfactorily demonstrated that the proposal will not result in any consolidation that would affect health care costs or access to care. (Conn. Gen. Stat. § 19a-639(a)(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 § 19a-639(a) of the Statutes. The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

HLRCC is a not-for-profit joint venture located at 1075 Chase Parkway in Waterbury, CT and was formed in 2002. *FF1*. HLRCC provides diagnostic and radiation oncology services with two linear accelerators and a PET/CT Scanner. Its current ownership consists of two members: Waterbury Hospital and Saint Mary's, a subsidiary of TH-NE. *FF1*. OHCA authorized the transfer of ownership of Saint Mary's and substantially all of its assets to TH-NE in July 2016. *FF2*.

As a result of the overarching ownership change, the Applicants have requested authorization to transfer Saint Mary's 50% ownership interest in HLRCC to TH-NE. *FF2*. The transaction will be structured in a manner to comply with state law requiring the independence of HLRCC's physicians and avoid the corporate practice of medicine. *FF7*.

There are no planned changes in the price structure and no additional facility fees will be imposed as a result of the transfers of ownership. *FF15*. TH-NE has sufficient revenues, free cash flow and credit worthiness to acquire a 50% ownership interest in HLRCC, despite HLRCC's projected losses. *FF19*. The proposal entails no capital expenditures and the Applicants project no incremental impact on revenues or expenses. *FF16*. Therefore, the Applicants have satisfactorily demonstrated that the transfer of ownership to TH-NE will not adversely affect health care costs and is financially feasible.

Furthermore, no clinical services offered by HLRCC will be added, modified or terminated as a result of the proposal and there will be no impact on the day-to-day delivery of services at HLRCC. *FF6*. HLRCC expects its payer mix to remain stable. Medicaid patients constituted 9% of HLRCC's patients in fiscal years 2015 and 2016 and the Applicants project they will continue to do so through at least fiscal year 2018 based on observed historic trends. *FF14, 15*. As such, the Applicants have satisfactorily shown that the proposal will have no impact on access to or quality of care afforded patients, including those with Medicaid coverage.

HLCC previously had no formal charity care policy. However, in February 2017, the Applicants in conjunction with Waterbury Hospital, approved a written charity care policy modeled after that implemented at Saint Mary's and Waterbury Hospital. *FF21*. Therefore, the proposal will improve access to care for indigent, uninsured and underinsured patients.

Overall, the continued operation of HLRCC will support the financial strength of the health care system in Connecticut while ensuring that access to quality care is maintained for the population currently being served, including the Medicaid population. The proposal will also help maintain and support a collaborative joint venture between hospitals from separate health systems. Accordingly, the Applicants have demonstrated that their proposal is consistent with the Statewide Health Care Facilities and Services Plan.

## Order

Based upon the foregoing Findings of Fact and Discussion, the Applicants' request to transfer ownership of the Harold Leever Regional Cancer Center from Saint Mary's Hospital to Trinity Health-New England is hereby APPROVED.

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

By Order of the  
Department of Public Health  
Office of Health Care Access

4/25/2017  
\_\_\_\_\_  
Date

  
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Yvonne T. Addo, MBA  
Deputy Commissioner