

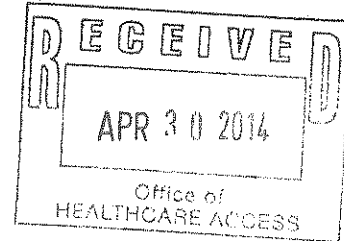
MURTHA
CULLINA

PAUL E. KNAG
203.653.5407 DIRECT TELEPHONE
860.240.5711 DIRECT FACSIMILE
PKNAG@MURTHALAW.COM

April 29, 2014

VIA OVERNIGHT DELIVERY

State of Connecticut
Office of Health Care Access
c/o Kimberly Martone
Director of the Office of Health Care Access
410 Capitol Avenue
MS#13HCA
P.O. Box 340308
Hartford, CT 06134



Re: Gad Lavy, M.D. - CON Determination Form – Form 2020

Dear Kimberly:

Enclosed for submission, please find CON Determination Form – Form 2020 of Gad Lavy, M.D., d/b/a New England Fertility Institute.

If you have any questions or concerns, please contact at any time.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to be "Paul E. Knag".

Paul E. Knag

Enclosure

Murtha Cullina LLP | Attorneys at Law

BOSTON

HARTFORD

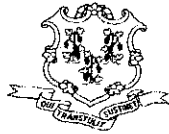
MADISON

NEW HAVEN

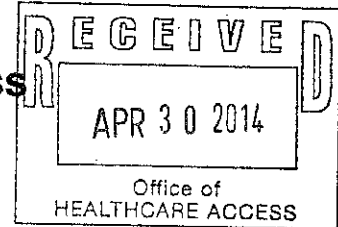
STAMFORD

WOBURN

521797 Broad Street | Stamford, CT 06901 | Phone 203.653.5400 | Fax 203.653.5444 | www.murthalaw.com



**State of Connecticut
Office of Health Care Access
CON Determination Form
Form 2020**



All persons who are requesting a determination from OHCA as to whether a CON is required for their proposed project must complete this Form 2020. The completed form should be submitted to the Director of the Office of Health Care Access, 410 Capitol Avenue, MS#13HCA, P.O. Box 340308, Hartford, Connecticut 06134-0308.

SECTION I. PETITIONER INFORMATION

If this proposal has more than two Petitioners, please attach a separate sheet, supplying the same information for each Petitioner in the format presented in the following table.

	Petitioner	Petitioner
Full Legal Name	Gad Lavy, M.D.	
Doing Business As	New England Fertility Institute	
Name of Parent Corporation	n/a	
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	1275 Summer Street, Suite 201, Stamford, CT 06905	
What is the Petitioner's Status: P for profit and NP for Nonprofit	P	
Contact Person at Facility , including Title/Position: This Individual at the facility will be the Petitioner's Designee to receive all correspondence in this matter.	Samantha Lavy, CEO	

Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	1275 Summer Street, Suite 201, Stamford, CT 06905	
Contact Person's Telephone Number	203-325-3200	
Contact Person's Fax Number	203-323-3130	
Contact Person's e-mail Address	slavy@nefertility.com	

SECTION II. GENERAL PROPOSAL INFORMATION

- a. Proposal/Project Title: Relocation and transfer of physician owners in the ASC.
- b. Estimated Total Project Cost: \$4,500,000.00
- c. Location of proposal, identifying Street Address, Town and Zip Code: 5 High Ridge Park, Stamford, Connecticut
- d. List each town this project is intended to serve: The ASC currently serves cities and towns located in Connecticut and New York listed on the attachment hereto ("Service Area"). The ASC will continue to serve the same cities and towns in the Service Area after the relocation and transfer of physician owners.
- e. Estimated starting date for the project: December 1, 2014

SECTION IV. PROPOSAL DESCRIPTION

Please provide a description of the proposed project, highlighting each of its important aspects, on at least one, but not more than two separate 8.5" X 11" sheets of paper. At a minimum each of the following elements need to be addressed, if applicable:

1. If applicable, identify the types of services currently provided and provide a copy of each Department of Public Health license held by the Petitioner.
2. Identify the types of services that are being proposed and what DPH licensure categories will be sought, if applicable.
3. Identify the current population served and the target population to be served.

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)

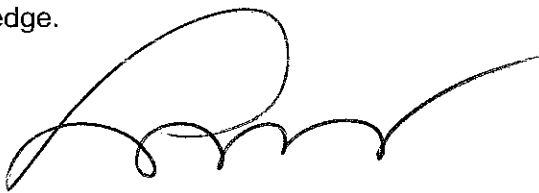
Petitioner: Gad Lavy, M.D.

Project Title: Relocation and transfer of physician owners in the ASC.

I, Gad Lavy, M.D., _____
(Name) (Position – CEO or CFO)

of New England Fertility Institute being duly sworn, depose and state that the
(Organization Name)

information provided in this CON Determination form is true and accurate to the best of my
knowledge.



Signature Date 4/22/14.

Subscribed and sworn to before me on April 22, 14

Shantai Rivera-Bonilla

Notary Public/Commissioner of Superior Court

My commission expires: _____
SHANTAI RIVERA-BONILLA
NOTARY PUBLIC
State of Connecticut
My Commission Expires
February 28, 2013

SECTION IV. PROPOSAL DESCRIPTION

Gad Lavy, M.D. d/b/a New England Fertility Institute (the "Applicant") maintains a licensed outpatient surgical center (the "ASC") located at 1275 Summer Street, Suite 201, Stamford, Connecticut 06905. The Applicant is seeking a Determination that no Certificate of Need is required for relocation and transfer of physician ownership in the ASC. The ASC has been in existence since 1991. The ASC is currently owned solely by Dr. Gad Lavy. The ASC currently provides outpatient surgical services to patients in the towns listed on the attachment ("Patient Population"). The ASC's payor mix is commercial payors and self-pay ("Payor Mix"). The ASC will relocate to a new location within the City of Stamford at 5 High Ridge Park Road which is approximately four (4) miles from the current location. The ASC will maintain the same Patient Population and Payor Mix after the relocation and transfer of physician ownership.

The target patient population and payor mix for the ASC will remain the same as the current Patient Population and Payor Mix of the ASC. The ASC will continue to maintain licensure with the Department of Public Health.

Dr. Lavy wishes to reorganize so as to allow for the transfer of physician ownership of the ASC. As an initial matter, Dr. Lavy intends to transfer assets of the ASC to a newly formed Connecticut limited liability company that will be solely owned by physicians who will govern and control the operations of the ASC. Upon admission of the new physicians the ASC will adopt a new name so as to avoid confusion with Dr. Lavy's professional practice.

Conn. Gen. Stat. §19a-493b(c) exempts transfers or changes of ownership or control of outpatient surgical centers from Certificate of Need review where the current ownership is one hundred percent (100%) owned and controlled by physicians licensed under Conn. Gen. Stat. §20-13 and the proposed ownership will remain at least sixty percent (60%) owned and controlled by physicians after the transfer of ownership. The ownership of the ASC is currently one hundred percent (100%) owned by Gad Lavy, M.D., a physician licensed under Conn. Gen. Stat. §20-13. All new owners will only be physicians licensed under Conn. Gen. Stat. §20-13 and the ownership of the ASC will remain one hundred percent (100%) owned by physicians licensed under Conn. Gen. Stat. §20-13 after the transfer. As such, Conn. Gen. Stat. §19a-493b(c) applies and the transfer of physician owners will not trigger Certificate of Need review Conn. Gen. Stat. § 19a-638(a)(2). The addition of other surgical specialties, specifically orthopedics, to the ASC does not trigger Certificate of Need review as there is currently no requirement for the addition of a specialty by a licensed outpatient surgical facility.

The ASC will remain in the City of Stamford and the Patient Population and Payor Mix of the ASC will remain the same after the relocation and transfer of ownership.

Based on the foregoing, the Applicant is seeking a favorable determination that no CON is required for the transfer of physician owners, relocation of the center and use of the ASC by other medical specialties.

Service Area

The Counties and Towns served by Gad Lavy, M.D. d/b/a/ New England Fertility Institute include, but are not limited to the cities and towns in Fairfield County, Connecticut and Westchester County, New York:

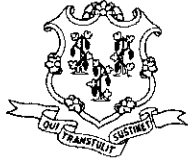
Connecticut:

Bethel
 Bridgeport
 Brookfield
 Danbury
 Darien
 Easton
 Fairfield
 Greenwich
 Monroe
 New Canaan
 New Fairfield
 Newtown
 Norwalk
 Redding
 Ridgefield
 Shelton
 Sherman
 Stamford
 Stratford
 Trumbull
 Weston
 Westport
 Wilton

New York:

Amawalk
 Ardsley
 Ardsley-on-Hudson
 Armonk
 Baldwin Place
 Banksville
 Bedford Hills
 Bedford Village
 Briarcliff Manor
 Bronxville
 Buchanan
 Chappaqua
 Cortlandt Manor
 Crompond
 Cross River
 Croton Falls
 Croton-on-Hudson
 Crugers
 Dobbs Ferry
 Eastchester
 Elmsford
 Goldens Bridge
 Granite Springs
 Harrison
 Hartdale
 Hastings-on-Hudson
 Hawthorne
 Irvington
 Jefferson Valley
 Katonah
 Lake Peekskill
 Larchmont
 Lincolnale
 Mamaroneck
 Maryknoll
 Millwood

Mohegan Lake
 Montrose
 Mount Kisco
 Mount Vernon
 New Rochelle
 North Salem
 North White Plains
 Ossining
 Peekskill
 Pelham
 Pleasantville
 Port Chester
 Pound Ridge
 Purchase
 Purdys
 Rye
 Rye Brook
 Scarborough
 Scarsdale
 Shenorock
 Shrub Oak
 Sleepy Hollow
 Somers
 South Salem
 Tarrytown
 Thornwood
 Tuckahoe
 Valhalla
 Verplanck
 Waccabuc
 White Plains
 Yonkers
 Yorktown Heights



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

May 1, 2014

VIA FACSIMILE ONLY

Ms. Samantha Lavy
Chief Executive Officer
New England Fertility Institute
1275 Summer Street
Suite 201
Stamford, CT 06905

RE: Certificate of Need Determination Report Number 14-31911-DTR
Relocation and Transfer of Ownership of Ambulatory Surgery Center

Dear Ms. Lavy:

On April 30, 2014, the Office of Health Care Access ("OHCA") received your Certificate of Need ("CON") Determination request on behalf of New England Fertility Institute ("Petitioner") with respect to its relocation and the sale of ownership interests therein.

The Petitioner is a Connecticut licensed outpatient surgical center located at 1275 Summer Street, Suite 201, Stamford, Connecticut. The Petitioner plans to relocate its facility to 5 High Ridge Park Road, Stamford, Connecticut, which is approximately four (4) miles away from its current location. The Petitioner will continue to serve the same population and payer mix that it currently serves.

Pursuant to Conn. Gen. Stat. § 19a-639c, the Petitioner has satisfactorily demonstrated that the population and payer mix currently served by the Petitioner will not substantially change as a result of the proposed relocation. Therefore, no CON is required.

The Petitioner also wishes to reorganize to allow for the transfer of physician ownership of the facility. Currently, the Petitioner is solely owned by Dr. Gad Lavy. Subsequent to the reorganization, the Petitioner will be one hundred percent (100%) owned and controlled by physicians licensed in Connecticut pursuant to Conn. Gen. Stat. § 20-13.

Connecticut General Statutes § 19a-638(a)(2) requires CON authorization for the "transfer of ownership of a health care facility". However, Connecticut General Statutes § 19a-493b(c) provides an exception for outpatient surgical facilities whose Connecticut licensed physician

An Equal Opportunity Provider

(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)

410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov

members will maintain at least a controlling 60% ownership after a transfer of interest in a facility. Since the Petitioner will continue to be one hundred percent (100%) owned and controlled by physicians licensed in Connecticut pursuant to Conn. Gen. Stat. § 20-13, OHCA hereby determines that a CON is not required for the proposed reorganization.

Sincerely,



Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR

* * * COMMUNICATION RESULT REPORT (MAY. 1. 2014 10:50AM) * * *

FAX HEADER:

TRANSMITTED/STORED : MAY. 1. 2014 10:50AM	FILE MODE	OPTION	ADDRESS	RESULT	PAGE
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REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 E-3) NO ANSWER
 E-2) BUSY
 E-4) NO FACSIMILE CONNECTION



**STATE OF CONNECTICUT
 DEPARTMENT OF PUBLIC HEALTH
 OFFICE OF HEALTH CARE ACCESS**

FAX SHEET

TO: SAMANTHA LAVY

FAX: 203 323-3130

AGENCY: NEW ENGLAND FERTILITY INSTITUTE

FROM: OHCA

DATE: 5/1/14 **Time:** _____

NUMBER OF PAGES: 2 3
(including transmittal sheet)

Comments:

Attached is the Determination for DN: 14-31911, Relocation and Transfer of Ownership of Ambulatory Surgery Center.

PLEASE PHONE Barbara K. Olejarz IF THERE ARE ANY TRANSMISSION PROBLEMS.

Phone: (860) 418-7001 Fax: (860) 418-7053

*410 Capitol Ave., MS#13HCA
 P.O.Box 340308
 Hartford, CT 06134*



affiliate Columbia University College of Physicians and Surgeons
member New York-Presbyterian Healthcare System
A Planetree Hospital

October 14, 2014



Karen Roberts
Compliance Officer
Office of Health Care Access
Department of Public Health
410 Capitol Avenue, MS#13HCA
P.O. Box 340308
Hartford, CT 06134

**Re: Certificate of Need Determination Report Number 14-31911-DTR
Relocation and Transfer of Ownership of Ambulatory Surgery Center**

Dear Ms. Roberts:

This letter concerns the above-referenced determination report issued by the Office of Health Care Access ("OHCA") to New England Fertility Institute ("NEFI") dated May 1, 2014. In that report, OHCA determined that no Certificate of Need ("CON") would be required for NEFI to change its ownership and relocate its outpatient surgical center from its present location to 5 High Ridge Road in Stamford. Stamford Hospital respectfully requests that OHCA reconsider this decision, given the fact that important information was omitted from NEFI's request for a determination and inclusion of this information would have likely resulted in a different decision by OHCA.

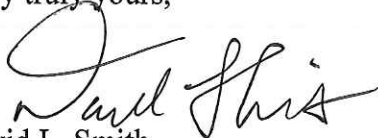
Section 19a-639c(a) of the Connecticut General Statutes provides that, in order to receive a determination that no CON is required for the relocation of a health facility, an applicant must demonstrate to OHCA that the population served by the health care facility and the payer mix will not substantially change as a result of the relocation. Regulation 19a-639c-1, promulgated under this statute, further requires that the applicant "provide the percentages of total patient volume by payer source prior to the relocation and following the relocation."

The appropriate OHCA determination form would have required NEFI to describe the current population served and the proposed population served. We note that even in the OHCA form that NEFI did use, which required identification of the current population served and the target population to be served after the proposal, the applicant provided insufficient information on which OHCA could base a determination that the population served will not substantially change after the relocation as well.

The statutes and regulations governing the CON process are intended to provide a level playing field on which all health care providers can compete. They are also designed to ensure that OHCA obtains all the information it needs in order to make decisions that conform to the law. If applicants such as NEFI are able to avoid these requirements by omitting important facts and making blanket statements that are unlikely to be true, the CON process is compromised.

It is for these reasons that Stamford Hospital respectfully requests that OHCA reconsider NEFI's request for a determination, and find that a CON is required for its proposed relocation.

Very truly yours,

A handwritten signature in black ink, appearing to read "David L. Smith". The signature is fluid and cursive, with the first name "David" being the most prominent.

David L. Smith
Senior Vice President
Strategy & Market Development