Greer, Leslie

From: Kline, Gina C <gkline@echn.org>
Sent: Friday, February 20, 2015 3:40 PM
To: Martone, Kim
Cc: Greer, Leslie; Mcconville, Dennis P; Matthews, Rebecca; DelGallo, Daniel J
Subject: CON Modification DN 95-534
Attachments: CON Modification Request DN 95-534 Lin Ac Replacement .doc; CON Modification for NRRON Linear Accelerator 02182015.pdf

Ms. Martone,

Please find attached the completed Modification Request Form for Docket Number 95-534 filed on behalf of NRRON.

Hardcopies of the document will be delivered to your office this afternoon.

Please let me know if you have any trouble opening the attached items.

Thank you!
-Gina

Gina C. Kline, MHS
Director, Planning and System Development
Eastern Connecticut Health Network (ECHN)
71 Haynes Street
Manchester, CT 06040
(860)646-1222 x2748
gkline@echn.org

"This message originates from Eastern Connecticut Health Network. The information contained in this message may be privileged and confidential. If you are the intended recipient, you must maintain this message in a secure and confidential manner. If you are not the intended recipient, please notify the sender immediately and destroy this message. Thank you."

State of Connecticut
Office of Health Care Access
Form for Modification of a Previously Authorized Certificate of Need

All persons who are requesting a modification to a previously authorized Certificate of Need must complete this form. Completed forms 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 more than 2 Petitioners, please attach a separate sheet of paper and provide additional information in the format below:

	Petitioner
Full legal name	Northeast Regional Radiation Oncology Network, Inc.
Doing Business As	Community Cancer Care, John A. DeQuattro Community Cancer Center, and Phoenix Community Cancer Center
Name of Parent Corporation	N/A
Mailing Address	100 Haynes Street Manchester, CT 06040
Petitioner type	NP (Nonprofit)
Name of Contact person, including title	Dennis P. McConville, Chairman
Contact person's street mailing address	71 Haynes Street Manchester, CT 06040
Contact person's phone, fax and e-mail address	Phone: (860): 533-3429 Fax: (860) 647-6860 dmcconville@echn.org

SECTION II. GENERAL PROPOSAL INFORMATION

a. Title of Previously Authorized Project and Associated Docket Number(s)

Response:

Establishment and Operation of a Regional Radiation Therapy Program with Two Freestanding Centers (Docket Number 95-534). Docket Number 95-534 authorized the establishment of radiation therapy centers in Manchester and Enfield, each with a linear accelerator.[1]

Both of the linear accelerators authorized in Docket Number 95-534 were retrofit with multi-leaf Collimator, IMRT and Electronic Portal Imaging a number of years ago, pursuant to OHCA Report Numbers 05-30513-DTR and 06-30726-DTR. The Applicant later obtained authorization for a second linear accelerator at its Manchester location under Docket Number 08-31114-CON (as modified for an extension of time under Docket Number 09-31114-MDF) and also obtained a waiver to replace the original linear accelerator at that location under Docket Number 08-31257-WVR (as modified for an extension of time under Docket Number 09-31257-MDF).

b. Location of proposal (Town including street address)

Response:

Northeast Regional Radiation Oncology Network, Inc. ("NRRON") provides radiation therapy at two locations:

- 100 Haynes Street, Manchester, CT 06040
- 142 Hazard Avenue, Enfield, Connecticut 06082

c. Type of Modification Request:

☐ Change in the Scope of the Authorized Certificate of Need Project

☐ Extension of CON Expiration Date

☒ **Change in a CON Order Condition** *(other than to extend expiration date)*

☐ Other – Describe: Not Applicable

[1] Although not at issue in connection with this modification request, the Applicant also obtained authorizations to acquire CT simulators for both locations under Docket Number 11-31709-CON and Docket Number 12-31778-CON (as modified for an extension of time under Docket Number 14-31778-MDF).

SECTION III. IF REQUESTING A CHANGE IN THE SCOPE OF AUTHORIZED PROJECT:

a. Provide a one page description of the requested change in the scope of a previously authorized Certificate of Need project and provide a detailed rationale for such change.

Response:

Not applicable. The modification requested does not involve a change in the scope of the authorized project.

SECTION IV. IF REQUESTING AN EXTENSION OF THE CON EXPIRATION DATE:

a. Certificate of Need expiration date per CON Final Decision: Not Applicable

b. Requested revised CON expiration date: Not Applicable

c. Rationale for increased time to fully complete and implement the authorized project

Response:

Not applicable. The modification requested does not involve an extension of the CON expiration date.

SECTION V. IF REQUESTING A CHANGE IN A CON FINAL DECISION CONDITION *(other than extension of the CON expiration date)*

a. Identify the CON Condition that you are requesting to be revised or vacated.

Response:

The Applicant is requesting that Condition Number 2 of the Agreed Settlement issued by OHCA on January 17, 1997 under Docket Number 95-534 ("Condition Number 2") be revised to allow for the replacement of the linear accelerator unit(s) at each of the approved sites as necessary, such as when the equipment has aged beyond its recommended useful life or when the cost of maintaining an aged piece of equipment becomes cost prohibitive.

Condition Number 2 currently states:

> "The Co-Applicants agree to locate a 6 MeV linear accelerator unit at each of the two approved sites."

The Applicant respectfully requests that Condition Number 2 be revised to permit the periodic replacement of the linear accelerator units previously authorized

under Docket Number 95-534 and related docket numbers to ensure the continuation of radiation therapy services at the approved sites in Manchester and Enfield. The Applicant also requests that the reference to the strength of the linear accelerator be removed, as the replacement linear accelerator purchased under 08-31257-WVR and the second linear accelerator purchased under 08-31114-CON have the capability to operate at 6MeV or up to 10Mev. A proposed modification for OHCA's consideration appears below:

> "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."

For consistency and clarity, should OHCA agree to modify Condition Number 2 as described above, the Applicant respectfully requests that a corresponding change be made to Condition Number 4 of the Final Decision issued by OHCA on November 13, 2008 under Docket Number 08-31114-CON ("Condition Number 4").

Condition Number 4 currently states:

> "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 [sic] 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."

A proposed modification of Condition Number 4 appears below for OHCA's consideration:

> "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."

b. Provide the rationale for such requested change:

Response:

At the time OHCA approved the establishment and operation of NRRON, with two separate centers, including the purchase of two linear accelerator units, it was unnecessary to stipulate in the decision that the CON authorization included the future replacement of the authorized equipment because the laws at the time did not require a CON for such a replacement. CON laws changed, however, in

June of 1998 to require certificate of need authorization for replacement purchases. See Public Act 98-150 and Office of Legal Research Bill Analysis found at http://www.cga.ct.gov/ps98/ba/1998HB-05403-R00336-BA.htm.

In recognition that a second CON review would not be necessary under certain circumstances, the CON laws have, since this expansion in 1998, long contained exceptions for replacements of equipment that has received previous CON review and approval. More specifically, until October 1, 2010, OHCA was authorized to waive CON requirements for the replacement of any equipment, including a linear accelerator, where prior certificate of need approval had been obtained for the equipment at issue and certain dollar thresholds were not exceeded. Public Act 98-150, Section 7; codified at Connecticut General Statutes Section 19a-639c. Effective October 1, 2010, imaging equipment that received prior CON review can be replaced on notice to OHCA setting forth the date on which the equipment is replaced and the disposition of the replaced equipment. Connecticut General Statutes Section 19a-638(b)(18). Although the new CON laws are silent on the requirements for replacing existing nonhospital based linear accelerators, the proposed modification to Docket Number 95-534 is consistent with the spirit and purposes of the current statutes.

In light of these changed conditions, and consistent with CON laws at the time of the original authorization under Docket Number 95-534, the proposed modification would permit the existing, approved equipment to be replaced as necessary to ensure long-term access to the radiation therapy services needed in the region.

The need to provide greater accessibility to patients requiring radiation therapy services in Enfield and Manchester areas was clearly established in the CON application filed in 1996 and subsequently approved by OHCA on January 17, 1997 (Docket Number 95-534). As noted on page 7 of the Agreed Settlement, OHCA identified the following findings:

- "The Co-Applicants indicate that some patients may refuse radiation therapy treatment due to the travel distance to existing providers, even when such treatment is recommended by their medical oncologists; and"

- "The Co-Applicants have indicated that more convenient and accessible local cancer services, including radiation therapy, will decrease the necessity for daily travel when the patients are in a potentially debilitated condition or may have difficulty finding rides for daily treatments for the four to eight week treatment period and will substantially lessen the stress on the patient and their family, as well as prevent unnecessary alternative therapy."

- Additionally, on page 9 of the Agreed Settlement, OHCA states "the modified CON proposal demonstrates a clear public need for the oncology related services that the Co-Applicants intend to provide to the communities served..."

The linear accelerator in the Enfield site, installed in 1998, is now past its useful life expectancy and there have been on-going age-related problems including increased frequency of downtime, lack of precision measurement, technological limitations and a high cost for repairs and replacement parts. The findings supporting the need for radiation therapy services and the acquisition of a linear accelerator at the two approved sites were clearly demonstrated in 1997 and remain true today. The requested modification will allow NRRON to replace the previously authorized linear accelerator units as necessary, such as when their age exceeds the recommended useful life, and continue to provide radiation therapy services until there is no longer a need for such services in the area.

This modification will not change the scope of the authorization in Docket Number 95-534 and in the related dockets, and will not result in any change in the Applicant's payor mix or the populations served by the Applicant's two centers. The changes in the certificate of need laws over the last several years, however, constitute changed conditions supporting a modification of the original authorization under Connecticut General Statutes §4-181a(b). The Applicant respectfully requests that this modification be approved as a reasonable means of assuring continued quality care on the linear accelerators at the Applicant's two sites.

SECTION VI. OTHER

a. Submit a completed CON Modification Affidavit.

Response:

The CON Modification Affidavit has been complete and appears as the last page of this submission.

b. Identify any other pertinent changes to the findings of facts upon which the original CON authorization was based as a result of this requested modification.

Response:

The findings of facts upon which the original CON authorization were based have not changed.

c. Identify what has been accomplished to date in terms of full project implementation.

Response:

The project has been fully implemented. NRRON commenced operations in 1997 and has operated the outpatient clinics licensed by the Department of Public Health for over 15 years.

CON MODIFICATION AFFIDAVIT

Applicant: Northeast Regional Radiation Oncology Network, Inc.

Project Title: Modification Request to Change Agreed Settlement Condition

I, Dennis P. McConville, Chairman
(Name) (Position – CEO or CFO)

of Northeast Regional Radiation Oncology Network, Inc. being duly sworn, depose and state that the information provided in this CON Modification form is true and accurate to the best of my knowledge.

_____ _____
Signature Date

Subscribed and sworn to before me on_____

_____
Notary Public/Commissioner of Superior Court

My commission expires: _____

Community Cancer Care
Radiation Oncology

Eastern Connecticut Cancer Institute
At the John A. DeQuattro
Community Cancer Center
100 Haynes Street
Manchester, CT 06040
Phone: 860-533-4000
Fax: 860-533-4011

Johnson Memorial Cancer Center
142 Hazard Avenue
Enfield, CT 06082
Phone: 860-272-3000
Fax: 860-272-3036

RECEIVED
FEB 23 2015
Office of
HEALTHCARE ACCESS

February 18, 2015

VIA E-MAIL AND HAND DELIVERY

Kimberly Martone, Director of Operations
State of Connecticut
Office of Health Care Access
410 Capital Avenue, MS #13HCA
P.O. Box 340308
Hartford, CT 06134-0308

RE: Certificate of Need Modification, Docket Number 95-534
Northeast Regional Radiation Oncology Network, Inc.

Dear Ms. Martone,

Enclosed please find a Modification Request Form filed on behalf of Northeast Regional Radiation Oncology Network, Inc.

If you have any questions or require additional information regarding this notification, I can be reached at (860) 533-3429.

Sincerely,

Dennis P. McConville
Chairman, Northeast Regional Radiation Oncology Network, Inc.

cc: Dan Delgallo, Executive Director, Northeast Regional Radiation Oncology Network, Inc.

ORIGINAL

State of Connecticut
Office of Health Care Access
Form for Modification of a Previously Authorized Certificate of Need

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SECTION I. PETITIONER INFORMATION

If more than 2 Petitioners, please attach a separate sheet of paper and provide additional information in the format below:

	Petitioner
Full legal name	Northeast Regional Radiation Oncology Network, Inc.
Doing Business As	Community Cancer Care, John A. DeQuattro Community Cancer Center, and Phoenix Community Cancer Center
Name of Parent Corporation	N/A
Mailing Address	100 Haynes Street Manchester, CT 06040
Petitioner type	NP (Nonprofit)
Name of Contact person, including title	Dennis P. McConville, Chairman
Contact person's street mailing address	71 Haynes Street Manchester, CT 06040
Contact person's phone, fax and e-mail address	Phone: (860): 533-3429 Fax: (860) 647-6860 dmcconville@echn.org

SECTION II. GENERAL PROPOSAL INFORMATION

a. Title of Previously Authorized Project and Associated Docket Number(s)

Response:

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b. Location of proposal (Town including street address)

Response:

Northeast Regional Radiation Oncology Network, Inc. ("NRRON") provides radiation therapy at two locations:

- 100 Haynes Street, Manchester, CT 06040
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c. Type of Modification Request:

☐ Change in the Scope of the Authorized Certificate of Need Project

☐ Extension of CON Expiration Date

☒ **Change in a CON Order Condition** *(other than to extend expiration date)*

☐ Other – Describe: Not Applicable

[1] Although not at issue in connection with this modification request, the Applicant also obtained authorizations to acquire CT simulators for both locations under Docket Number 11-31709-CON and Docket Number 12-31778-CON (as modified for an extension of time under Docket Number 14-31778-MDF).

SECTION III. IF REQUESTING A CHANGE IN THE SCOPE OF AUTHORIZED PROJECT:

a. Provide a one page description of the requested change in the scope of a previously authorized Certificate of Need project and provide a detailed rationale for such change.

Response:

Not applicable. The modification requested does not involve a change in the scope of the authorized project.

SECTION IV. IF REQUESTING AN EXTENSION OF THE CON EXPIRATION DATE:

a. Certificate of Need expiration date per CON Final Decision: Not Applicable

b. Requested revised CON expiration date: Not Applicable

c. Rationale for increased time to fully complete and implement the authorized project

Response:

Not applicable. The modification requested does not involve an extension of the CON expiration date.

SECTION V. IF REQUESTING A CHANGE IN A CON FINAL DECISION CONDITION *(other than extension of the CON expiration date)*

a. Identify the CON Condition that you are requesting to be revised or vacated.

Response:

The Applicant is requesting that Condition Number 2 of the Agreed Settlement issued by OHCA on January 17, 1997 under Docket Number 95-534 ("Condition Number 2") be revised to allow for the replacement of the linear accelerator unit(s) at each of the approved sites as necessary, such as when the equipment has aged beyond its recommended useful life or when the cost of maintaining an aged piece of equipment becomes cost prohibitive.

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under Docket Number 95-534 and related docket numbers to ensure the continuation of radiation therapy services at the approved sites in Manchester and Enfield. The Applicant also requests that the reference to the strength of the linear accelerator be removed, as the replacement linear accelerator purchased under 08-31257-WVR and the second linear accelerator purchased under 08-31114-CON have the capability to operate at 6MeV or up to 10Mev. A proposed modification for OHCA's consideration appears below:

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Condition Number 4 currently states:

> "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 [sic] 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."

A proposed modification of Condition Number 4 appears below for OHCA's consideration:

> "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."

b. Provide the rationale for such requested change:

Response:

At the time OHCA approved the establishment and operation of NRRON, with two separate centers, including the purchase of two linear accelerator units, it was unnecessary to stipulate in the decision that the CON authorization included the future replacement of the authorized equipment because the laws at the time did not require a CON for such a replacement. CON laws changed, however, in

June of 1998 to require certificate of need authorization for replacement purchases. See Public Act 98-150 and Office of Legal Research Bill Analysis found at http://www.cga.ct.gov/ps98/ba/1998HB-05403-R00336-BA.htm.

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In light of these changed conditions, and consistent with CON laws at the time of the original authorization under Docket Number 95-534, the proposed modification would permit the existing, approved equipment to be replaced as necessary to ensure long-term access to the radiation therapy services needed in the region.

The need to provide greater accessibility to patients requiring radiation therapy services in Enfield and Manchester areas was clearly established in the CON application filed in 1996 and subsequently approved by OHCA on January 17, 1997 (Docket Number 95-534). As noted on page 7 of the Agreed Settlement, OHCA identified the following findings:

- "The Co-Applicants indicate that some patients may refuse radiation therapy treatment due to the travel distance to existing providers, even when such treatment is recommended by their medical oncologists; and"

- "The Co-Applicants have indicated that more convenient and accessible local cancer services, including radiation therapy, will decrease the necessity for daily travel when the patients are in a potentially debilitated condition or may have difficulty finding rides for daily treatments for the four to eight week treatment period and will substantially lessen the stress on the patient and their family, as well as prevent unnecessary alternative therapy."

- Additionally, on page 9 of the Agreed Settlement, OHCA states "the modified CON proposal demonstrates a clear public need for the oncology related services that the Co-Applicants intend to provide to the communities served..."

The linear accelerator in the Enfield site, installed in 1998, is now past its useful life expectancy and there have been on-going age-related problems including increased frequency of downtime, lack of precision measurement, technological limitations and a high cost for repairs and replacement parts. The findings supporting the need for radiation therapy services and the acquisition of a linear accelerator at the two approved sites were clearly demonstrated in 1997 and remain true today. The requested modification will allow NRRON to replace the previously authorized linear accelerator units as necessary, such as when their age exceeds the recommended useful life, and continue to provide radiation therapy services until there is no longer a need for such services in the area.

This modification will not change the scope of the authorization in Docket Number 95-534 and in the related dockets, and will not result in any change in the Applicant's payor mix or the populations served by the Applicant's two centers. The changes in the certificate of need laws over the last several years, however, constitute changed conditions supporting a modification of the original authorization under Connecticut General Statutes §4-181a(b). The Applicant respectfully requests that this modification be approved as a reasonable means of assuring continued quality care on the linear accelerators at the Applicant's two sites.

SECTION VI. OTHER

a. Submit a completed CON Modification Affidavit.

Response:

The CON Modification Affidavit has been complete and appears as the last page of this submission.

b. Identify any other pertinent changes to the findings of facts upon which the original CON authorization was based as a result of this requested modification.

Response:

The findings of facts upon which the original CON authorization were based have not changed.

c. Identify what has been accomplished to date in terms of full project implementation.

Response:

The project has been fully implemented. NRRON commenced operations in 1997 and has operated the outpatient clinics licensed by the Department of Public Health for over 15 years.

CON MODIFICATION AFFIDAVIT

Applicant: Northeast Regional Radiation Oncology Network, Inc.

Project Title: Modification Request to Change Agreed Settlement Condition

I, Dennis P. McConville (Name), Chairman (Position – CEO or CFO)

of Northeast Regional Radiation Oncology Network, Inc. being duly sworn, depose and state that the information provided in this CON Modification form is true and accurate to the best of my knowledge.

DP McC

Signature

2/18/15

Date

Subscribed and sworn to before me on February 18, 2015

Yvonne Johnson

Notary Public/Commissioner of Superior Court

Yvonne Johnson, Notary Public
My Commission Expires Jan. 31, 2017

My commission expires: _____

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Office of Health Care Access

March 10, 2015 Via Facsimile Transmission Only

Barbara A. Durdy
Director, Strategic Planning
Hartford Healthcare
181 Patricia Genova Blvd.
Newington, CT 06111

RE: Docket Number 15-31982-MDF: A Request for Modification of the Certificate of Need authorized under Docket Number 95-534 Northeast Regional Radiation Oncology Network, Inc.

Dear Ms. Durdy:

On February 23, 2015, OHCA received a request for a modification from Northeast Regional Radiation Oncology Network, Inc. ("NRRON"). The request is to modify Conditions Number 2 and 4 of the Agreed Settlement issued by OHCA on January 17, 1997, under Docket Number 95-534.

NRRON is requesting that Condition Number 2 be revised to allow for the replacement of the linear accelerator units at each of its approved sites, without certificate of need authorization. Additionally, NRRON is requesting that Condition Number 4 be revised for consistency with any potential change to Condition Number 2.

This letter is to inform you that OHCA is considering taking action upon the request for modification. If you would like to submit any comments regarding this matter, please do so in writing to OHCA by 4:30 PM on Friday, April 10, 2015.

Sincerely,

Kevin T. Hansted

CC: Dennis McConville, ECHN

* * * COMMUNICATION RESULT REPORT (MAR. 10. 2015 10:58AM) * * *

FAX HEADER:

TRANSMITTED/STORED : MAR. 10. 2015 10:58AM

FILE	MODE	OPTION	ADDRESS	RESULT	PAGE
947	MEMORY TX		98609729025	OK	2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-2) BUSY
E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

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

FAX SHEET

TO: BARBARA A. DURDY

FAX: 860 972-9025

AGENCY: HARTFORD HEALTHCARE

FROM: OHCA

DATE: 3/10/15 **Time:**

NUMBER OF PAGES: 2
(including transmittal sheet

Comments:
Regarding request for Modification of CON number 95-534 under Docket Number 15-31982

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

* * * COMMUNICATION RESULT REPORT (MAR. 10. 2015 10:59AM) * * *

FAX HEADER:

TRANSMITTED/STORED : MAR. 10. 2015 10:58AM

FILE	MODE	OPTION	ADDRESS	RESULT	PAGE
948	MEMORY TX		98606476860	OK	2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-2) BUSY
E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

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

FAX SHEET

TO: DENNIS MCCONVILLE

FAX: 860 647-6860

AGENCY: ECHN

FROM: OHCA

DATE: 3/10/15 **Time:**

NUMBER OF PAGES: 2
(including transmittal sheet

Comments:
Regarding request for Modification of CON number 95-534 under Docket Number 15-31982

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

Greer, Leslie

From: Hansted, Kevin
Sent: Thursday, April 02, 2015 11:42 AM
To: Greer, Leslie
Subject: FW: Docket Number 15-31982-MDF

Leslie, please add this to the record.

Kevin T. Hansted
Staff Attorney
Department of Public Health
Office of Health Care Access
410 Capitol Ave., MS #13HCA
P.O. Box 340308
Hartford, CT 06134
Phone: 860-418-7044

☼ Please consider the environment before printing this message

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From: Durdy, Barbara [mailto:Barbara.Durdy@hhchealth.org]
Sent: Wednesday, April 01, 2015 2:16 PM
To: Hansted, Kevin
Subject: Docket Number 15-31982-MDF

Kevin,
Good afternoon,
The purpose of this brief communication is to inform OHCA that Hartford HealthCare is in support of the request for CON modification submitted by Northeast Regional Radiation Oncology Network, Inc. ("NNRON") on February 23, 2015. We realize and respect that OHCA must follow procedure, but if there is anything that can be done to expedite the request, it would be much appreciated.

Thank you,
Barbara

Barbara A. Durdy
Director, Strategic Planning

Hartford HealthCare

Hartford HealthCare

181 Patricia M. Genova Blvd.

Newington, CT 06111

Office: 860.972.4231

Cell: 203.859.8174

barbara.durdy@hhchealth.org

www.hartfordhealthcare.org

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message, including any attachments.

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

* * * Communication Result Report (Apr. 27. 2015 10:35AM) * * *

1) OHCA-98604187054
2)

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0143	Memory TX OHCA	98609729025	P. 5	OK	

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Comments: Decision for DR&ON
DN: 15-31982

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* * * Communication Result Report (Apr. 27. 2015 10:34AM) * * *

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