



## Office of Health Care Access

### Modification of a Previously Authorized Certificate of Need

**Petitioner for Modification**                      **Yale-New Haven Hospital**

**Modification Docket Number:**                      **08-30410-MD2**

**Modification Project Title:**    **A request to modify a previous Certificate of Need authorization to increase the authorized capital expenditure by \$25,617,560, from \$409,657,230 to \$435,274,790 and to be allowed to build out the two shelled floors of the authorized Cancer Center project.**

**Original Project Docket Number and Title**                      **Docket Number 04-30410-CON, as modified by Docket Number 06-30410-MDF  
Yale-New Haven Cancer Hospital & North Pavilion.**

**Statutory Reference:**                      **Sections 4-181a(b), Connecticut General Statutes**

**Filing Date:**                                      **September 18, 2008**

**Decision Date:**                                      **October 23, 2008**

**Staff**    **Karen Roberts**

**Project Description:** Yale-New Haven Hospital proposes a modification of the Certificate of Need authorization under Docket Number 04-30410-CON, as subsequently modified by Docket Numbers 06-30410-MDF, in order to increase the authorized capital expenditure by \$25,617,560, from \$409,657,230 to \$435,274,790 and to be allowed to build out the two shelled floors of the authorized Cancer Center project.

## Findings of Fact

1. On September 7, 2005, under Docket Number 04-30410-CON and pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes, the Office of Health Care Access (“OHCA”) entered into an Agreed Settlement with Yale-New Haven Hospital (“Hospital”) which granted a Certificate of Need (“CON”) to the Hospital for the construction of the North Pavilion and the establishment of the Yale-New Haven Cancer Center at a total capital expenditure of \$369,810,000, which does not include the capitalized financing costs.
2. Stipulation #10 of the CON Order under Docket Number 04-30410-CON states the following:  
  
*“10. The Hospital shall request approval from OHCA through the Certificate of Need process for any further development of the shelled space included in the North Pavilion.”*
3. On July 25, 2006, under Docket Number 06-30410-MDF, OHCA issued a modification of the CON Order under Docket Number 04-30410-CON, in order to increase the authorized capital expenditure by \$39,847,230, from \$369,810,000 to \$409,657,230.
4. Condition #7 of the CON Order was modified by Docket Number 06-30410-MDF, as follows:  
  
*“7. The Hospital shall not exceed the authorized capital expenditure of \$409,657,230. In the event that the Hospital learns of potential additional costs, the Hospital shall file with OHCA a request for approval of the revised budget using the Certificate of Need modification process.”*
5. On September 18, 2008, OHCA received the Hospital’s request for a further modification of the CON authorization in order to increase the authorized capital expenditure by \$25,617,560, from \$409,657,230 to \$435,274,790. The requested increase is related to the planned development or fit-out of the shelled space included in the North Pavilion construction project, specifically Floors 9 and 10. Such request is made in compliance with Stipulation #10 as stated above.
6. The Hospital requests that it be allowed to develop the shelled space earlier than originally expected and use Floors 9 and 10 for temporary critical care and acute medicine bed locations for the first two years of the Cancer Hospital’s operations.
7. As part of the original CON, the Hospital requested and received authorization to build the two additional floors in the Cancer Hospital building, which would be core and shell space for future inpatient bed capacity. OHCA notes the following pertinent Findings of Fact (#14 and #15) set forth in the agreed settlement under Docket Number 04-30410-CON:  
  
*“14. “Two levels of the North Pavilion will have shelled space. Each floor will be comparable in size to the other four inpatient floors with capacity for 28 beds per unit and will be fully constructed to meet future volume increases.”*

“15. *“The Hospital stated that the shelled space will help meet future needs by allowing for:*

- *Expansion of high-growth inpatient services, such as medicine and surgery; or*
- *Expansion of Intensive Care Units; or*
- *Expansion of space-constrained services, such as women’s and pediatric services; or*
- *Relocation of beds out of the East Pavilion into more modern facilities; or*
- *Relocation or consolidation of fast-growing outpatient services.”*

It is also noted that OHCA’s Rationale section of the Agreed Settlement under Docket Number 04-30410-CON included the following statement: *“Shelled space will provide for future expansion and ease the need for patient space during renovations or upgrades to other areas in the Hospital.”*

8. The Hospital has since learned that approval of the build-out of Floors 9 and 10 by the end of October 2008 would mean that the contractor could sequence the construction such that upon the completion of Floors 1-8, the contractor would finish build out of Floors 9-15 in order and still complete the building within the original schedule. Otherwise, Floors 9 and 10 would need to be completed after Floors 11-15. The Hospital states that the completion of Floors #9 and #10 in orderly sequence will allow the Hospital to efficiently and cost-effectively address volume and bed demand starting in FY 2010.
9. In Finding of Fact #28 of the Agreed Settlement under Docket Number 04-30410-CON, OHCA provided the Hospital’s table summarizing the projected inpatient volume from FY 2005 through FY 2011 as provided by the Hospital in its CON application submission. Table 3 of Finding of Fact #28 was as follows:

**Table 3: Projected Inpatient Volume from FY 2005 through FY 2011**

	Fiscal Year						
	2005	2006	2007	2008	2009	2010	2011
Total Bed Days	254,399	260,818	265,772	296,230	275,651	281,075	285,138
Average Length Of Stay	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Average Daily Census	697	715	728	738	755	770	781
Total Patient Discharges	48,000	49,211	50,146	50,798	52,010	53,033	53,800
Total Staffed Beds	854	862	866	893	966*	966	966
Occupancy**	81.6%	82.9%	84.1%	82.6%	78.2%	79.7%	81%

\*“The first year that the total number of staffed beds required to accommodate projected inpatient case volume exceeds the Hospital's licensed capacity of 944.<sup>1</sup>

\*\* Percent of staffed beds that are occupied.

<sup>1</sup> Note that the Hospital now indicates that FY 2009 Total Staffed beds should be 944 due to the delays which the Hospital experienced in the construction start for this project. The project was initially projected to be completed by 1<sup>st</sup> quarter 2009 (November 2008).

10. The Hospital now has actual volume statistics to compare to the first four fiscal years as previously projected. In the current modification request, the Hospital presents the following information (Table 3a) to identify the actual inpatient activity experienced by the Hospital for FY 2005 through FY 2008 and to compare it to the Hospital's previous projections.

**Table 3a: Actual Inpatient Volume from FY 2005 through FY 2008**

	Fiscal Year			
	2005	2006	2007	2008
Total Bed Days	260,219	262,417	267,788	273,429
<i>Difference from original projections</i>	+5,820	+1,599	+2,016	-22,801
Average Length of Stay	5.37	5.21	5.19	5.22
<i>Difference from original projections</i>	0	-.1	-.1	-.1
Average Daily Census	713	719	734	748.9
<i>Difference from original projections</i>	+16	+4	+6	+11
Total Patient Discharges	48,458	50,368	51,597	52,381
<i>Difference from original projections</i>	+458	+1,157	+1,451	+1,583
Online Beds <sup>2</sup>	854	862	884	892
<i>Difference from original projections</i>	458	1,157	1,451	1,583
Occupancy of Online Beds*	83.5%	83.4%	83.0%	84.0%

11. Based on the increase of actual over projected for Total Patient Discharges and Average Daily Census, the Hospital now requests permission to build out the shelled space earlier than anticipated in order to maximize its available operating (staffed or "online") bed capacity to meet this greater than expected patient demand. The Hospital also indicates that due to the need for ongoing unit renovations elsewhere on the Hospital campus, full build-out of floors #9 and #10 is necessary to accommodate beds that will be taken out of service due to other renovations.

12. The Hospital trends these above figures forward for projected FY 2009 to projected FY 2012 as follows:

**Table 3b Updated Patient Days and Capacity Projections Summary**

	FY 2008	Projected FY 2009	Projected FY 2010	Projected FY 2011	Projected FY 2012
Average Length of Stay	5.22	5.32	5.40	5.45	5.50
Average Daily Census	748.9	775.4	797.5	816.9	834.0
Total Patient Discharges	52,381	53,166	53,964	54,665	55,376
Online Beds	893	903	966 <sup>3</sup>	966	966
Projected Occupancy Rate	83.9	85.9	82.6	84.6	86.3

<sup>2</sup> The Hospital sometimes terms staffed beds as "Online Beds".

<sup>3</sup> Stipulation #4 of the Agreed Settlement under Docket Number 04-30410-CON states that: "Upon completion of the North Pavilion the Hospital is authorized to increase its bed capacity by 22 licensed beds ..." <sup>3</sup> An increase in the Hospital existing general hospital license of 944 beds by 22 beds will result in an authorized total of 966 licensed beds (including bassinets).

13. The Hospital provides the following chart to demonstrate the flow of operating (on-line) and licensed beds for the fiscal years 2009 through 2011 related not only to the cancer center project, but other bed related projects planned for throughout the hospital campus.

**Table 3c: Operating and Licensed Bed Summary Fiscal Year 2009 through Fiscal Year 2011**

<b>FISCAL YEAR 2009</b>	<b>Operating</b>	<b>Licensed</b>
Beds in service when CON was submitted for Cancer Hospital (FY 2005)	854	-
Temporary increase in physical beds (FY 2006 through FY 2008)	39 <sup>4</sup>	-
Full staffing of inpatient beds that were out of service (permanent re-opening in Fiscal Year 2009)	10	-
<i>TOTAL ONLINE/OPERATING &amp; LICENSED BEDS FOR FY 2009</i>	903	944

<b>FISCAL YEAR 2010</b>	<b>Operating</b>	<b>Licensed</b>
Starting total of online (staffed) operating bed count	903	944
Add Cancer Hospital floors 11-15 when opened	112	-
Deduct 29 of the 39 temporary beds, maintaining 10 beds as doubles	-29	-
Deduct 76 beds from West Pavilion floors 8 & 9 following the move to the Cancer Hospital so these floors can be renovated	-76	-
Add beds by opening the Cancer Hospital floors 9 & 10	56	-
<i>TOTAL ONLINE/OPERATING &amp; LICENSED BEDS IN FY 2009</i>	966	966

<b>FISCAL YEAR 2011</b>	<b>Operating</b>	<b>Licensed</b>
Starting total of online (staffed) operating bed count	966	966
Re-open West Pavilion floors 8 & 9 following renovation	72	-
Close South Pavilion 7-2, 7-3 & 7-4 following relocation to West Pavilion floor 8 and renovation for acute medical/surgical	-56	-
De-commission 14 double bed rooms on East Pavilion 9 to single rooms	-14	-
De-commission 2 double bed rooms on East Pavilion 5 to single rooms	-2	-
<i>TOTAL ONLINE/OPERATING &amp; LICENSED BEDS IN FY 2009</i>	966	966

14. The requested modification will not result in a further increase in the licensed bed capacity. The Hospital is not requesting any additional licensed beds beyond the increase provided in Stipulation #4 and is not requesting that it be allowed to seek its previously authorized licensure increase at an earlier point in time. The Hospital will not seek licensure increase until the completion of the Cancer Hospital building project in FY 2010.

15. On October 7, 2008, upon completion of a public comment period, OHCA waived the public hearing regarding this modification request.

<sup>4</sup> As allowed by Stipulation #5 of the Agreed Settlement under Docket Number 04-30410-CON

16. The requested incremental increase of \$25,617,560 will be funded by the Hospital, as follows:

Financing for Incremental Project Equipment Costs:

Hospital Operating Funds	\$1,063,983
Funded Depreciation	\$4,255,945
Total Equipment Financing	\$5,319,931

Financing for Fit-Out of Space:

CHEFA Bond Financings	\$20,297,629
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Total Incremental Capital Expenditure \$25,617,560<sup>5</sup>

17. The Hospital projects the following effect of the requested increase on the Hospital's Net Patient Revenues, Total Operating Expenses and Gain/(Loss) from Operations:

**Table 3d: The effect of the requested increase on the Hospital's financial projections**

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Incremental Net Patient Revenue	\$0	\$0	\$0	\$0	\$0
Incremental Total Operating Expenses <sup>6</sup>	\$925,000	\$1,614,000	\$2,219,000	\$2,202,000	\$2,184,000
Incremental Gain/(Loss) from Operations	\$(925,000)	\$(1,614,000)	\$(2,219,000)	\$(2,202,000)	\$(2,184,000)

## Discussion

OHCA has reviewed this request for a modification to a previously authorized CON and finds that the relationship of the CON authorized under Docket Number 04-30410-CON, as subsequently modified by Docket Numbers 06-30410-MDF to Section 19a-637, C.G.S., is not altered by this request for a modification under Docket Number 08-30410-MD2. The Hospital's indicates that its need to fit out and utilize the shell space on Floors 9 and 10 of the Cancer Hospital earlier than anticipated is the result of a higher level of inpatient discharges and average daily census than originally projected in 2005 during the initial CON review. Such higher levels of inpatient activity appear to have been unforeseen and unanticipated by the Hospital at the time of the initial CON application process. The build out of this space as discussed in the modification request will be for purposes anticipated during the CON process and acknowledged by OHCA in the CON decision under Docket Number 04-30410-CON. The Hospital's request for an increase in the project's authorized capital expenditure by \$25,617,560, from \$409,657,230 to \$435,274,790, is therefore reasonable. OHCA finds it acceptable for the Hospital to proceed with the incurrence of these costs in order to build out and utilize the two shelled floors of the authorized Cancer Center project for the purposes outlined in the modification request.

<sup>5</sup> The incremental costs requested by the Hospital were estimated by the Hospital's contractor, Turner Construction.

<sup>6</sup> Expense impact is for increased Depreciation/Amortization and Interest Expense.

## Order

Based on the above discussion OHCA hereby modifies the CON authorized under Docket Number 04-30410-CON, as previously modified by Docket Numbers 06-30410-MDF. OHCA allows the built-out of the shell space on Floors 9 and 10 for the purposes outlined in the modification request. OHCA modifies Condition #7 of the CON to allow for the additional costs to build-out this space, as follows:

7. The Hospital shall not exceed the authorized capital expenditure of \$435,274,790. In the event that the Hospital learns of potential additional costs, the Hospital shall file with OHCA a request for approval of the revised budget using the Certificate of Need modification process.

All other conditions set forth in the CON authorization issued under Docket Number 04-30410-CON, as modified by Docket Number 06-30410-MDF, not modified herein, will remain in full effect.

By Order of the  
Office of Health Care Access

*Signed by Commissioner Vogel on October 23, 2008*

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Date

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Cristine A. Vogel  
Commissioner

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