



Office of Health Care Access

A Request for Modification of Previously Authorized Certificate of Need

Applicants: Greenwich Hospital and
Greenwich Endoscopy Center, LLC

**Modification
Docket Number:** 08-30864-MDF

Modification Project Title: A request to modify a previous Certificate of Need authorization in order to extend the September 4, 2008 CON expiration date

**Original Project Docket
Number and Title** Docket Number 06-30864-CON; The termination of services by Greenwich Hospital at The Endoscopy Center of Greenwich Hospital and the establishment of services by Greenwich Endoscopy Center LLC.

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

Filing Date: December 1, 2008

Decision Date: December 5, 2008

Staff Karen Roberts

Project Description: Greenwich Hospital and Greenwich Endoscopy Center, LLC request a modification of the Certificate of Need (“CON”) authorization issued under Docket Number 06-30864-CON, in order to extend the CON expiration date by two years, from September 4, 2008 to September 4, 2010. The CON authorization was for Greenwich Hospital to terminate its services at The Endoscopy Center of Greenwich Hospital located at 500 West Putnam Street in Greenwich, Connecticut and for Greenwich Endoscopy Center, LLC to establish and operate a freestanding gastroenterology center at 500 West Putnam Street in Greenwich, Connecticut.

Findings of Fact

1. On September 4, 2007, under Docket Number 06-30864-CON, the Office of Health Care Access (“OHCA”) granted a Certificate of Need (“CON”) pursuant to Section 19a-638 of the Connecticut General Statutes for Greenwich Hospital (“Hospital”) to terminate its services at The Endoscopy Center of Greenwich Hospital located at 500 West Putnam Street in Greenwich, Connecticut and for Greenwich Endoscopy Center, LLC (“GEC”)¹ to establish and operate a freestanding gastroenterology center at 500 West Putnam Street in Greenwich, Connecticut.² Condition #1 of the CON authorization under Docket Number 06-30864-CON states the following:

“1. This authorization shall expire on September 4, 2008. If the termination of services by Greenwich Hospital at The Endoscopy Center of Greenwich Hospital and the establishment of the Greenwich Endoscopy Center and start of operations by Greenwich Endoscopy Center, LLC have not been completed by that date, Greenwich Hospital and the Greenwich Endoscopy Center, LLC must seek further approval from OHCA to complete the project beyond that date.”

2. On September 3, 2008, OHCA received the Hospital’s request to modify the CON authorization under Docket Number 06-30864-CON, in order to extend the CON expiration date set forth in Condition #1, by two years, from September 4, 2008 to September 4, 2010. Further information was received on December 1, 2008 and the matter was deemed complete under Docket Number 08-30864-MDF.
3. The Applicants were initially provided a full year to complete the joint venture negotiations and implement the project reviewed and authorized by OHCA in 2007. The project did not require any construction or renovation of space or purchase of new equipment.
4. In the Applicants’ November 9, 2006 Letter of Intent for the project, the Applicants listed June 1, 2007 as the project’s estimated starting date and in the Applicants’ CON application filed on April 8, 2007, the Applicants’ projected that the services under the GEC joint venture will be licensed by the Department of Public Health “90 days from CON approval”.
5. The Applicants make the following statements in the modification request under review:
 - *“At this time, there are no legal or financial contracts or obligations that have been formally entered into by the Applicants”.*
 - *“Additional time is needed to complete negotiations and move forward with the project.”*

¹ The Hospital and GEC are both Applicants to the CON authorization and this modification request.

² Greenwich Endoscopy Center, LLC (“GEC”) was formed on October 30, 2006 and is intended to be a joint venture limited liability company by Greenwich Health Care Services, Inc and a group of gastroenterology physicians practicing in the service area. Greenwich Health Care Services, Inc. is the parent corporation for the Hospital.

- *“Negotiations have not been completed as arrangements considered optimal and mutually beneficial to both Applicants have not been agreed to at this point in time.”*
 - *“It was unforeseen that both parties would not be able to agree on mutually beneficial terms in a timely fashion.”*
 - *“Both parties remain committed to working together, however time is needed to sort through the varied differences that exist and that cannot be resolved within a short period of time.”*
 - *“There are a number of issues between the physicians and the hospital, and the interests of the community and all parties still need to be mutually agreed upon.”³*
6. When asked to explain why the Applicants request until September 4, 2010 to fully implement this project, the Applicants indicate that *“Arrangements for patient care outside of the proposed joint venture are in place for each Applicant and it is expected to take at least a year to assess if these arrangements need to be addressed during negotiations”*. The Applicants did not provide any further details regarding the *“arrangements”* referred to. The Applicants indicate that they have asked for the time extension to September 2010 *“so that additional time extensions in the further would not be necessary.”*

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 06-30864-CON to Section 19a-637, C.G.S., is not significantly altered by this request for a modification under Docket Number 08-30864-MDF, as OHCA further modifies it herein. The modification proposal does not alter the intended scope of the project originally reviewed and acted upon by OHCA in 2007. It appears that additional time is needed for the Applicants to conclude their negotiations and finalize this joint venture transaction. The project as presented to OHCA during the CON application process was anticipated to be implemented in an expeditious manner subsequent to the CON authorization.

OHCA does not find, however, that the Applicants have presented sufficient detail or cause for granting a time extension until September 2010, which would be three full years from the initial authorization date. OHCA determines it to be a reasonable approach to allow for an additional year in order for the Applicants to conclude the joint venture arrangements, seek licensure approval related to this project, and commence operation of the services under the legal entity, Greenwich Endoscopy Center, LLC.

As such, OHCA finds it appropriate to modify the request before OHCA and consider a 12 month time extension rather than the 24 month extension which the Applicants have proposed.

³ The Applicants have not identified the specific issues that remain unresolved.

Order

Based on the above discussion, OHCA hereby grants a modification of the CON authorized under Docket Number 06-30864-CON. Condition #1 of the CON authorization under Docket Number 06-30864-CON is modified by OHCA for a one-year extension of the CON expiration date, as follows:

1. This authorization shall expire on September 4, 2009. If the termination of services by Greenwich Hospital at The Endoscopy Center of Greenwich Hospital and the establishment of the Greenwich Endoscopy Center and start of operations by Greenwich Endoscopy Center, LLC have not been completed by that date, Greenwich Hospital and the Greenwich Endoscopy Center, LLC must seek further approval from OHCA to complete the project beyond that date.

All other conditions set forth in the CON authorization issued under Docket Number 06-30864-CON not modified herein, will remain in full effect.

By Order of the
Office of Health Care Access

Signed by Commissioner Vogel on December 5, 2008

Date

Cristine A. Vogel
Commissioner

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