



## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicant:** Northeast Regional Radiation Oncology Network, Inc d/b/a Community CancerCare

**Docket Number:** 08-31114-CON

**Project Title:** Acquisition and Operation of a Second Linear Accelerator at John DeQuattro Cancer Center (Manchester, CT)

**Statutory Reference:** Section 19a-639, Connecticut General Statutes

**Filing Date:** August 15, 2008

**Decision Date:** November 13, 2008

**Default Date:** November 13, 2008

**Staff:** Steven W. Lazarus

**Project Description:** Northeast Regional Radiation Oncology Network, Inc. d/b/a Community CancerCare (“Applicant”) proposes to acquire and operate a second linear accelerator (“LinAc”) at John DeQuattro Cancer Center (“JDCC”). The proposed total capital expenditure for the project is \$5,314,900.

**Nature of Proceedings:** On August 15, 2008, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application from the Applicant seeking authorization to acquire and operate a second LinAc at JDCC in Manchester, CT. The proposed total capital cost for the project is \$5,314,900. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

Pursuant to Section 19a-639, C.G.S., a notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published in the *Journal Inquirer* on April 13, 2008. OHCA received no responses from the public concerning the Hospital's proposal. Pursuant to Section 19a-639, C.G.S, three individuals or an individual representing an entity with five or more people had until September 4, 2008, the twenty-first calendar day following the filing of the Applicant's CON Application, to request that OHCA hold a public hearing on the Applicant's proposal. OHCA received no hearing requests from the public.

OHCA's authority to review and approve, modify or deny this proposal is established by Section 19a-639, C.G.S. The provisions of this section as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were fully considered by OHCA in its review.

## Findings of Fact

### Clear Public Need Impact on the Applicant's Current Utilization Statistics Contribution of the Proposal to the Accessibility and Quality of Health Care Delivery in the Region

1. Northeast Regional Radiation Oncology Network ("NRRON") d/b/a as Community CancerCare ("Applicant") is a non-profit joint venture between Hartford Hospital, Johnson Memorial Hospital, Manchester Memorial Hospital and Rockville General Hospital. (*July 1, 2008, Initial CON Application, page 2*)
2. According to the Applicant, NRRON was formed to meet the needs of cancer patients in eastern Connecticut. (*July 1, 2008, Initial CON Application, page 2*)
3. NRRON currently provides community-based cancer care at two freestanding locations in Connecticut: Phoenix Community Cancer Center in Enfield and the John DeQuattro Cancer Center ("JDCC") in Manchester, adjacent to Manchester Memorial Hospital. (*July 1, 2008, Initial CON Application, page 2*)
4. The Applicant is proposing acquisition and operation of a second Linear Accelerator ("LinAc") for its JDCC facility in Manchester. (*July 1, 2008, Initial CON Application, page 2*)
5. Under Docket No.: 95-534, Office of Health Care Access ("OHCA") authorized NRRON d/b/a Community CancerCare to provide the following services at JDCC: radiation oncology consultation, follow-up care, virtual simulation, treatment planning and external beam radiation therapy utilizing a Varian 600 C LinAc. (*March 3, 2008, Letter of Intent and OHCA Final Decision, Docket No.: 95-534*)

6. The Applicant listed the following towns as their primary service area (“PSA”):

**Table 1: Applicant’s Proposed Service Area**

|               |             |            |               |
|---------------|-------------|------------|---------------|
| Bolton        | Columbia    | Coventry   | East Hartford |
| Ellington     | Glastonbury | Manchester | Mansfield     |
| South Windsor | Tolland     | Vernon     | Windham       |

Note: The PSA is defined by the towns in which 85% of the JDCC patients originated.  
*(July 1, 2008, Initial CON Application, page 11)*

7. The Applicant based the need for the proposed second LinAc on the fact that the Varian 600 LinAc, currently operated at JDCC is operating above capacity. *(July 1, 2008, Initial CON Application, pages 3&4)*
8. The Applicant’s analysis determined that a second LinAc was necessary to provide additional capacity and reduce the waiting period allowing treatments to begin with the industry standards, improve patient throughput, and remove some of the burden currently placed on the existing LinAc. *(July 1, 2008, Initial CON Application, page 4)*
9. According to the Applicant, it has attempted increasing hours of operating, yet the radiation therapy program has operated consistently above capacity for over five years with a daily census of 35 to 40 patients. *(July 1, 2008, Initial CON Application, page 4)*
10. The Applicant reported the following historical volume for the existing LinAc at JDCC:

**Table 2: Existing LinAc’s Volume (JDCC)**

|                   | 2005  | 2006  | 2007  |
|-------------------|-------|-------|-------|
| <b>Treatments</b> | 8,852 | 9,168 | 9,458 |

*(July 1, 2008, Initial CON Application, page 5)*

11. The Applicant stated that the current LinAc has operated above 100% capacity for several years. Capacity definitions is determined by a variety of factors including case mix, equipment type, physician practice style, and staffing constraints.  
*(July 1, 2008, Initial CON Application, page 3)*
12. The table below provides the historical radiation oncology patient volume at JDCC:

**Table 3: Historical JDCC Radiation Therapy Treatments**

|   | 2005  | 2006  | 2007  |
|---|-------|-------|-------|
| <b>Radiation Therapy Treatments</b>                 | 8,852 | 9,168 | 9,458 |
| <b>Total Patients</b>                               | 455   | 492   | 510   |
| <b>Avg. Radiation Therapy Treatment per Patient</b> | 19.5  | 18.6  | 18.5  |

*(July 1, 2008, Initial CON Application, page 52)*

13. The Applicant based the cancer incidence rates by age cohort and gender for 2003 on figures provided by the State of Connecticut Tumor Register. These were used to quantify the number of new cancer cases in the PSA. For example, the incidence of cancer in males between the ages of 50 and 54 is 592 per 100,000 people. The PSA population of men within the age cohort is 10,485. Therefore, the incidence of cancer in the population is 62. *(July 1, 2008, Initial CON Application, page 5)*
14. According to the Applicant, the following table illustrates the growth in number of cancer cases overall in the PSA:

**Table 4: PSA Cancer Growth Rate**

|               | <b>2007</b>  | <b>2012</b>  | <b>5-Year Growth Rate</b> |
|---------------|--------------|--------------|---------------------------|
| <b>Female</b> | 757          | 833          | 10.1%                     |
| <b>Male</b>   | 811          | 920          | 13.6%                     |
| <b>Total</b>  | <b>1,568</b> | <b>1,753</b> | <b>11.8%</b>              |

*(July 1, 2008, Initial CON Application, page 6)*

15. According to the Applicant, it utilized the industry benchmarks provided by the American Society for Therapeutic Radiology and Oncology, 60% of all cancer patients will receive radiation therapy. Utilizing the benchmark, the Applicant determined that 1,568 new cancer cases diagnosed in the primary service area in 2007, 941 required radiation therapy.
- Based on 1,568 cancer cases times 18.5 treatments per case (based on JDCC's experience) equals 17,443 treatments.
  - Also based on the 430 primary service area patients at JDCC divided by 941 market cases equals a 45.7% capture rate.
  - With 17,433 market treatments times 45.7% capture rate equals 7,973 radiation treatments procedures.
  - In projecting the volume of radiation treatments provided at JDCC through 2012, NRRON assumed that the capture rate would remain constant at 45.7% for the total market. Treatments from the primary service area in 2007 accounted for 84.3% of the cases at JDCC.
  - According NRRON, for 2010, the JDCC would capture 45.7% of the primary market, estimated to be 18,658 treatments, resulting in 8,528 treatments.
  - The 8,528 treatments from patients originating from the primary service area represents 84.3% of the total volume of treatments performed at the JDCC. Calculating 100% of the total volume results in 10,117 total treatment for 2010. *(July 1, 2008, Initial CON Application pages 6-7)*

16. The Applicant provided the following projected volumes by LinAc machine:

Tables 5 (A, B & C): Projected LinAc Utilization by Machine

Table 5-A: Projected *With* CON Approval

|                | Historical<br>(Last 3 Years) |              |              | Current<br>(Annualized) | Projected    | Projected <i>With</i> CON Approval |               |               |
|----------------|------------------------------|--------------|--------------|-------------------------|--------------|------------------------------------|---------------|---------------|
|                | FY05                         | FY06         | FY07         | FY08                    | FY09         | FY10                               | FY11          | FY12          |
| Existing LinAc | 8,852                        | 9,168        | 9,458        | 9,408                   | 9,458        | 5,291                              | 5,648         | 6,020         |
| Proposed LinAc | -                            | -            | -            | -                       | -            | 5,231                              | 5,648         | 6,020         |
| <b>Total</b>   | <b>8,852</b>                 | <b>9,168</b> | <b>9,458</b> | <b>9,408</b>            | <b>9,458</b> | <b>10,581</b>                      | <b>11,297</b> | <b>12,039</b> |

Table 5-B: Projected *Without* CON Approval

|                | Historical<br>(Last 3 Years) |              |              | Current<br>(Annualized) | Projected    | Projected <i>Without</i><br>CON Approval |              |              |
|----------------|------------------------------|--------------|--------------|-------------------------|--------------|--|--------------|--------------|
|                | FY05                         | FY06         | FY07         | FY08                    | FY09         | FY10                                     | FY11         | FY12         |
| Existing LinAc | 8,852                        | 9,168        | 9,458        | 9,408                   | 9,458        | 9,458                                    | 9,458        | 9,458        |
| Proposed LinAc | -                            | -            | -            | -                       | -            | -  | -            | -            |
| <b>Total</b>   | <b>8,852</b>                 | <b>9,168</b> | <b>9,458</b> | <b>9,408</b>            | <b>9,458</b> | <b>9,458</b>                             | <b>9,458</b> | <b>9,458</b> |

Table 5-C: Projected *Incremental Volume*

|                | Historical<br>(Last 3 Years) |          |          | Current<br>(Annualized) | Projected | Projected <i>Incremental Volume</i> |              |              |
|----------------|------------------------------|----------|----------|-------------------------|-----------|-------------------------------------|--------------|--------------|
|                | FY05                         | FY06     | FY07     | FY08                    | FY09      | FY10                                | FY11         | FY12         |
| Existing LinAc | -                            | -        | -        | -                       | -         | (4,167)                             | (3,810)      | (3,438)      |
| Proposed LinAc | -                            | -        | -        | -                       | -         | 5,291                               | 5,648        | 6,020        |
| <b>Total</b>   | <b>-</b>                     | <b>-</b> | <b>-</b> | <b>-</b>                | <b>-</b>  | <b>1,123</b>                        | <b>1,839</b> | <b>2,581</b> |

Note: *Assumptions:*

FY2008 treatment volume annualized based on FY08 YTD data through seven months.

FY 2008 YTD volume through April 2008 is 5,488

Without a 2<sup>nd</sup> LinAc, treatment volume on existing LinAc will remain at FY07 volume of 9,458.

The 2<sup>nd</sup> LinAc will be operational October 1, 2009 (FY 2010).

(July 1, 2008, *Initial CON Application*, pages 10 & 55)

17. The current hours of operation for the existing LinAc is 5:30 am to 6:00 pm. The hours of operation are extended at the end of the day to better accommodate patient access as needed. The hours of operation for the new location will be 7:00 am to 4:30 pm on both linear accelerators. The addition of the second LinAc will allow patients to be treated in a normal eight hour work day while still increasing appointment availability to accommodate the growing patient need. (July 1, 2008, *Initial CON Application*, page 11)

**Financial Feasibility of the Proposal and its Impact on the Applicant's  
Rates and Financial Condition  
Impact of the Proposal on the Interests of Consumers of Health Care  
Services and Payers for Such Services  
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines**

18. The total capital expenditure for the proposal is \$5,314,900 and is itemized in the following table:

**Table 6: Total Capital Expenditure Itemization**

| Description                                  | Component Cost     |
|--|--------------------|
| Construction /Renovation                     | \$1,428,000        |
| Linear Accelerator Equipment                 | \$3,358,900        |
| Non-Medical Equipment                        | \$350,000          |
| Other (Development costs)                    | \$178,000          |
| <b>Total Capital Expenditure</b>             | <b>\$5,314,900</b> |
| Cap. Fin. Costs (Informational purpose only) | \$917,406          |

Note: Haynes Street Medical Associates II, LLC is responsible for the construction of the building. NRRON is responsible for a portion of the costs associated with the design and construction of space that they will occupy. The \$1,428,000 expense is the estimated tenant improvements to build out the space to accommodate the relocated Center.

*(July 1, 2008, Initial CON Application, page 21 and August 15, 2008, Completeness Letter Response, page 140)*

19. The Applicant provided a copy of the vendor quote and a Commitment Letter from the Bank of America for the proposed LinAc which is for 70% of the cost of the equipment. The remaining will be funded through NRRON's equity, specifically through operations. *(July 1, Initial CON Application, page 21 and October 23, 2008, Additional Information)*
20. The Applicant's projected three-year incremental revenue from operations, total operating expense and losses/gains from operations associated with the implementation of the new unit are presented in the table below:

**Table 7: Applicant's Financial Projections Incremental to the Project**

| Description                             | FY 2010            | FY 2011            | FY 2012            | FY 2013          |
|---|--------------------|--------------------|--------------------|------------------|
| Incremental Revenue from Operations     | \$1,831,847        | \$2,058,371        | \$2,149,978        | \$2,397,846      |
| Incremental Total Operating Expense     | 1,130,944          | \$1,463,277        | \$1,930,713        | \$2,586,157      |
| <b>Incremental Loss from Operations</b> | <b>(\$700,903)</b> | <b>(\$595,094)</b> | <b>(\$219,265)</b> | <b>\$188,311</b> |

*(August 15, 2008, Completeness Letter Responses, page 145)*

21. The projected incremental losses are directly related to the additional costs associated with purchasing, staffing, and operating a second LinAc. *(August 15, 2008, Completeness Letter Responses, page 145)*
22. NRRON is projecting gains from operations with the proposal of \$1,130,944, \$1,463,277 and \$1,930,265, for FYs 2010, 2011 and 2012, respectively. *(August 15, 2008, Completeness Letter Responses, Page 145)*

23. The Applicant's existing payer mix is not expected to change as a result of this project. The current and projected payer mix for the first three years of operation with the proposed second linear accelerator is illustrated in the as following table:

**Table 8: Current and Three-Year Projected Payer Mix with the Proposal**

| <b>Payer</b>                | <b>Current and Projected (FYs 2008 to 2012)</b> |
|-----------------------------|---|
| Medicare                    | 66%   |
| Medicaid                    | 1.8 %   |
| TriCare (CHAMPUS)           | 0.4%  |
| <b>Total Government</b>     | <b>68.2%</b>                                    |
| Commercial Insurers         | 30.8%   |
| Uninsured                   | 1.0%  |
| Workers Compensation        | 0%  |
| <b>Total Non-Government</b> | <b>31.8%</b>                                    |
| <b>Total Payer Mix</b>      | <b>100.0%</b>                                   |

*(July 1, 2008, Initial CON Application, page)*

24. There is no State Health Plan in existence at this time. *(July 1, 2008, Initial CON Application, page 2)*
25. The Applicant has adduced evidence that this proposal is consistent with its long-range plan. *(July 1, 2008, Initial CON application, page 2)*
26. The Applicant has improved productivity and contained costs by undertaking energy conservation measures and group purchasing. *(July 1, 2008, Initial CON Application, page )*
27. The proposal will not result in any change to the Applicant's teaching and research responsibilities. *(July 1, 2008, Initial CON Application, page 18)*
28. The proposal will not result in any change to the Applicant's patient/physician mix. *(July 1, 2008, Initial CON Application, page 18)*
29. The Applicant has sufficient technical and managerial competence to provide efficient and adequate services to the public. *(July 1, 2008, Initial CON Application, page 16 and Attachment 5D)*

## Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for Certificate of Need (“CON”) proposals on a case by case basis. CON applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposal.

Northeast Regional Radiation Oncology Network, Inc. (“NRRON”) d/b/a Community CancerCare (“Applicant”) proposes to acquire and operate a second linear accelerator (“LinAc”) for its facility located at its John DeQuattro Cancer Center (“Center”) in Manchester.

The Center has a daily census of 35-40 patients and has provided 8,852, 9,168, and 9,458 radiation therapy treatments for 455, 492 and 510 patients during FYs 2005-2007, respectively. The Hospital projects a five year growth in cancer patients of 11.8% (between FY 2007-2012). If such growth is realized, the Applicant has projected radiation treatments to increase to 12,000 by FY 2012, and therefore stated a second LinAc is warranted. Based on the above, OHCA finds that the Applicant’s proposal to acquire and operate the second linear accelerator at JDCC will improve the overall accessibility and quality of care for those served by the Applicant’s radiation oncology service.

The proposed capital expenditure for this proposal is \$5,314,900. The Applicant will be financing 70% of the cost of the proposal through a conventional loan and provided a letter of commitment from the bank and the Applicant will fund the remaining 30% with equity. The Applicant’s volume and financial projections upon which they are based appear to be reasonable. Therefore, OHCA finds that the CON proposal is financially feasible.

## ORDER

Based on the foregoing Findings and Rationale, the Certificate of Need application of Northeast Radiation Oncology Network, Inc. d/b/a Community CancerCare (“Applicant”) to acquire and operate a second linear accelerator to be located at its John DeQuattro Cancer Center in Manchester, at a total capital expenditure of \$5,314,900 is hereby **granted**, subject to the following conditions:

1. This authorization shall expire December 31, 2009. Should the Applicant’s project not be completed by that date, the Applicant must seek further approval from OHCA to complete the project beyond that date.
2. The Applicant shall not exceed the approved capital expenditure of \$5,314,900. In the event that the Applicant learns of potential cost increases or expects that the final project costs will exceed those approved, the Applicant shall notify OHCA immediately.
3. With respect to the acquisition of the second radiation oncology linear accelerator, the Applicant shall submit to OHCA in writing the following information by no later than one month after the equipment has become operational:
  - a) The name of the equipment manufacturer;
  - b) The model name and description of the equipment; and
  - c) The initial date of the operation of the equipment.
4. 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.

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

By Order of the  
Office of Health Care Access

*Signed by Commissioner Vogel on November 13, 2008*

\_\_\_\_\_  
Date

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Cristine A. Vogel  
Commissioner