



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: MidState Medical Center

Docket Number: 08-31134-WVR

Project Title: Request to Waive CON Requirements for the Replacement of the Existing Linear Accelerator

Statutory Reference: Section 19a-639c of the Connecticut General Statutes

Filing Date: May 28, 2008

Decision Date: June 9, 2008

Staff: Diane Duran

Project Description: MidState Medical Center requests a waiver of Certificate of Need (“CON”) requirements for replacement equipment for the purpose of replacing its existing linear accelerator equipment in Meriden, at a total capital cost of \$2,341,000.

Nature of Proceedings: On May 28, 2008, the Office of Health Care Access (“OHCA”) received the completed waiver of Certificate of Need (“CON”) request for replacement equipment from MidState Medical Center (“Hospital”). The Hospital proposes to replace its linear accelerator equipment, at a total capital cost of \$2,341,000.

OHCA’s authority to review and approve, modify or deny the requested waiver of CON requirements for replacement equipment is established by Section 19a-639c of the 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

1. MidState Medical Center (“Hospital”) is an acute care hospital located at 435 Lewis Avenue in Meriden, Connecticut. *(April 4, 2008, Initial CON Waiver Form 2040, page 1)*
2. On June 22, 1995, in an Agreed Settlement under the Docket Number 92-567, Veterans Memorial Medical Center (“VMMC”), Meriden Wallingford Community Corporation (“MWCC”) and Connecticut Health System, Inc. (“CHS”), all “Co-Applicants”, received Certificate of Need (“CON”) authorization from the Commission on Hospitals and Health Care (“CHHC”), predecessor to the Office of Health Care Access (“OHCA”) for the termination of VMMC’s acute care hospital services at VMMC’s East Campus located at 883 Paddock Avenue in Meriden, and the termination of VMMC’s acute care hospital services at VMMC’s West Campus at One King Place in Meriden, and the relocation of these services to a new acute care hospital physical plant to be constructed on Lewis Avenue in Meriden, at a total capital expenditure of \$79,150,000. *(April 4, 2008, Initial CON Waiver Form 2040, pages 2 & 3 and June 22, 1995, Agreed Settlement, Docket Number: 92-567, page 11)*
3. Additionally, on June 22, 1995, in an Agreed Settlement under the Docket Number 92-567, VMMC was approved for the establishment of a Cancer Treatment Center which clusters existing oncology related services, presently scattered in various locations, into a single dedicated location with an entrance separated from the main hospital entrance and a dedicated parking area. The Radiation Therapy services were to provide a single linear accelerator in Meriden, at a capital cost of \$975,010. *(April 4, 2008, Initial CON Waiver Form 2040, pages 2 & 3 and June 22, 1995, Agreed Settlement, Docket Number: 92-567, Attachment III)*
4. On September 29, 1998, VMMC had an amended name change to become the business name MidState Medical Center. *(www.concord-sots.ct.gov/CONCORD/inquireServlet, Viewed on June 5, 2008)*
5. The Hospital is requesting a waiver of CON requirements in order to replace its existing Elekta SLI, Linear Accelerator, IMRT authorized by OHCA. *(April 4, 2008, Initial CON Waiver Form 2040, page 3)*
6. The Hospital operates one linear accelerator located at 435 Lewis Avenue in Meriden. *(April 4, 2008, Initial CON Waiver Form 2040, pages 2 and 5)*
7. Pursuant to Section 19a-639c of the Connecticut General Statutes (“C.G.S”), a proposal may be eligible for a waiver of replacement equipment from the CON process when a provider has previously received Certificate of Need authorization from OHCA for the equipment to be replaced and when the cost or value of the replacement equipment will not exceed \$3 million. *(Section 19a-639c, C.G.S.)*
8. The Hospital plans to acquire and operate an Elekta Synergy System, Linear Accelerator, IGRT (Image Guide Radiation Therapy) as its replacement equipment at the

Hospital located at 435 Lewis Avenue in Meriden. (April 4, 2008, Initial CON Waiver Form 2040, page 3)

9. The Hospital indicates that its current operating hours for the linear accelerator service are Monday through Friday, 7 a.m. – 5 p.m. (April 4, 2008, Initial CON Waiver Form 2040, page 5 and May 28, 2008, Additional Completeness Responses, page 1)
10. The Hospital states that the existing linear accelerator equipment needs to be replaced for the following reasons: (April 4, 2008, CON Waiver Form 2040, page 5)
- a) The existing equipment has required an increased amount of maintenance both scheduled and unscheduled over the past few years;
 - b) The equipment is approximately ten years old and has exceeded its useful life; and
 - c) The equipment cannot be maintained due to the difficulty of accessing parts.
11. The Hospital additionally states that there other considerations for the replacement of the linear accelerator equipment as follows: (April 4, 2008, CON Waiver Form 2040, page 5)
- a) The increased downtime of the equipment has caused disruption to patient care;
 - b) The Radiation Therapy Department had rescheduled patients, scheduled patients at other facilities and in some instances changed patient treatment schedules. Below is a summary of downtime for the last three Fiscal Years (“FY”); and

<u>Fiscal Year</u>	<u>Downtime (in days)</u>
FY 2006	4 days
FY 2007	10 days
FY 2008*	12 days

Note: *Annualized based on the first 6 months of Fiscal Year.

- c) The new equipment provides a more accurate delivery of radiation therapy to target locations of tumors, which limits the amount of radiation that inadvertently effects healthy tissues during treatment.
12. The Hospital states that the breakdown of the types of cancers treated at its Radiation Therapy Department in FY 2007 is:
- a) Breast 25%;
 - b) Prostate 18%;
 - c) Colon/Rectal 11%;
 - d) Lung 10%;
 - e) Bladder 7%; and
 - f) Other Sites 29%.
- (April 4, 2008, CON Waiver Form 2040, page 5)

13. The Hospital states that the volume of the existing linear accelerator is as follows:

<u>Fiscal Year</u>	<u>Linear Accelerator Volume</u>
2005	6,466
2006	6,206
2007	6,755
2008	3,913 year-to-date

(May 28, 2008, Additional Responses)

14. The total capital expenditure for the replacement project is \$2,341,000, which consists of the following components:
 - a) \$2,199,000 for the associated major medical equipment purchase; and
 - b) \$142,000 for other (non-construction) associated with an additional module of the new equipment.
(April 4, 2008, Initial CON Waiver Form 2040, page 3 and May 28, 2008, Additional Responses)
15. The capital cost of \$2,341,000 for the replacement linear accelerator equipment is below the \$3 million threshold used to determine whether a request is eligible to receive a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S. *(April 4, 2008, Initial CON Waiver Form 2040, page 2)*
16. The Hospital will fund the proposal through its equity funds. *(April 4, 2008, Initial CON Waiver Form 2040, page 4)*
17. The Hospital intends to begin operating the new linear accelerator upon CON approval. *(April 4, 2008, Initial CON Waiver Form 2040, page 2)*
18. The Hospital states that there is no proposed change to the operating hours for the linear accelerator service. *(May 28, 2008, Additional Completeness Responses, page 1)*
19. The replacement linear accelerator equipment will serve the Hospital's existing patient population and with no anticipated changes in the payer mix due to the proposal. *(April 4, 2008, CON Waiver Form 2040, page 5)*

Rationale

MidState Medical Center (“Hospital”) is requesting a waiver of Certificate of Need (“CON”) requirements for replacement equipment, pursuant to Section 19a-639c, C.G.S. The Hospital is seeking to replace its existing linear accelerator in Meriden. The new linear accelerator replacement equipment will be located at 435 Lewis Avenue in Meriden.

The Hospital is requesting that the existing linear accelerator be replaced as the existing equipment is approximately ten years old and has exceeded its useful life. The equipment cannot be maintained due to the difficulty of accessing parts. The Hospital indicates that the existing equipment has required an increased amount of maintenance both scheduled and unscheduled over the past few years. The increased downtime of the equipment has caused disruption to patient care. The Radiation Therapy Department had rescheduled patients, scheduled patients at other facilities, and in some instances, changed patient treatment schedules. The new equipment will provide more accurate delivery of radiation therapy to target locations of tumors, which limits the amount of radiation that inadvertently effects healthy tissues during treatment.

The capital cost for the proposed replacement linear accelerator equipment is \$2,341,000, which is below the \$3 million threshold for determining eligibility for a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S. The Hospital will fund the replacement project through its equity funds.

Order

Based on the foregoing Findings and Rationale, OHCA has determined that the MidState Medical Center request for a waiver of CON requirements for replacement equipment in order to replace its existing linear accelerator in Meriden, at a total capital cost of \$2,341,000, meets the requirements for waiver of the CON process pursuant to Section 19a-639c, C.G.S. and is hereby Approved subject to the following conditions.

1. This authorization shall expire on June 9, 2009. Should the Hospital's replacement project not be completed by that date, the Hospital must seek further approval from OHCA to complete the project beyond that date.
2. The Hospital shall not exceed the approved total capital cost of \$2,341,000. In the event that the Hospital learns of potential cost increases or expects that final project costs will exceed those approved, the Hospital shall notify OHCA.
3. With respect to the acquisition of the new linear accelerator, the Hospital shall notify OHCA regarding the following information in writing by no later than two months after the system becomes operational:
 - a) The name of the system manufacturer;
 - b) The model name and description of the system; and
 - c) The initial date of the operation of the system.
4. This authorization requires the removal of the Hospital's existing linear accelerator for certain disposition, such as sale or salvage, outside of and unrelated to the Hospital's Connecticut service locations. Furthermore, the Hospital shall provide evidence to OHCA of the disposition of the existing linear accelerator to be replaced by no later than six months after the replacement system has become operational.
5. Should the Hospital propose any change in the linear accelerator service, the Hospital shall file with OHCA a Certificate of Need Determination Request regarding the proposed service change.

Should the Hospital fail to comply with any of the aforementioned conditions, OHCA reserves the right to take additional action as authorized by law. 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 June 9, 2008

Date

CAV: dd

Cristine A. Vogel
Commissioner