



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

August 28, 2013

IN THE MATTER OF:

An Application for a Certificate of Need
filed Pursuant to Section 19a-638, C.G.S.
by:
Greenwich Smartlipo d/b/a Greenwich
Plastic Surgery Center

Notice of Reconsideration of Final Decision
Office of Health Care Access
Docket Number: 12-31799-CON

Establish an Outpatient Surgical Facility in
Greenwich

To: Elsa M. Raskin, MD and Sandra L. Margoles, MD
Greenwich Plastic Surgery Center
2 ½ Dearfield Dr.
Greenwich, CT 06831

Dear Dr. Raskin and Dr. Margoles:

This letter will serve as notice of the Reconsideration of the Final Decision of the Office of Health Care Access in the above matter, as provided by Section 19a-638, C.G.S. On August 28, 2013, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

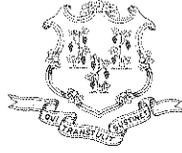
A handwritten signature in cursive script, appearing to read "Kimberly R. Martone".

Kimberly R. Martone
Director of Operations

Enclosure
KRM:swl

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

Jewel Mullen, M.D., M.P.H., M.P.A.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

IN THE MATTER OF:

An Application for a Certificate of Need
filed Pursuant to Conn. Gen. Stat. § 19a-638
by:
Greenwich Smartlipo d/b/a Greenwich
Plastic Surgery Center

Affirmation of Final Decision
Office of Health Care Access
Docket Number: 12-31799-CON
Establish an Outpatient Surgical Facility in
Greenwich

This letter will serve as notice that, after reconsideration, the Final Decision rendered in this matter on June 5, 2013 is affirmed and remains the Final Decision for purposes of any appeal under Conn. Gen. Stat. § 4-183. A copy of the Final Decision dated June 5, 2013 is attached hereto for your reference.

Date

8/28/13

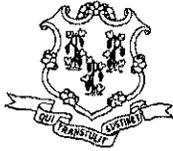

Lisa A. Davis, MBA, BSN, RN
Deputy Commissioner



Connecticut Department
of Public Health

Phone: (860) 509-8000 • Fax: (860) 509-7184 • VP: (860) 899-1611
410 Capitol Avenue, P.O. Box 340308
Hartford, Connecticut 06134-0308
www.ct.gov/dph

Affirmative Action/Equal Opportunity Employer



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

June 5, 2013

IN THE MATTER OF:

An Application for a Certificate of Need
filed Pursuant to Section 19a-638, C.G.S.
by:
Greenwich Smartlipo d/b/a Greenwich
Plastic Surgery Center

Notice of Final Decision
Office of Health Care Access
Docket Number: 12-31799-CON

Establish an Outpatient Surgical Facility in
Greenwich

To: Elsa M. Raskin, MD and Sandra L. Margoles, MD
Greenwich Plastic Surgery Center
2 ½ Dearfield Dr.
Greenwich, CT 06831

Dear Dr. Raskin and Dr. Margoles:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter, as provided by Section 19a-638, C.G.S. On June 4, 2013, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.



Kimberly R. Martone
Director of Operations

Enclosure
KRM:bac

An Equal Opportunity Provider
(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov



**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Final Decision

Applicants: Greenwich Smartlipo LLP d/b/a Greenwich Plastic Surgery Center

Docket Number: 12-31799-CON

Project Title: Establish an Outpatient Surgical Facility in Greenwich

Project Description: Greenwich Smartlipo LLP d/b/a Greenwich Plastic Surgery Center seeks authorization to establish an outpatient surgical facility in Greenwich, Connecticut.

Procedural History: Greenwich Smartlipo LLP d/b/a Greenwich Plastic Surgery Center (“Applicant” or “Greenwich Plastic Surgery Center”) published notice of its intent to file the CON application in the Greenwich Time (Greenwich) on July 30, 31 and August 1, 2012.

On October 31, 2012, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application from the Applicant for the above-referenced project.

On February 13, 2013, OHCA deemed the application complete. OHCA received no responses from the public concerning the Applicant’s proposal and no hearing requests were received from the public pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e).

Deputy Commissioner Lisa A. Davis read the entire record in this matter.

Findings of Fact

1. Greenwich Plastic Surgery Center is a Connecticut limited liability partnership located at 2 ½ Dearfield Dr., Greenwich, Connecticut. Ex. A, p. 2.
2. Greenwich Plastic Surgery Center is owned and directed by two members: Elsa M. Raskin, MD and Sandra L. Margoles, MD. Ex. A, p. 2.

3. Greenwich Plastic Surgery Center is a physician-based practice that provides a variety of cosmetic procedures: abdominoplasty, blepharoplasty, breast augmentation, breast lift, breast reduction, facelift, liposuction, rhinoplasty, facelift and other minor surgical procedures. Ex. A, p. 3.
4. Greenwich Plastic Surgery Center currently provides only local anesthesia to patients. Ex. A, p. 3.
5. Insurance cases and large procedures are performed by Drs. Raskin and Margoles at Greenwich Hospital. Ex. A, p. 4.
6. The Applicant is proposing the establishment of an outpatient surgical facility in order to:
 - provide general anesthesia to enhance patient comfort;
 - better accommodate the scheduling needs of patients due to the fact that Greenwich Hospital does not provide requested block time to the plastic surgeons;
 - help retain patients being lost to competitors who can provide a variety of cosmetic procedures outside the acute care hospital setting.Ex. A, pp. 3-4.
7. If the proposal were approved, the existing procedure room would be upgraded to a single operating room to provide general anesthesia. Ex. A, p. 3.
8. Anesthesia services would be performed by The Stamford Anesthesia Services, PC, a board certified group of anesthesiologists who staff the surgical services at The Stamford Hospital and The Tully Ambulatory Surgical Center. Ex. C, p. 137.
9. Greenwich Plastic Surgery Center is accredited by the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF). Ex. A, p. 5.
10. New Greenwich Plastic Surgery Center patients are generally referred from existing patients. Ex., A, p. 4.
11. Greenwich Plastic Surgery Center plans to provide cosmetic services in the surgical center to patients over age 18. Ex. A, p. 3.
12. Greenwich Plastic Surgery Center does not accept insurance. Low interest rate financing is offered to patients who are unable to pay the total fee prior to surgery. Ex. A, pp. 4, 7.
13. Greenwich Plastic Surgery Center reported that for Calendar Year ("CY") 2012, patient volumes originated from the following towns/areas: Greenwich, CT (33%), NY State (32%), Stamford, CT (15%), New Canaan, CT (8%), Norwalk, CT (5%), Darien, CT (5%) and Other (2%). Ex. C, p. 91.

14. Other providers of cosmetic surgery in the Applicant's service area that have at least one operating room include: Greenwich Hospital, Norwalk Hospital, Norwalk Ambulatory Surgery Center, Stamford Hospital, Office of Leif Nordberg, MD., Summer Street Ambulatory Surgery Center and the Helmsley Ambulatory Surgical Center. Ex. A, p. 4; Statewide Health Care Facilities and Services Plan (2012).
15. The following table represents historical volumes for Dr. Raskin and Dr. Margoles at Greenwich Hospital and at the Greenwich Plastic Surgery Center.

Table 1: Historical Procedural Volumes:

| Procedure | CY 2009 | CY 2010 | CY 2011 | CY 2012 ¹ | Location ² |
|---------------------------------------------|---------|---------|---------|----------------------|-----------------------|
| Abdominoplasty | 1 | 16 | 5 | 7 | GH |
| Blepharoplasty | 10 | 7 | 5 | 7 | GH |
| Breast Augmentation | 9 | 6 | 7 | 9 | GH |
| Breast lift | 7 | 13 | 5 | 4 | GH |
| Breast reduction | 34 | 37 | 10 | 17 | GH |
| Facelift | 2 | 3 | 3 | 1 | GH |
| Rhinoplasty | 1 | 1 | 2 | 0 | GH |
| Liposuction | 5 | 20 | 30 | 43 | GH/GPSC |
| Greenwich Hospital Total | 69 | 83 | 37 | 45 | |
| Greenwich Plastic Surgery Ctr. Total | 0 | 20 | 30 | 43 | |
| Total Procedures | 69 | 103 | 67 | 88 | |

Ex. C, p. 90.

¹Estimated

²Greenwich Hospital (GH); Greenwich Plastic Surgery Center (GPSC) -- since CY 2010

16. The Applicant projects volumes at the surgery center will increase through CY 2015 if its proposal is approved.

Table 2: Projected Procedural Volumes:

| Procedure | CY 2013 | CY 2014 | CY 2015 |
|-----------------------------------------|---------|---------|---------|
| Greenwich Hospital | | | |
| Abdominoplasty | 5 | 5 | 5 |
| Breast Reduction | 24 | 20 | 15 |
| Breast Reconstruction | 20 | 30 | 20 |
| Subtotal | 49 | 55 | 40 |
| Greenwich Plastic Surgery Center | | | |
| Abdominoplasty | 18 | 25 | 27 |
| Blepharoplasty | 14 | 20 | 22 |
| Breast Augmentation | 20 | 30 | 33 |
| Breast lift | 13 | 20 | 22 |
| Breast reduction | 30 | 30 | 33 |
| Facelift | 6 | 10 | 11 |
| Liposuction | 8 | 12 | 13 |
| Rhinoplasty | 4 | 6 | 6 |
| Smartlipo | 65 | 80 | 95 |
| Subtotal | 178 | 233 | 262 |
| Total Procedures | 227 | 288 | 302 |

Ex. C, p. 145.

17. The Applicant's projected volumes are based on its historical practice volume as well as the American Society of Plastic Surgeons Plastic Surgery Statistics Report that estimates 5-9% yearly increases in surgical cases. Ex. C, p. 98.
18. Based on the data reported in Tables 1 and 2, total procedural volume is projected to increase from 88 in CY 2012 to 227 in CY 2013 (158%), from 227 in CY 2013 to 288 in CY 2014 (+27%) and from 288 in CY 2014 to 302 in CY 2015 (+5%).
19. The proposed capital expenditure to renovate the facility and to acquire the necessary equipment is \$32,000 and will be funded by the cash accounts of Greenwich Plastic Surgery Center. Ex. A, p. 7.
20. The Applicant projects incremental gains from operations resulting from the proposal of \$193,750 in FY 2013, \$208,832 in FY 2014 and \$215,805 in FY 2015:

Table 3: Projected Incremental Revenues and Expenditures by Fiscal Year

| | FY 2013 | FY 2014 | FY 2015 |
|-----------------------------------------|----------------|----------------|----------------|
| Incremental Revenue from Operations | 259,700 | 275,282 | 297,305 |
| Incremental Total Operating Expenses | 65,950 | 66,450 | 81,500 |
| Incremental Gain from Operations | 193,750 | 208,832 | 215,805 |

Ex. C, p. 158.

21. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any policies and standards not yet adopted as regulations by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1))
22. Although the state wide health care facilities and services plan is applicable to this application (deemed complete after the 90 day period following the plan's effective date), OHCA has not made any findings as to the relationship between this CON application and the plan, as the plan's standards and guidelines have not yet been adopted as regulation. (Conn. Gen. Stat. § 19a-639(a)(2))
23. The Applicant has failed to establish that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
24. Sufficient evidence to validate the projected patient volumes has not been provided, therefore, OHCA is unable to determine the financial feasibility of the proposal. (Conn. Gen. Stat. § 19a-639(a)(4))
25. The Applicant has failed to satisfactorily demonstrate that accessibility of health care delivery in the region would be improved by its proposal. (Conn. Gen. Stat. § 19a-639(a)(5))

26. The Applicant has shown that there would be no change to the provision of health care services to the relevant populations and payer mix – insurance will not be accepted. (Conn. Gen. Stat. § 19a-639(a)(6))
27. The Applicant has satisfactorily identified the population to be served by its proposal, but has failed to satisfactorily demonstrate that this population has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7))
28. The Applicant has failed to identify the overall historical utilization of cosmetic surgery procedures in the service area. (Conn. Gen. Stat. § 19a-639(a)(8))
29. The Applicant has failed to satisfactorily demonstrate that its proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))

Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in General Statutes § 19a-639(a). The Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008).

Greenwich Plastic Surgery Center is a Connecticut limited liability partnership comprised of two members: Elsa M. Raskin, MD and Sandra L. Margoles, MD. *FF1&2*. The Applicant is proposing the establishment of an outpatient surgical facility at the Greenwich Plastic Surgery Center located in Greenwich. *FF6*.

The proposal is based upon the assertion that the Greenwich Plastic Surgery Center would be better able to serve its patients as an outpatient surgical facility due to the ability to provide general anesthesia to enhance patient comfort and to gain more control over procedure scheduling to enhance patient convenience. The Applicant also claims that approval of its proposal will help it retain patients and remain competitive with other area providers performing similar cosmetic procedures outside the acute care hospital setting. *FF6*.

Although the Applicant has provided the historical utilization of procedures performed at the Greenwich Plastic Surgery Center and at Greenwich Hospital, no evidence has been provided to indicate that there is a lack of operating room capacity in the proposed service area (Greenwich, Stamford, New Canaan, Norwalk and Darien). *FF13, FF15*. Based on information collected and reported by OHCA in the Statewide Health Care Facilities and Services Plan (2012), there are seven existing providers that perform cosmetic surgery and have at least one operating room available to provide these services. *FF14*. In addition, the Applicant's projected volumes in the proposal reflect significantly higher growth in volume from CY 2012 to CY 2013 and CY 2013 to CY 2014 (158% and 27%, respectively) than estimated by the American Society of Plastic Surgeons (5-9% yearly). As a result, it is unlikely that the projected volumes will be achieved. *FF16-18*. Without evidence to substantiate clear public need for additional operating room capacity, approval of the proposal would likely result in the duplication of services in the region.

The Applicant projects incremental gains from operations resulting from increased patient revenue. However, because the projected patient volumes are unreasonable, OHCA cannot determine the financial feasibility of this proposal. *FF16, FF20*. As a result of these various factors, OHCA is unable to conclude that approval of the proposal would improve the accessibility, quality or cost effectiveness of health care delivery in the region.

Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of the Greenwich Smartlipo LLP d/b/a Greenwich Plastic Surgery Center to establish an outpatient surgical facility in Greenwich, Connecticut with an associated capital expenditure of \$32,000 is hereby, **DENIED**.

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

Date

6/5/13



Lisa A. Davis, MBA, BSN, RN
Deputy Commissioner