



**STATE OF CONNECTICUT**  
OFFICE OF HEALTH CARE ACCESS

M. JODI RELL  
GOVERNOR

CRISTINE A. VOGEL  
COMMISSIONER

September 29, 2005

Ms. Lisa Shomsky  
Practice Administrator  
Northwestern Connecticut Oncology/Hematology Associates, LLP  
200 Kennedy Drive  
Torrington, CT 06790

RE: Certificate of Need Determination; Report Number 05-30510-DTR  
Acquisition of a PET scanning unit for Oncology/Hematology practice in Torrington

Dear Ms. Shomsky:

On May 17, 2005, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") Determination Form 2020 from Northwestern Connecticut Oncology/Hematology Associates, LLP ("Applicant") related to a planned acquisition of a Positron Emission Tomography ("PET") scanner for the Applicant's Torrington practice location. Additional information was received on September 16, 2005. OHCA makes the following findings regarding this matter:

1. Northwestern Connecticut Oncology/Hematology Associates, LLP ("Applicant" or "NWCT") currently provides medical oncology services including examinations, laboratory testing and chemotherapy administration. The Applicant holds clinical laboratory licenses from the Department of Public Health.
2. The Applicant has the following practice locations:

200 Kennedy Drive in Torrington  
19 West Main Street in Sharon  
21 Elm Street in New Milford
3. The Applicant proposes to acquire a PET scanning unit for its Torrington practice location.

4. The Applicant, Northwestern Connecticut Oncology/Hematology Associates, LLP, indicates that it will be providing the PET scanning service, however the Applicant states that *“Discussions are underway with Dr. Gary K. Griffin of Torrington Radiologists, P.C. and it is expected that Torrington Radiologists, P.C. will be contracted to read/interpret the PET studies performed”* by the Applicant.
5. Further, in response to the Form 2020 question *“Who will be providing the service?”* the Applicant replies *“Northwestern Connecticut Oncology Hematology Associates, LLP, supported under a subcontracted relationship with Advanced Medical Imaging.”* No further information has been provided regarding the subcontracted relationship with Advanced Medical Imaging.
6. The Applicant indicates that it will bill for technical services under its provider number. The Applicant will not charge a facility fee.
7. The Applicant and US Oncology executed a lease agreement on June 28, 2005. The agreement is pursuant to *“the current Comprehensive Services Agreement”* between the Applicant and US Oncology, Inc, which was effective May 1, 2005. US Oncology *“has the responsibility to provide, finance or cause to be provided or financed any medical related equipment as required”* by the Applicant. In accordance with the Comprehensive Services Agreement, US Oncology *“has acquired a Siemens ECAT EXACT Positron Emission Tomography (PET) scanner for use by NWCT”*. The June 29, 2005 document further states that *“In accordance with the CSA and the agreement of the parties, USON will deploy the PET Scanner for use by NWCT to provide PET imaging services to its patients”*.
8. US Oncology is the business manager of the applicant. US Oncology is responsible for arranging for (whether through purchase, lease or other arrangement) equipment required by the Applicant. The Applicant lists some of US Oncology’s responsibilities as follows:
  - Servicing as a GPO for the purpose of purchasing pharmaceuticals and other medical supplies;
  - Billing and collection services;
  - Administration and support services;
  - Advising the practice in a variety of business and operational areas.
9. The Applicant indicates that *“US Oncology’s responsibility to provide medical equipment is just one small part of the overall relationship.”*
10. In response to the question *“Is the use of this equipment limited to NWCTOHA patients or will other physician or hospitals be able to refer there for use of the equipment?”* The Applicant indicated that *“To the extent allowed by state and federal law, NWCTOHA will accept referrals for PET studies but only NWCTOHA will operate and bill for scans performed on the equipment.”*

11. US Oncology had previously provided the PET scanner to an affiliated practice in another state, but took it out of service there in March 2005. US Oncology leased the equipment from ICX Corporation.
12. The Applicant estimates the following capital expenditures associated with the PET scanner acquisition project:

Fair Market Value of Leased PET scanner	\$150,000
Purchase of Medical Equipment	\$ 45,000
Delivery and Installation	\$ 18,000
Sales Tax	\$ 12,300
Purchase of Non-Medical Equipment	<u>\$ 10,000</u>
Total Capital Cost of Project	\$235,300

13. The Applicant provided a letter dated March 7, 2005 from CTI Molecular Imaging, Inc. which indicates that *“Based on current market conditions the fair market value associated with this system is: \$150,000.”*
14. Pursuant to Section 19a-630 of the Connecticut General Statutes, Central Service Facilities are health care facilities or institutions subject to the Certificate of Need process. Central service facility, means a health care facility or institution, person or entity engaged primarily in providing services for the prevention, diagnosis or treatment of human health conditions, serving one or more health care facilities, practitioners or institutions.
15. Pursuant to Section 19a-643-12 of OHCA’s Regulations, criteria for determining is an entity is a central service facility includes the following:
  - (1) The entity is institutional in nature and practice;
  - (3) Nonmedical personnel, owners or managers can or will be able to influence the operation of the entity to a significant degree;
  - (4) There are one or more partnerships or corporations beyond a group of practicing physicians whose practice this is or will be, who will control a business involving health services;
  - (8) The patients have no prior familiarity with the physician or practitioner or any ongoing relationship with the physician or practitioner;
  - (13) There are present or proposed interlocking partnerships, corporate relationships or entities with other health related corporate relationships, entities or properties;

Based on the facts in this matter, OHCA concludes that this represents a central service facility as the services will be available for referrals from outside the practice, a separate legal entity will be reading/interpreting the scans and US Oncology is the owner of the equipment and will be able to advise the Applicant, a separate legal entity, in business and operational areas. Therefore, the project as structured by Northwest Connecticut Oncology/Hematology Associates, LLP represents a new service by a health care facility or institution and Certificate of Need authorization is required pursuant to Section 19a-638 of the Connecticut General Statutes.

OHCA considers the submission of information received on September 16, 2005 as the Letter of Intent for this matter; therefore the Applicant may file a CON application with OHCA between November 15, 2005 and January 14, 2006. The CON application is being mailed to your attention separately.

If you have any questions regarding the above, please contact Tillman Foster, Associate Health Care Analyst at (860) 418-7020 or Karen Roberts, Compliance Officer at (860) 418-704

Sincerely,

*Signed by Commissioner Cristine A. Vogel on September 29, 2005*

Cristine A. Vogel  
Commissioner

Copy: Rose McLellan License and Applications Supervisor, DPH, DHSR