

## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicant:** Yale New Haven Ambulatory Services Corporation

**Docket Number:** 01-557

**Project Title:** Establish a Shoreline Ambulatory Care Center in Guilford

**Statutory Reference:** Sections 19a-638 and 19a-639 of the Connecticut General Statutes

**Filing Date:** May 21, 2002

**Hearing Date:** June 20, 2002

**Presiding Officer:** Raymond J. Gorman, Commissioner

**Decision Date:** June 27, 2002

**Default Date:** August 19, 2002

**Staff Assigned:** Harold M. Oberg  
Laurie Greci  
Steven Lazarus

**Project Description:** Yale New Haven Ambulatory Services Corporation proposes to establish a shoreline ambulatory care center to be located in leased building space at 111 Goose Lane in Guilford, Connecticut. The total capital expenditure associated with the proposed ambulatory care center is \$4,405,097.

**Nature of Proceedings:** On May 21, 2002, OHCA received the Certificate of Need ("CON") application of Yale New Haven Ambulatory Services Corporation ("Applicant" or "YNHASC") for the establishment of a shoreline ambulatory care center in Guilford, at a total capital expenditure of \$4,405,097. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

A public hearing regarding the CON application was held on June 20, 2002. The Applicant was notified of the date, time and place of the hearing, and a notice to the public was published prior to the hearing in the *New Haven Register* and also in the *Northeast Minority News*. Commissioner Raymond J. Gorman served as presiding officer for this case. The public hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Sections 19a-638 and 19a-639, C.G.S.

DePaul Health Services Corporation and Saint Raphael Healthcare System (“Intervenors”) petitioned for intervenor status in the proceeding and were granted intervenor status with limited rights of participation by the Presiding Officer.

The Presiding Officer heard testimony from witnesses for the Applicant and the Intervenors and in rendering this decision, considered the entire record of the proceeding. OHCA’s authority to review and approve, modify or deny this proposal is established by Sections 19a-638 and 19a-639, C.G.S. The provisions of these sections 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**

*Each finding of fact included in this Final Decision has been taken from the CON application and related CON filings, public hearing documents and testimony, or from other external sources of information. A source reference is included with each finding of fact. All CON applicants must attest to the accuracy and correctness of the information submitted to OHCA as part of the CON application process.*

### **Clear Public Need**

#### **Impact of the Proposal on the Applicant’s Current Utilization Statistics Proposal’s Contribution to the Quality of Health Care Delivery in the Region Proposal’s Contribution to the Accessibility of Health Care Delivery in the Region**

1. Yale New Haven Ambulatory Services Corporation is a wholly owned subsidiary of Yale New Haven Network Corporation, a wholly-owned subsidiary of Yale New Haven Health Services Corporation. YNHASC operates Temple Ambulatory Surgery Center, Temple Women’s Ambulatory Center, Temple Imaging Center and Yale New Haven Refractive Eye Laser Center LLC. (*Yale New Haven Hospital, FY 2001 Twelve Months Actual Filing, Legal Chart of Corporate Structure*)
2. Yale New Haven Hospital (“Hospital” or “YNHH”) is an acute care general hospital located at 20 York Street in New Haven. The Hospital is a corporate subsidiary of Yale New Haven Network Corporation, a wholly-owned subsidiary of Yale New Haven Health Services Corporation, and is a corporate affiliate of YNHASC. (*Yale New Haven Hospital, FY 2001 Twelve Months Actual Filing, Legal Chart of Corporate Structure*)

3. On January 19, 2001, OHCA granted CON authorization under Docket Number 00-547 to Yale New Haven Ambulatory Services Corporation d/b/a Temple Radiology to establish a diagnostic imaging center to be located at 596 Boston Post Road in Guilford, at a total capital expenditure of \$5,000,000. *(January 19, 2002 Final Decision, Docket Number 00-547, page 8)*
4. The diagnostic imaging center program previously approved by OHCA will support a comprehensive array of diagnostic imaging services including MRI, CT scanning, ultrasound, fluoroscopy, diagnostic x-ray, bone density and mammography services as well as including space for a waiting area and administrative and support functions. *(November 1, 2001 Letter of Intent, page 6)*
5. The Applicant and the Hospital began planning the proposed project in 1999. At that time an evaluation of the shoreline area was conducted to determine the services that were currently being provided and services that need to be provided. The objective of the project was to increase overall accessibility to the services of YNHASC to the shoreline community. *(June 20, 2002 Testimony of Gayle Capozzalo, Executive Director YNH System Strategy and System Development)*
6. The Applicant proposes to establish a shoreline ambulatory care center (“proposed Center”) including ambulatory surgery and endoscopy services to be located in leased building space at 111 Goose Lane in Guilford. The Applicant also would relocate its approved diagnostic imaging center, known as the Guilford Imaging Center, from its current location at 596 Boston Post Road in Guilford to the proposed 111 Goose Lane location. *(January 25, 2002 CON Application, page 5)*
7. The Applicant, or an affiliate yet to be established, will operate the proposed ambulatory surgery and endoscopy center, which will include an intake/public area, three operating rooms, two endoscopy rooms, an eight-bed Stage I post anesthesia recovery room, a Stage II recovery/observation area and administrative and support space. *(January 25, 2002 CON Application, pages 16 and 28)*
8. The Applicant is considering establishing a separate LLC to own the ambulatory surgery and endoscopy services in Guilford and allowing investment by physicians to own up to 49% of the shares of the LLC. Ownership will be limited to certain physicians performing procedures at the proposed Center in order to comply with Medicare and Medicaid fraud and abuse regulations. *(January 25, 2002 CON Application, page 15)*
9. If the Applicant forms such an LLC, at least 51% of the ownership shares will be owned by YNHASC, which will be engaged to operate the proposed ambulatory surgery and endoscopy center. The Guilford Imaging Center previously approved by OHCA, when relocated to 111 Goose Lane in Guilford, will continue to be solely owned and operated by YNHASC. *(January 25, 2002 CON Application, page 15)*

10. The Hospital will provide laboratory services at the proposed ambulatory care center and intends to relocate its existing pre-admission office that is currently located in Madison to the proposed Guilford location. *(January 25, 2002 CON Application, page 5)*
11. The proposed shoreline ambulatory care center will consist of 25,000 to 30,000 gross square feet of space in a new building. The first floor will include the ambulatory surgery center, the endoscopy center, the imaging center and the preadmission office, while the laboratory and various support functions will be located on the second floor. *(May 21, 2002 Completeness Responses, page 1)*
12. The proposed laboratory services on the second floor will include a blood lab and a pathology lab. One day a week frozen tissue sections will be processed and analyzed for those patients who require it in order to go on with their surgery. *(June 20, 2002 Testimony of Dr. Alvin Greenberg, Director of the YNHASC)*
13. YNHASC will lease space in the new building for the ambulatory surgery center, endoscopy center as well as the imaging center, and the Hospital will lease space for the laboratory and the pre-admission office functions. *(May 21, 2002 Completeness Responses, page 1)*
14. The building project involves all new construction and is currently being designed. The Applicant is not the building developer for the proposal. *(May 21, 2002 Completeness Responses, page 1)*
15. The Applicant provided a site plan showing the location of the building and parking lot, concept and elevation drawings of the proposed building and schematic drawings, which have not yet been finalized and which were submitted with the developer's permission. The Applicant projects that the date for the building lease to commence, receipt of licensure approval and commencement of operations will be May 1, 2003. *(May 21, 2002 Completeness Responses, pages 1, 2 and 3)*
16. The Applicant's proposed service area for the CON proposal includes the towns of Branford, Clinton, Deep River, Essex, Guilford, Killingworth, Madison, North Branford, Old Saybrook and Westbrook. *(January 25, 2002 CON Application, page 6)*
17. There are no hospital-based providers of ambulatory surgery or endoscopy located in the proposed service area. YNHASC, YNH, the Hospital of St. Raphael, and Middlesex Hospital are the current providers of these services to the residents of the proposed service area. *(January 25, 2002 CON Application, page 21)*
18. Hamden Surgery Center, LLC ("Hamden ASC") is a freestanding ambulatory surgery center located in Hamden, and is a corporate subsidiary of the St. Raphael Healthcare System and DePaul Health Services Corporation. *(Hospital of Saint Raphael, FY 2001 Twelve Months Actual Filing, Schedule AFF)*

19. OHCA recently approved the CON application of Middlesex Hospital to establish an endoscopy suite at its Shoreline Medical Center in Essex. *(April 16, 2002 Final Decision, Docket Number 01-549)*
20. The total service area population was approximately 125,000 residents in 2000 and is projected to grow by 2.2% to 127,290 residents by 2005. *(January 25, 2002 CON Application, page 6)*
21. Senior citizens, who access health care services at higher levels of utilization, comprised 15.2% of the 2000 service area population, which is 1.3% greater than the 13.9% proportion of seniors in Connecticut. The Applicant estimates that by 2005, the proportion of service area residents of age 65 and older is expected to increase to 15.7% of the total service area population. By comparison, the proportion of Connecticut residents of age 65 and older is projected to be 13.8% of the total Connecticut population. *(January 25, 2002 CON Application, page 6)*
22. In developing projections of ambulatory surgery volume and endoscopy volume, the Applicant considered population trends, YNHASC's and the Hospital's procedure volumes, market shares and facility capacities. *(January 25, 2002 CON Application, page 6)*
23. The Applicant currently has eight ambulatory surgery operating rooms with six located at Temple Surgical Center and two located at Temple Women's Surgical Center, that operate from 7:00 a.m. until 7:00 p.m., Monday through Friday. The first surgery of the day at the Applicant's ambulatory surgery facilities is scheduled for 7:00 a.m. with the last surgery of the day scheduled for 5:30 p.m. The Applicant's Endoscopy Center has four endoscopy rooms and operates from 7:00 a.m. until 7:00 p.m., Monday through Friday. *(May 21, 2002 Completeness Responses, page 17)*
24. The Hospital currently has ten ambulatory surgery operating rooms that operate Monday through Friday. During the hours of 7:00 a.m. until 3:30 p.m., all ten ambulatory surgery operating rooms are in use. After 3:30 p.m., four of these rooms remain staffed until 5:30 p.m. The first surgery of the day is scheduled for 7:30 a.m. and the last surgery of the day is scheduled for 4:30 p.m. The Hospital's GI Procedure Center has four endoscopy rooms and operates from 7:00 a.m. until 5:30 p.m., Monday through Friday. *(May 21, 2002 Completeness Responses, page 17)*
25. The Applicant stated that ambulatory surgery operating rooms and endoscopy procedure rooms are in operation 60 hours per week at YNHASC's facilities, while the Hospital's ambulatory surgery operating rooms and endoscopy procedure rooms are in operation 52.5 hours per week. *(April 15, 2002 Completeness Responses, page 368)*
26. The majority of endoscopy and ambulatory surgery cases are booked in advanced. There are no scheduling backlogs at the YNHASC or YNH. *(January 25, 2002 CON Application, page 20)*

27. Staff at both facilities work overtime on those days when demand exceeds the normal hours of operation. During the first quarter of FY 2002, the demand for endoscopy services at YNHASC could not be fully accommodated in the Endoscopy Center and an overflow of 150 endoscopy procedures were performed at the ambulatory surgery center. *(January 25, 2002 CON Application, page 20)*
28. The Applicant is proposing that three ambulatory surgery operating rooms and two endoscopy procedure rooms be included in the proposed Center. A table comparing the Applicant's and the Hospital's current and proposed number of ambulatory surgery operating rooms and endoscopy procedure rooms is as follows: *(April 15, 2002 Completeness Responses, page 367)*

Provider	Ambulatory Surgery	Endoscopy	Total
Current Rooms:			
YNHASC	8	4	12
Hospital	10	4	14
<b>Total Rooms</b>	<b>18</b>	<b>8</b>	<b>26</b>
Proposed Rooms:			
YNHASC	3	2	5
Hospital	0	0	0
<b>Total Rooms</b>	<b>3</b>	<b>2</b>	<b>5</b>
Total Proposed Rooms:			
YNHASC	11	6	17
Hospital	10	4	14
<b>Total Rooms</b>	<b>21</b>	<b>10</b>	<b>31</b>

29. The Applicant provided a comparison of the Applicant's and the Hospital's maximum ambulatory surgery procedure and endoscopy procedure capacity with the actual FY 2001 ambulatory surgery procedures and endoscopy procedures they performed. This comparison, which is based on a maximum capacity of 1,500 procedures per room in operation during an eight hour day and a five day week, is as follows: *(April 15, 2002 Completeness Responses, page 368 and May 21, 2002 Completeness Responses, page 13)*

Provider	Ambulatory Surgery	Endoscopy	Total
Maximum Capacity:			
YNHASC	12,000	6,000	18,000
Hospital	15,000	6,000	21,000
<b>Total Procedures</b>	<b>27,000</b>	<b>12,000</b>	<b>39,000</b>
Actual FY 2001:			
YNHASC	9,974	6,032	16,006
Hospital	22,198	2,930	25,128
<b>Total Procedures</b>	<b>32,172</b>	<b>8,962</b>	<b>41,134</b>
Actual Above Capacity:			

Provider	Ambulatory Surgery	Endoscopy	Total
YNHASC	(2,026)	32	(1,994)
Hospital	7,198	(3,070)	4,128
<b>Total Procedures</b>	5,172	(3,038)	2,134

30. The Applicant provided the following information regarding the combined YNHASC and Hospital actual ambulatory surgery and endoscopy procedure volume for FY 2001: *(May 21, 2002 Completeness Responses, page 16)*

- a. YNHASC and the Hospital had a combined ambulatory surgery procedure volume of 32,172 procedures in FY 2001,
- b. 17.7% of the combined ambulatory surgery procedure volume or 5,680 procedures came from the CON proposal's service area towns,
- c. YNHASC and the Hospital had a combined endoscopy procedure volume of 8,962 procedures in FY 2001,
- d. 27.7% of the combined endoscopy procedure volume or 2,284 procedures came from the CON proposal's service area towns.

31. The Applicant provided the following analysis regarding the combined YNHASC and Hospital actual ambulatory surgery and endoscopy market shares by service area town for FY 2001: *(May 21, 2002 Completeness Responses, pages 14)*

**YNHASC and Hospital ASC & Endoscopy Market Share by Service Area**

Town	Number of Procedures Performed			Combined Market Share (%)		
	Ambulatory Surgery	Endoscopy	Overall	Ambulatory Surgery	Endoscopy	Overall
Branford	1,698	608	2,306	68.2	97.6	74.1
Clinton	476	242	718	34.9	73.8	42.5
Deep River	87	27	114	17.0	34.6	19.4
Essex	134	71	205	16.8	42.5	21.2
Guilford	1,222	514	1,736	62.6	91.9	69.1
Killingworth	224	100	324	31.7	61.3	37.2
Madison	776	501	1,277	51.0	90.1	61.4
North Branford	695	262	957	59.7	93.9	66.3
Old Saybrook	221	86	307	17.4	36.4	20.3
Westbrook	147	73	220	19.6	46.2	24.2
<b>Total</b>	<b>5,680</b>	<b>2,484</b>	<b>8,164</b>	<b>45.3</b>	<b>78.9</b>	<b>52.1</b>

32. The Applicant and the Hospital have a combined ambulatory surgery market share that exceeds 50% in the towns of Branford, Guilford, North Branford, and Madison. *(May 21, 2002 Completeness Responses, pages 14)*

33. The Applicant and the Hospital have a combined endoscopy market share that exceeds 90% in the towns of Branford, North Branford, Guilford, and Madison. *(May 21, 2002 Completeness Responses, pages 14)*
34. The Applicant stated that the Ambulatory Care Centers of America (“ACCA”), an ambulatory surgery center management and development company, has a guideline that establishes the capacity of an ambulatory surgery operating room at 1,000 to 1,500 cases per year, assuming a one-shift operation. Utilizing this guideline, there is currently a need for the following: *(April 15, 2001 Completeness Responses, page 428)*
  - a. 8 ambulatory surgery operating rooms at YNHASC (9,910 procedures divided by 1,250 procedures/year = 7.9 operating rooms)
  - b. 14 ambulatory surgery operating rooms at the Hospital (26,304 procedures divided by 1,875 procedures/year (assuming 1.5 shifts) = 14.0 operating rooms)
  - c. 4 endoscopy rooms at YNHASC (6,033 procedures divided by 1,500 procedures/ year = 4.0 endoscopy rooms)
  - d. 3 endoscopy rooms at the Hospital (4,475 procedures divided by 1,500 procedures/ year = 3.0 endoscopy rooms)
35. The Applicant stated that this analysis based upon the ACCA guidelines shows that currently there is a deficiency of 3 ambulatory surgery operating rooms at the Hospital, and that YNHASC’s endoscopy procedure rooms and ambulatory surgery operating rooms are operating at maximum capacity. *(April 15, 2002 Completeness Responses, page 428)*
36. Based upon a July 2001 facility capacity analysis for 2005 and 2010 that included operating room suites as part of the outpatient surgery assessment, the Applicant stated that overall the outpatient operating room market is anticipated to grow at a rate nearly double that of the inpatient operating room market over the next 10 years. The YNHASC and Hospital outpatient surgery volumes are projected to grow nearly 23% by 2010 due to the aging of the population and improvements in technology and pharmaceuticals. *(April 15, 2002 Completeness Responses, page 428 and May 21, 2002 Completeness Responses, page 18)*
37. This outpatient requirements analysis applied the average hours per outpatient surgery case to the projected outpatient surgery procedure volume for both YNHASC and the Hospital, and showed that an additional 4 outpatient operating rooms (2 at YNHASC and 2 at the Hospital) are required by 2010 to meet future outpatient surgery capacity requirements. *(January 25, 2002 CON Application, page 14)*



38. To address the current and future need for increasing capacity for ambulatory surgery and endoscopy at YNHASC and the Hospital, the following three alternatives were considered: *(January 25, 2002 CON Application, page 15)*
- a. The first alternative was to renovate the current YNHASC and Hospital facilities. This alternative was rejected because it was potentially disruptive to existing services, did not address accessibility concerns related to Q-Bridge construction and would require more than two years to plan, design and complete the necessary renovations.
  - b. The second alternative was to construct or lease a freestanding ambulatory care center on the Yale New Haven Medical Center campus. This alternative was rejected because it did not address accessibility concerns related to Q-Bridge construction and required more than two years to plan, design and construct a new facility on campus.
  - c. The third alternative was to lease a freestanding ambulatory care center off campus on the shoreline. This alternative was selected because it addressed accessibility concerns related to the Q-Bridge construction and could become operational in two years or less.
39. The Applicant's projected total volume for the service area in FY 2005 is 3,202 endoscopy procedures, 12,757 ambulatory surgery procedures and 15,959 total service area procedures. *(May 21, 2002 Completeness Responses, page 18)*
40. The Applicant's projections were based on an assumption that the new facility would capture approximately 20% of the combined procedure volume from the service area in Year 1, and that the percentage of the combined procedure volume would increase 5% each year reaching 40% by Year 5, which represents an expected transfer of 3,000 procedures or 7.1% in Year 1 to 6,400 procedures or 15.1% in Year 5 from YNHASC and the Hospital combined to the proposed Center. *(May 21, 2002 Completeness Responses, page 18.)*
41. The Applicant's projected ambulatory surgery procedure volume and endoscopy procedure volume for the first five full years of operation of the proposed Center is as follows: *(January 25, 2002 CON Application, page 19 and April 15, 2002 Completeness Responses, page 369)*

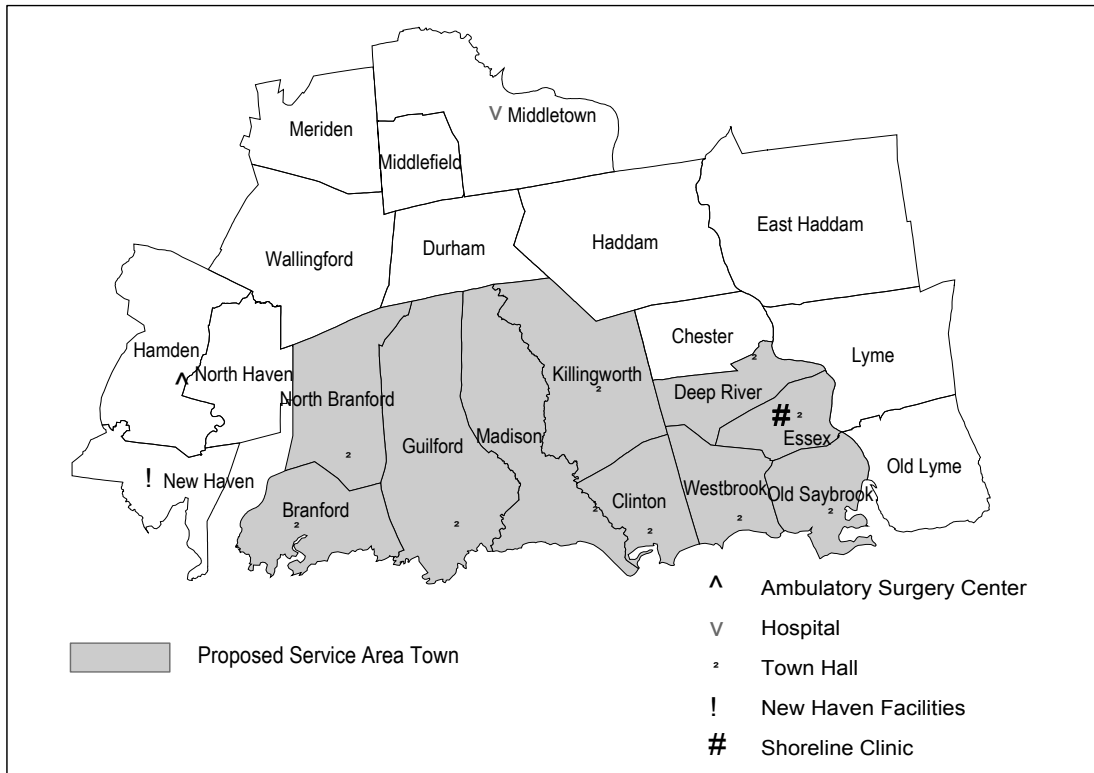
Type of Procedure	Year 1	Year 2	Year 3	Year 4	Year 5
Ambulatory Surgery:					
Dental	17	21	28	34	39
Otolaryngology	169	203	271	339	384
General Surgery	197	237	316	395	447
OB/Gyn	290	348	464	580	657
Ophthalmology	192	231	308	384	436
Orthopedics	246	295	393	491	557

Type of Procedure	Year 1	Year 2	Year 3	Year 4	Year 5
Neurosurgery	32	39	52	64	73
Plastic Surgery	158	190	253	316	358
Pediatric Surgery	42	50	67	84	95
Urology	111	133	178	222	252
Other	45	54	72	90	102
<b>Total Amb. Surgery</b>	<b>1,500</b>	<b>1,800</b>	<b>2,400</b>	<b>3,000</b>	<b>3,400</b>
Endoscopy	1,500	2,000	2,400	2,700	3,000
<b>Total Procedures</b>	<b>3,000</b>	<b>3,800</b>	<b>4,800</b>	<b>5,700</b>	<b>6,400</b>

42. The Applicant submitted a copy of the Quality Improvement Program that is currently used by its subsidiary, Temple Surgical Center located in New Haven. *(January 25, 2002 CON Application, Appendix G, pages 334-344)*
43. Yale New Haven Ambulatory Services Corporation has received a Certificate of Accreditation from the Accreditation Association for Ambulatory Health Care, Inc. *(January 25, 2002 CON Application, Appendix F, pages, 332 and 333)*
44. There are currently 117 Ob/Gyns, endoscopists and surgeons with privileges at YNHASC and/or the Hospital with an office practices located in the proposed service area. *(January 25, 2002 CON Application, page 21)*
45. An additional factor that the Applicant stated it considered in the development of the proposed Center was the accessibility concerns of residents of the service area who travel to New Haven via Interstate 95. *(January 25, 2002 CON Application, page 14)*
46. The Applicant anticipates that an expected growth in traffic coupled with expected traffic delays due to the long-term construction project on the Quinnipiac Bridge (“Q-Bridge”) over a twelve year period, will adversely impact traffic flow into and out of New Haven, potentially decreasing the number of patients willing to travel to New Haven for outpatient procedures. The Applicant believes that the CON proposal is designed to ensure that shoreline residents will continue to have timely access to high quality, comprehensive ambulatory surgery and endoscopy services during this long period of anticipated disruption and inconvenience. *(January 25, 2002 CON Application, pages 14 and 15)*
47. The shortest distances in miles from the town hall of each service area town and the closest facility providing ambulatory surgery is given below. As Temple Surgical Center, Temple Women’s Surgical Center, Yale New Haven Hospital, and the Hospital of St. Raphael are all located within a mile of each other in New Haven, the closest location is listed simply as “New Haven”. *(April 5, 2002 CON Application, page 11 and [www.expedia.com](http://www.expedia.com))*

Town	Facility	Distance in Miles
Branford	New Haven	7
Clinton	Middlesex Memorial Hospital	22
Deep River	Middlesex Memorial Hospital	17
Essex	Middlesex Memorial Hospital	20
Guilford	New Haven	14
Killingworth	Middlesex Memorial Hospital	15
Madison	New Haven	20
North Branford	Hamden ASC	10
Old Saybrook	Middlesex Memorial Hospital	25
Westbrook	Middlesex Memorial Hospital	21

48. The following map indicates the relative locations of the Applicant's facilities and the Hospital in New Haven, and acute-care hospitals, ambulatory surgery centers and endoscopy centers that currently serve, or have been approved by OHCA to serve, residents of the towns in the proposed service area. The town halls are also identified. (Applicant's Exhibit L, OHCA Docket Numbers 01-549, 01-569)



**Financial Feasibility and Cost Effectiveness 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**

49. The Applicant's breakdown of the proposed total capital expenditure of \$4,405,097 is as follows: *(January 25, 2002 CON Application, page 28)*

<b>Description</b>	<b>Amount</b>
Movable Equipment (Purchase)	\$2,025,000
Construction (Fit-up and Finishing Costs)	1,720,575
Computer Equipment	87,000
Contingency Fund	383,258
Architect & Engineering, Legal and CON Fees	189,264
<b>Total Capital Expenditure</b>	<b>\$4,405,097</b>

50. The approved capital expenditure of \$5,000,000 for the Guilford Imaging Center under Docket Number 00-547 is not part of the total capital expenditure for the proposed shoreline ambulatory care center. *(May 21, 2002 Completeness Responses, page 18)*

51. The CON proposal's total capital expenditure will be funded through an equity contribution of \$4,405,097 in the form of a capital contribution from the Applicant's parent company. *(April 15, 2002 Completeness Responses, page 370)*

52. The Applicant projects incremental revenue from operations, total operating expense and losses from operations with the CON proposal for the first two years of operation of the proposed Center as follows: *(May 21, 2002 Completeness Responses, page 20)*

<b>Description</b>	<b>Year 1</b>	<b>Year 2</b>
Revenue from Operations	\$1,178,134	\$3,111,898
Total Operating Expense	1,389,599	3,195,606
<b>Gain/(Loss) from Operations</b>	<b>\$(211,465)</b>	<b>\$(83,708)</b>

53. The projected payer mix associated with the CON proposal is as follows: *(January 25, 2002 CON Application, page 31)*

<b>Payer</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Medicare	18.25%	18.25%	18.25%
Medicaid	1.49%	1.49%	1.49%
TriCare	0.00%	0.00%	0.00%
<b>Total Government</b>	<b>19.74%</b>	<b>19.74%</b>	<b>19.74%</b>
Commercial Insurers	70.98%	70.98%	70.98%
Self-Pay	5.00%	5.00%	5.00%
Workers Compensation	2.79%	2.79%	2.79%
<b>Total Non-Government</b>	<b>78.77%</b>	<b>78.77%</b>	<b>78.77%</b>
Uncompensated Care	1.49%	1.49%	1.49%
<b>Total Payer Mix</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

### **Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines**

The following findings are made pursuant to other principles and guidelines set forth in Section 19a-637, C.G.S.:

54. There is no State Health Plan in existence at this time. *(January 25, 2002 CON Application, page 5)*
55. The Applicant has adduced evidence that this proposal is consistent with the Applicant's long-range plan. *(January 25, 2002 CON Application, page 5)*
56. The Applicant has no current teaching and research responsibilities that would be affected as a result of the proposal. *(January 25, 2002 CON Application, page 26)*
57. There are no distinguishing or unique characteristics of the patient/physician mix related to the Applicant's proposal. *(January 25, 2002 CON Application, page 26)*
58. The Applicant has implemented various activities to improve productivity and contain costs. *(January 25, 2002 CON Application, page 26)*
59. The Applicant has sufficient technical, financial and managerial competence to provide efficient and adequate service to the public. *(January 25, 2002 CON Application, Appendix C, pages 100 - 121)*

## Rationale

Yale New Haven Ambulatory Services Corporation (“Applicant” or “YNHASC”) proposes to establish a shoreline ambulatory care center (“proposed Center”) to be located at 111 Goose Lane in Guilford. The total capital expenditure associated with the proposed shoreline ambulatory care center is \$4,405,097. OHCA previously approved the establishment of the Guilford Imaging Center under Docket Number 00-547 as a licensed diagnostic imaging center that would become part of the proposed Center.

The first floor of the proposed Center will include an intake/public area, three ambulatory surgery operating rooms, two endoscopy procedure rooms, an eight-bed Stage I post anesthesia recovery room, a Stage II recovery/observation area and administrative and support space. The first floor of the proposed Center will also house the relocated diagnostic imaging center. It is proposed that laboratory services will be on the building’s second floor, which would include a blood lab and a pathology lab.

Although the Applicant for this CON proposal is YNHASC, Yale New Haven Hospital (“Hospital”), as a corporate affiliate of YNHASC, would also benefit from the increase in the availability of its current operating rooms when the proposed Center becomes operational. YNHASC will shift patients from the shoreline area to the proposed Center and the Hospital will shift patients to YNHASC’s facilities as well as the proposed Center. No calculations used to determine the projected volumes or any methodology was provided by the Applicant that was used to estimate the number of ambulatory surgery and endoscopy procedures that would migrate to the proposed Center.

The Applicant currently has eight ambulatory surgery operating rooms in two facilities and the Hospital has ten, and each provider currently has four endoscopy rooms. The Applicant proposes to include three ambulatory surgery operating rooms and two endoscopy procedures rooms in the proposed Center. The Ambulatory Care Centers of America state that the capacity of an ambulatory surgery operating room is 1,000 to 1,500 cases per year, assuming a one-shift operation. Using the maximum capacity of 1,500 procedures per room per year during a normal eight-hour workday, the following comparison of actual procedure volume and maximum capacity is made:

	Total Number of Procedures		
	Ambulatory Surgery	Endoscopy	Total
Maximum Capacity	27,000	12,000	39,000
Actual FY 2001	32,172	8,962	41,134
Actual Above Capacity	<b>5,172</b>	<b>(3,308)</b>	<b>2,134</b>

In calendar year 2001 the Applicant and the Hospital, performed 41,134 ambulatory surgery and endoscopy procedures combined. It appears that the volume of procedures was successfully accommodated in the Applicant’s facilities and at the Hospital. Using the Applicant’s methodology based on the Ambulatory Care Centers of America guidelines, an additional 3,000 endoscopy procedures could have been accommodated

with current facilities. Although a total 2,134 procedures were performed above the guideline maximum, these procedures were performed without any apparent inconvenience to the patients or the creation of any patient backlogs.

The stated operating hours of the Temple Surgery Center and the Temple Women's Surgery Center are 7:00 a.m. to 7:00 p.m. The operating rooms at the Applicant's facilities do not appear to be utilized in the late evening hours or on weekends. The Applicant states that staff work overtime on those days when demand exceeds the normal hours of operation. No documentation to support the frequency of the overtime was provided in the CON application. The Applicant clearly stated that there is no scheduling backlog at its facilities or at the Hospital for the proposed ambulatory surgery or endoscopy services.

Although the volume of surgeries appears to be at maximum capacity, it appears that some type of accommodation had to be made in order to handle the volumes reported by the Applicant and the Hospital. In addition, although the number of ambulatory surgery cases is over 5,000 above the number recommended by the guidelines, these surgical cases represent approximately one additional surgery to be performed within each ambulatory surgery room per day.<sup>1</sup> It appears to OHCA that the Applicant and the Hospital have developed methods to address the apparent shortage of operating rooms in relation to their current ambulatory surgery and endoscopy operations.

The Applicant considered three options for alleviating the shortage of operating rooms. The first alternate was to renovate the current facilities but this was rejected since the work required would be disruptive to existing services. The Applicant stated that this option did not address accessibility concerns related to the reconstruction of the Q-Bridge and would require more than two years to plan, design and complete the renovations. The second alternative involved constructing or leasing a facility on the Yale New Haven Medical Center campus. This option was based on the same concerns as the first option but was ultimately rejected due to the time required to implement the project. The third option was to lease a freestanding ambulatory care center off campus in the shoreline area. This option was selected for the CON proposal as it could become operational in less than two years and would address the forecasted transportation issues.

OHCA is concerned that so much emphasis was placed by the Applicant upon the forecasting of transportation issues. The Applicant believes that residents of towns east of New Haven will not travel into the city because of the long-term bridge reconstruction project. Ambulatory surgery and endoscopy procedures are elective procedures scheduled at the convenience of the patient and the physician performing the procedure. Most often the medical condition that the surgery is intended to treat is not a chronic condition, and patients will undergo the surgery or endoscopy procedure and return home. Follow-up care is generally performed in a physician's office. The Applicant states that many of its physicians currently have office practices located in towns in the proposed service area. Except for the potential delay during the day of surgery or

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<sup>1</sup> Based on 250 operating days per year and 18 operating rooms; does not include any endoscopy rooms.

endoscopy, individual patients will not need to deal with any traffic delays on an ongoing basis. Inconvenience in accessing health care services does not demonstrate any unmet need for the provision of those health care services.

The Applicant projects that there is a sufficient number of residents within the proposed service area with its analyses of current utilization rates and the projected increases in population, as well as the growth forecasted in the use of ambulatory surgery. However, the Applicant did not adequately support the choice of the towns for its proposed service area. Although there are no ambulatory surgery centers located within the ten shoreline area towns, the residents of those towns may still access ambulatory surgery and endoscopy services at a number of surgery centers within a reasonable distance. The distances in miles that they would need to travel are reasonable and do not exceed 25 miles when using the town hall as the reference point. OHCA believes that the residents of the shoreline area are adequately served by existing ambulatory surgery centers located in the greater New Haven area and by the acute care hospitals located in New Haven and Middletown. Endoscopy services are available at these facilities and will shortly be available at the Shoreline Clinic in Essex.

The Applicant anticipates that it will establish a separate limited liability company that will eventually own the proposed Center. The proposed Center will become a joint venture between YNHASC and selected physicians. The ownership level of the physician investors will be limited to no greater than 49% of the total shares of the new limited liability company. There was little information provided by the Applicant on the organizational structure of the proposed joint venture that is required by OHCA in determining the financial feasibility of the CON proposal. As such, a complex series of relationships and associated written agreements regarding ownership, operations, and the sharing of the proposed Center's profits and/or losses would exist between the Applicant and the investors. These relationship agreements, required by OHCA to evaluate the financial feasibility of the proposed Center, have neither been discussed nor provided by the Applicant in the CON application. Full disclosure of the financial relationships and associated written agreements is an essential part of OHCA's review process for the evaluation of the impact of the CON proposal on the Applicant and the other investors in the proposed Center. Therefore, OHCA cannot reach any conclusion regarding the financial feasibility of the proposal due to the paucity of financial information documenting the financial relationships concerning the proposed Center's ownership, operations and profit-sharing arrangements.

OHCA acknowledges that the improvement program for transportation in the area, including the reconstruction of the bridge over the Quinnipiac River may cause traffic delays. However, locating the proposed Center in Guilford appears to be based upon concern for physician and patient convenience rather than meeting a perceived unmet need for health care services or alleviating any forecasted barriers to accessible health care services. OHCA's position is further supported by the fact that the Applicant did not offer any remedies to address the issues of the provision of urgent or emergent care. The application only addressed elective procedures. OHCA concludes that the Applicant has not demonstrated a clear public need for the CON proposal. Furthermore, OHCA



finds that the Applicant's assertions that the CON proposal would meet an unmet need for ambulatory surgery and endoscopy services in the proposed service area as well as alleviate barriers to accessible health care are simply not credible and have not been adequately supported in the CON application.

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Yale New Haven Ambulatory Services Corporation to establish a shoreline ambulatory care center to be located in leased building space at 111 Goose Lane in Guilford, at a total capital expenditure of \$4,405,097, is hereby DENIED.

This CON application also contained a request to modify the approval granted under Docket Number 00-547. Yale New Haven Ambulatory Service Corporation, d/b/a Temple Radiology, was authorized to establish a diagnostic imaging center to be located at 596 Boston Post Road in Guilford, Connecticut, at a total capital expenditure of \$5,000,000. The requested modification was to relocate the imaging center to 111 Goose Lane, Guilford. This modification will not result in a change of services to be provided, service area, or capital expenditure, and the relocation is hereby APPROVED.

## **ORDER**

The proposal of Yale New Haven Ambulatory Services Corporation to establish a shoreline ambulatory surgery and endoscopy center to be located in leased building space at 111 Goose Lane in Guilford, at a total capital expenditure of \$4,405,097, is hereby denied.

The request of Yale New Haven Ambulatory Services Corporation to modify authorization granted under Docket Number 00-547 by relocating the diagnostic imaging center from 596 Boston Post Road, Guilford to 111 Goose Lane, Guilford is hereby approved.

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 signed:  
June 27, 2002

Signed by:  
Raymond J. Gorman  
Commissioner