



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

December 22, 2010

**IN THE MATTER OF:**

An Application for a Certificate of Need

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 10-31640-CON


**Norwalk Hospital**

**Change in Ownership of Norwalk Radiology  
and Mammography Center and Acquisition of  
a CT Scanner**

To: Daniel J. DeBarba, Jr.  
President & CEO  
Norwalk Hospital  
34 Maple Street  
Norwalk, CT 06856

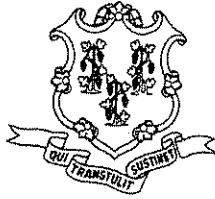
Dear Mr. DeBarba:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter, as provided by Public Act 09-3 § 10. On December 22, 2010, 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

Cc: Alan H. Richman, M.D., Managing Partner, Norwalk Radiology and Mammography Center  
John D. Blair, Esq., Brown Rudnick, LLP

Enclosure  
KRM:jah



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

**Final Decision**

**Applicant:** Norwalk Hospital

**Docket Number:** 10-31640-CON

**Project Title:** Change of Ownership of Norwalk Radiology and Mammography Center and Acquisition of a Computed Tomography Scanner

**Project Description:** Norwalk Hospital (“Hospital”) proposes to acquire sole ownership of Norwalk Radiology and Mammography Center (“NRMC”), an imaging center located in Norwalk, Connecticut and acquire a Computed Tomography (“CT”) scanner currently owned and operated at NRMC.

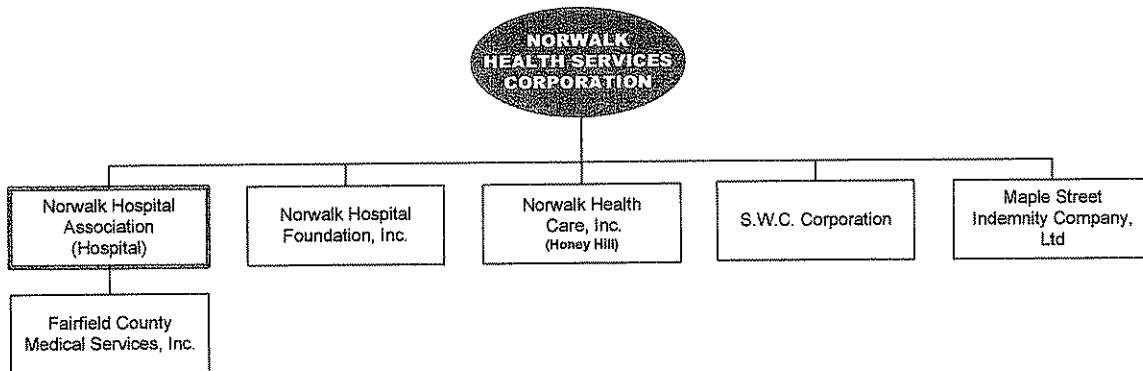
**Procedural History:** On October 27, 2010, the Office of Health Care Access (“OHCA”) received a Certificate of Need (“CON”) application from the Hospital for the above-referenced project.

A notice to the public concerning OHCA’s receipt of the Hospital’s Letter of Intent was published in the *The Hour* on July 9, 2010. OHCA received no response from the public concerning the Hospital’s proposal and no hearing requests were received from the public per Public Act 09-3 § 10.

**Findings of Fact**

1. The Hospital is located at 34 Maple Street in Norwalk, Connecticut, and is a not-for-profit subsidiary of Norwalk Health Services Corporation (“NHSC”).  
September 7, 2010, CON Application, p. 1 and Att. 4, p. 33

2. The following chart illustrates the Hospital's current corporate structure:



September 7, 2010, CON Application, p. 4 and Att. 1, p. 16.

3. Norwalk Radiology Consultants, P.C. ("NRC") is a private radiology practice with offices at NRMC and serves as the Hospital's radiologist consultants. September 7, 2010, CON Application, p. 2; October 27, 2010, CON Completeness Responses, p. 88 and Att. 1, p. 92.
4. NRMC is a joint venture imaging center located at 148 East Avenue in Norwalk. It is currently owned 60% by NRC Equipment Associates, LLC, an affiliate of NRC, and 40% by S.W.C. Corporation, a for-profit subsidiary of NHSC and affiliate of Norwalk Hospital. October 27, 2010, CON Completeness Responses, p. 88 and Att. 10, p. 92.
5. The Hospital proposes to acquire sole ownership interest in NRMC, a multi-modality imaging center and acquire a CT scanner through an asset purchase agreement. September 7, 2010, CON Application, p.2.
6. While there will be no decrease in clinical services offered as a result of the proposal, there will be a reduction in some duplicative services currently offered at both the Hospital and NRMC. September 7, 2010, Initial CON Application Submission, p. 2.
7. The Hospital will eliminate its on-campus stereotactic guided breast biopsy service, while it will continue to offer the service at the NRMC location. The service is expensive to maintain and relatively few procedures are performed on the Hospital's device. October 27, 2010, CON Completeness Response, p. 88.
8. Imaging equipment at NRMC will remain in the same location and continue to serve the existing population as well as additional Hospital patients. September 7, 2010, CON Application, p. 3.
9. The Hospital's primary service area is Norwalk, New Canaan, Wilton, Weston and Westport. September 7, 2010, CON Application, p. 3.

10. The following table lists all the current MRI, CT and PET/CT scanners owned by the Hospital and NRMC by location and type of scanner during the time period of September 2009 –August 2010.

**Table 1: Existing Scanners Operating at the Hospital and NRMC**

Location	Owner	Type of Equipment
Hospital	Hospital	CT LS-64 Slice
Hospital	Hospital	CT LS-16 Slice
Hospital	Hospital	1.5 T GE Horizon, Closed MRI
NRMC	Hospital	CT LS 16/PET CT
NRMC	Hospital & NRMC	1.5 T High Field, Closed MRI
NRMC	Hospital	1.5 T High Field, Closed MRI
NRMC	Hospital	0.7 T High Field, Open MRI
NRMC	NRMC	CT LS 8

Note: \*Combined Hospital CT utilization as data is not available by individual scanner. September 7, 2010, CON Application, p. 4 and October 28, 2010, CON Completeness response, p. 86

11. The combined volume on the Hospital’s two CT scanners for the last three fiscal years is as follows:

**Table 2: Hospital CT Scanners Actual Volume FY2008 through FY2010**

FY2008	FY2009	FY2010 9 mos. Annualized
24,039	28,358	25,291

October 28, 2010, CON Completeness Responses, p.122.

12. The volume on the NRMC CT Scanner for the last three fiscal years is as follows:

**Table 3: NRMC CT Scanner Actual Volume FY2008 through FY2010**

FY2008	FY2009	FY2010 9 mos. Annualized
11,359	11,892	10,379

October 28, 2010, CON Completeness Responses, p.128.

13. The total scans performed on the three CT scanners for FY2010 is 35,661 bringing the average number of scans per scanner to 11,887.
14. Based upon historical utilization of the Hospital’s CT scanners as well as the utilization of the NRMC CT Scanner, the Hospital has demonstrated a need to acquire a third CT Scanner from NRMC.

15. The capital expenditure associated with the transfer purchase agreement totals \$17,543,000. The expenditures are itemized as follows:

**Table 4: Total Capital Expenditure**

Medical Equipment Purchase	\$500,215
Non-Medical Equipment Purchase	\$167,005
Leasehold Improvements	\$722,435
Goodwill/Intangible Assets	\$16,153,345
<b>Total Capital Expenditure</b>	<b>\$17,543,000</b>

October 27, 2010, CON Completeness Responses, p. 90.

16. The project will be funded through a combination of working capital and loan financing. September 7, 2010, CON Application, p. 7
17. The proposal will eliminate duplicative administrative services in the areas of human resources, billing, marketing, purchasing, legal, accounting and benefits management, and will reduce other contractual expenses by incorporating all contracts under one organization. October 27, 2010, CON Completeness Response, p.87.
18. The proposal will result in decreased overhead and operating costs that will be achieved over the first three (3) years of operation as NRMC's processes are evaluated by the Hospital and streamlined systems are implemented. October 27, 2010, CON Completeness Response, p. 8.
19. Due to decreases in reimbursement and other economic pressures on independent diagnostic and treatment facilities, the proposal will help to ensure patient access to and the fiscal viability of providing quality imaging services and access . September 7, 2010, Initial CON Application Submission, p.2.
20. The Hospital plans to integrate and coordinate imaging services offered at NRMC with its on-campus imaging services by combining their record systems through the migration of two Picture Archiving and Communication Systems ("PACS") and creating an interface between the two radiology information systems ("RIS") to form one RIS system. October 27, 2010, CON Completeness Responses, p.85.
21. The Hospital projects the following incremental and overall operating gains:

**Table 5 a: Hospital's Financial Projections Incremental to the Project**

Description	Fiscal Year		
	2011	2012	2013
Incremental Revenue from Operations	\$12,558,000	\$12,558,000	\$12,558,000
Incremental Total Operating Expense	\$8,323,000	\$8,520,000	\$8,721,000
<b>Incremental Gain from Operations</b>	<b>\$4,234,000</b>	<b>\$4,038,000</b>	<b>\$3,837,000</b>

**Table 5 b: Hospital's Overall Financial Projections with the Project**

Description	Fiscal Year		
	2011	2012	2013
Incremental Revenue from Operations	\$351,431,000	\$358,208,000	\$365,121,000
Incremental Total Operating Expense	\$338,725,000	\$345,529,000	\$352,470,000
<b>Overall Gain from Operations</b>	<b>\$12,706,000</b>	<b>\$12,679,000</b>	<b>\$12,651,000</b>

Note: The Hospital's fiscal year runs from Oct. 1st through Sept. 30th.  
September 7, 2010, CON Application, p. 9 and Att. 7, p. 70

22. The Hospital reports its current and projected patient population mix percentages as follows and does not expect any changes as a result of this proposal:

**Table 7: Hospital's Current & Projected Patient Population Mix**

Patient Population	Norwalk Hospital			
	FY 2010	FY 2011	FY 2012	FY 2013
Medicare*	36.2%	36.2%	36.2%	36.2%
Medicaid*	13.0%	13.0%	13.0%	13.0%
CHAMPUS & TriCare	0.0%	0.0%	0.0%	0.0%
<b>Total Government</b>	<b>49.2%</b>	<b>49.2%</b>	<b>49.2%</b>	<b>49.2%</b>
Commercial Insurers*	38.8%	38.8%	38.8%	38.8%
Uninsured	4.8%	4.8%	4.8%	4.8%
Workers Comp.	1.2%	1.2%	1.2%	1.2%
Other	6.0%	6.0%	6.0%	6.0%
<b>Total Non-Government</b>	<b>50.8%</b>	<b>50.8%</b>	<b>50.8%</b>	<b>50.8%</b>
<b>Total Payer Mix</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

\*Includes managed care activity  
September 7, 2010, CON Application, p. 8.

## 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 Public Act 08-14 §1, and 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); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995); *Bridgeport Ambulance Serv. v. Connecticut Dept. of Health Serv.*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Steadman v. SEC*, 450 U.S. 91, 101 S.Ct. 999, *reh'g den.*, 451 U.S. 933 (1981); *Bender v. Clark*, 744 F.2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. FCC*, 627 F.2d 240, 243 (D.C. Cir. 1980).

NRMC is a joint venture imaging center currently owned 60% by NRC Equipment Associates, LLC, an affiliate of NRC, and 40% by S.W.C. Corporation, a for-profit subsidiary of NHSC and affiliate of Norwalk Hospital. FF3. The Hospital proposes to

acquire NRMC and a CT scanner through an asset purchase agreement. FF4. There will be no decrease in clinical services offered as a result of the proposal. FF7.

The Hospital currently operates two CT scanners at its main campus. FF10. Utilization of the Hospital CT scanners for the last three fiscal years was 24,039, 25,858, and 25,291. FF11. Utilization of the NRMC CT scanner for the last three fiscal years was 11,359, 11,892 and 10,379. FF12. The three CT scanners performed a combined total of 35,661 scans during FY2010, averaging almost 12,000 scans per scanner. FF13. Based upon the historical utilization of the three CT scanners, the Hospital has demonstrated a need to acquire NRMC's CT scanner and maintain access to these services for patients in its service area.

The total capital expenditure for the proposal is \$17,543,000 (FF 15) which will be financed through a combination of the Hospital's working capital and loan financing. FF16. The proposal will eliminate duplicative administrative services and allow the Hospital to reduce its contractual expenses. FF17-18. Additionally, the Hospital plans to integrate and coordinate imaging services offered at NRMC with its on-campus imaging services by combining their two PACS and interfacing the two RIS to form one RIS system. FF 20. The proposal will also enhance the financial viability of the NRMC through improved reimbursement under the Hospital and allow the Hospital to integrate and coordinate services. FF19. Based upon the foregoing, OHCA finds that the CON proposal is cost effective and financially feasible.


## Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application of the Hospital for the acquisition of NRMC and acquisition of a CT Scanner, at an associated capital expenditure of \$17,543,000, is hereby **approved**.

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

By Order of

12.22.10  
Date

  
Norma D. Gyle, R.N., Ph.D.  
Deputy Commissioner  
Office of Health Care Access