

M. JODI RELL  
GOVERNOR

STATE OF CONNECTICUT  
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL  
COMMISSIONER

April 27, 2009

Mr. Richard A. Brvenik  
President and Chief Executive Officer  
Windham Community Memorial Hospital, Inc.  
112 Mansfield Avenue  
Willimantic, CT 06226

RE: Certificate of Need Determination Report Number 09-31355-DTR  
Establishment of Lithotripsy Services by Windham Community Memorial Hospital, Inc.

Dear Mr. Brvenik:

On April 8, 2009, the Office of Health Care Access ("OHCA") received your letter regarding the current and proposed status of lithotripsy services at Windham Community Memorial Hospital in Willimantic, Connecticut. In your letter you indicate that "*Windham Community Memorial Hospital ("Windham") has been providing lithotripsy services to its community for approximately ten years*" and that "*Under Docket Nos. 98-534, 99-534<sup>1</sup> and 04-30379<sup>2</sup>, OHCA authorized Connecticut Lithotripsy, LLC<sup>3</sup> to provide such services at a number of Hospitals including Windham.*" Your letter further indicates that "*Recently, Windham has entered into an agreement with UMS Connecticut Lithotripsy Limited Partnership to provide lithotripsy services to Windham's patients. UMS will provide the lithotripsy system and technical personnel, and the Hospital has agreed to obtain regulatory approvals and bill patients for the services.*"

You specifically request the following in your letter:

- That OHCA "*waive the letter of intent requirement*" in accordance with the provisions of Section 19a-638(b) of the Connecticut General Statutes; and
- That OHCA allow the Hospital "*to lease the services identified above on a temporary basis, and provide and bill for them, until OHCA renders a final decision on the Hospital's forthcoming CON application.*"

<sup>1</sup> OHCA notes that the CON proposal by Connecticut Lithotripsy, LLC under Docket Number 99-534 to provide lithotripsy services at Danbury Hospital was denied by OHCA.

<sup>2</sup> OHCA notes that the CON authorized by OHCA under Docket Number 04-30379-CON was granted to Sharon Hospital as the Applicant. Connecticut Lithotripsy, LLC was not an Applicant to that CON authorization.

<sup>3</sup> OHCA notes that pursuant to a CON authorized by OHCA under Docket Number 05-30448-CON, Connecticut Lithotripsy, LLC's existing lithotripsy services were sold to Continental Connecticut Lithotripsy, LLC

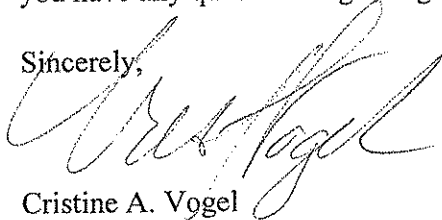
OHCA has reviewed this matter and finds the following:

1. Under Docket Number 98-534, OHCA granted a CON to the legal entity Connecticut Lithotripsy, LLC, to establish and operate a portable, mobile lithotripsy service at nine acute care hospital sites, including Windham Community Memorial Hospital. None of the nine acute care hospitals were applicants to that CON and the hospital locations were service sites for the legal entity, Connecticut Lithotripsy, LLC.
2. Windham Community Memorial Hospital does not have CON authorization pursuant to Section 19a-638 of the Connecticut General Statutes to provide lithotripsy services as a hospital service.
3. Section 19a-638(b) states (in part): "... Upon a showing by such facility or institution that the need for such function, service or termination or change of ownership or control is of an emergency nature, in that the function, service or termination or change of ownership or control is necessary to maintain continued access to the health care services provided by the facility or institution ... the commissioner may waive the letter of intent requirement, provided such request shall be submitted not less than fourteen days before the proposed date of institution of the function, service or termination or change of ownership or control."

Upon review of this matter, OHCA hereby confirms that Windham Community Memorial Hospital does require Certificate of Need authorization pursuant to Section 19a-638(a)(2) of the Connecticut General Statutes to provide lithotripsy services as a hospital service. This represents an additional function or service for the Hospital. In addition, the Hospital has not provided evidence to OHCA that this matter is of an emergency nature and therefore, OHCA will not waive the Letter of Intent requirements outlined in Section 19a-638(a)(4) of the Connecticut General Statutes. Further, there has been no evidence provided to OHCA to justify allowing the Hospital to bypass Section 19a-638 on a temporary basis to allow the Hospital to begin providing these services until such time as OHCA reviews and acts upon a Certificate of Need application in this matter. As such, OHCA will not waive the letter of intent requirements in this matter and will not allow the Hospital to provide lithotripsy services as a hospital service on a temporary basis.

OHCA notes that on April 17, 2009, the Hospital filed a Letter of Intent for the provision of Lithotripsy services under Section 19a-638 of the Connecticut General Statutes. That Letter of Intent has been assigned Docket Number 09-31358-LOI. OHCA will be forwarding CON application forms under separate cover related to that pending Letter of Intent. Please contact Karen Roberts, Compliance Officer at OHCA at (860) 418-7001 if you have any questions regarding this Certificate of Need determination. Please contact Kimberly Martone, Director of Operations at OHCA at (860) 418-7001 if you have any questions regarding the LOI or CON process.

Sincerely,



Cristine A. Vogel  
Commissioner

CAV:kr

Copy: Rose McLellan, License and Applications Supervisor, DPH