

# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

*Office of Health Care Access*

December 3, 2014

VIA FACSIMILE ONLY

Dr. Paula A. Moynahan  
Moynahan Medical Center  
687 Straits Turnpike  
Suite 1A  
Middlebury, CT 06702

RE: Certificate of Need Determination Report Number 14-31920-DTR  
Relocation and Sale of Interest in Moynahan Medical Center

Dear Dr. Moynahan:

On June 19, 2014, the Office of Health Care Access ("OHCA") issued a Certificate of Need ("CON") Determination Report bearing Docket No. 14-31920-DTR with respect to the relocation and sale of certain ownership interests in Moynahan Medical Center. The Determination Report was issued based upon certain representations made in your Determination Request dated June 10, 2014. On November 18, 2014, Saint Mary's Hospital brought to OHCA's attention that some of those representations may have been false and/or misinterpreted.<sup>1</sup>

Specifically, your Determination Request stated that Moynahan Medical Center is an outpatient surgical facility located at 141 East Main Street, Waterbury, Connecticut. First and foremost, Moynahan Medical Center has not yet been licensed as an outpatient surgical facility by the Connecticut Department of Public Health. Therefore, any operation as such may be in violation of licensing laws and regulations. Moreover, if it is your intention to establish a new outpatient surgical facility, such action requires CON authorization pursuant to Connecticut General Statutes § 19a-638(5). Any operation of an outpatient surgical facility without CON authorization is subject to penalties, including but not limited to those under Connecticut General Statutes § 19a-653.

Additionally, OHCA has been advised by Saint Mary's Hospital that Moynahan Medical Center is not currently located at 141 East Main Street, Waterbury, Connecticut, and has not been for several years. Rather, it has been suggested that the actual location is 687 Straits Turnpike, Suite 1A, Middlebury, Connecticut. Therefore, OHCA's previous determination regarding the relocation was based upon inaccurate information. Consequently, the Determination Report issued under Docket No. 14-31920-DTR is hereby rendered null and void. If you wish to seek

<sup>1</sup> A copy of Saint Mary's Hospital's letter dated November 18, 2014 was emailed to you on November 21, 2014.

*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

CON authorization for the establishment of an outpatient surgical facility you may do so using the application form on OHCA's website.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Martone", with a stylized flourish at the end.

Kimberly R. Martone  
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR.  
Thomas J. Regan, Esq.

\* \* \* COMMUNICATION RESULT REPORT ( DEC. 3. 2014 1:01PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	DEC. 3. 2014 1:00PM OPTION	ADDRESS	RESULT	PAGE
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REASON FOR ERROR  
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E-3) NO ANSWER

E-2) BUSY  
E-4) NO FACSIMILE CONNECTION



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: DR. PAULA A. MOYNAHAN

FAX: 203 598-0064

AGENCY: MOYNAHAN MEDICAL CENTER

FROM: OHCA

DATE: 12/3/14 Time: \_\_\_\_\_

NUMBER OF PAGES: 3  
(including transmittal sheet)

**Comments:**

Determination for Report Number 14-31920-DTR.

**PLEASE PHONE Barbara K. Olejarz IF THERE ARE ANY TRANSMISSION PROBLEMS.**

Phone: (860) 418-7001

Fax: (860) 418-7053

410 Capitol Ave., MS#13HCA  
P.O. Box 340308  
Hartford, CT 06134

\* \* \* COMMUNICATION RESULT REPORT ( DEC. 3. 2014 1:22PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	DEC. 3. 2014 1:21PM OPTION	ADDRESS	RESULT	PAGE
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E-4) NO FACSIMILE CONNECTION



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: THOMAS J. REGAN, ESQ.

FAX: 860 509-6522 6501

AGENCY: BROWN RUDNICK, LLP

FROM: OHCA

DATE: 12/3/14 Time: \_\_\_\_\_

NUMBER OF PAGES: 3  
*(including transmittal sheet)*

**Comments:**

Determination for Report Number 14-31920-DTR.

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Hartford, CT 06134

■ 687 STRAITS TURNPIKE, SUITE 1A MIDDLEBURY, CONNECTICUT 06762 203-754-4125 FAX 203-598-0064 ■

**PAULA AMELIA MOYNAHAN, M.D.**  
PLASTIC, RECONSTRUCTIVE & COSMETIC SURGERY

**FASCIMILE TRANSMISSION**



**DATE:** December 6, 2014  
**TO:** Kimberly Martone  
**FAX #:** 860 418 7053  
**FROM:** Connie  
**OF:** Paula A. Moynahna, M.D.  
Plastic, Reconstructive & Cosmetic Surgery

**Number of pages, including this page:** 4

**Confidential?** Yes No

**RE:** Certificate of Need Determination Report

**Please verify receipt of transmission:** Yes No

**Please call us at (203) 754-4125, or fax us at (203)598-0064 immediately if this transmission is incomplete or illegible.**

*The following material is strictly confidential. All persons are advised that they may be prosecuted under Federal and State law for sharing this information with unauthorized individuals. If you receive this fax in error, please notify us immediately.*

**MOYNAHAN MEDICAL CENTER**  
IN NEW YORK: 800 FIFTH AVENUE NEW YORK, NEW YORK 10065

687 Straits Turnpike Middlebury, CT 06762 Tel 203-754-4125

Fax 203-598-0064

Paula Amelia Moynahan, M.D.  
Plastic Reconstructive & Cosmetic Surgery  
[www.paulamoynahanmd.com](http://www.paulamoynahanmd.com)

**VIA FACSIMILE AND U.S. MAIL**

December 5, 2014

Ms. Kimberly Martone  
Director of Operations  
Office of Health Care Access  
Department of Public Health  
410 Capitol Avenue, MS #13HCA  
P.O. Box 340308  
Hartford, Connecticut 06134-0308



Re: Certificate of Need Determination Report Number 14-31920-DTR

Dear Ms. Martone:

This letter is in response to your letter, dated December 3, 2014, sent on behalf of the Office of Health Care Access, regarding Certificate of Need Determination Report Number 14-31920-DTR issued on June 19, 2014 approving the transfer of ownership and relocation of Moynahan Medical Center (the "Center"). This letter also responds to the letter sent to the Office of Health Care Access ("OHCA") by Attorney Thomas J. Regan on behalf of his client.

I respectfully request reconsideration of OHCA's decision that the Certificate of Need Determination Report issued under Docket No. 14-31920-DTR is null and void.

By issuing Report Number 14-31920-DTR, OHCA determined that the Center satisfied the requirement for approving the transfer of ownership and the relocation. The letter from Attorney Regan fails to establish a proper basis for OHCA to reconsider its determination regarding the Center, for several reasons. First, Attorney Regan's client lacks standing, as his client is neither the requestor applicant nor a party to the filing. Second, there is no legal authority or precedent to do so under the Department of Public Health statutes and regulations or the state Administrative Procedure Act. Third, all administrative reconsideration timeframes, such as those of CGS 4-181a, have long since expired and any reconsideration of the Determination is untimely. Fourth, the current licensure status of the Center was fully disclosed in the application and is not a proper ground to rescind OHCA's determination that a CON is not required. Fifth, and most importantly, nothing in Attorney Regan's letter undermines the core fact underlying OHCA's favorable Determination Report, which is that the Center was eligible for a license in 2008 and therefore does not require a Certificate of Need to complete the licensing process and relocate within the same service area.

OHCA determined that the population serviced by the Center and the payor mix would not substantially change as a result of the relocation. The Center detailed its patient base by listing all towns in its service area on its Determination request. Additionally, OHCA made specific inquiries into the payor mix and the Center promptly responded stating that the payor mix was

In New York: 800B Fifth Avenue, New York, New York 10065

687 Straits Turnpike Middlebury, CT 06762

Tel 203-754-4125

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**Paula Amelia Moynahan, M.D.**

Plastic Reconstructive &amp; Cosmetic Surgery

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approximately evenly split between commercial insurance (including Medicare Advantage) and self-pay patients.

With regard to the claim raised regarding my current office address, it is correct that I have relocated my patient office just over the Waterbury town line to 687 Straits Turnpike, Middlebury, Connecticut. Although the postal address is in Middlebury, this office remains on the eastern side of Interstate 84, a mere two-tenths (.2) of a mile – literally a one minute drive – from the Waterbury city line. (See attached map) Even if the proposed address for the Center had been my current Middlebury patient office address, therefore, under clearly established OHCA precedent, a relocation to this address would not by any means represent a significant change in patient population or payor mix and would not be a proper basis to require a CON. [See, e.g., *Certificate of Need Determination Report No. 11-31715-DTR, Valley Orthopedic Specialists, LLC, September 30, 2011.*]

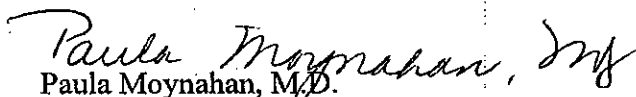
Moreover, the proposed relocated address for the Center is not my current patient office, but is 50 Brookside Road, Waterbury, Connecticut. As stated in the Determination application and reaffirmed again here, with this relocation there is no anticipated change in patient population or payor mix.

The Center and the proposed new members have relied on this Determination issued many months ago. Since this approval, the Center and its new members have spent considerable time and resources on the Center's development and relocation, all in reliance of OHCA's issuance of the Determination. To contemplate retroactive reconsideration of a Determination undermines the public's ability to rely on decisions and representations of OHCA and frustrates the efforts of those trying to invest and create business in Connecticut. Most importantly, the Center truthfully detailed all of the relevant facts and information required by OHCA and the Connecticut Statutes and regulations in its filing of Determination Report 14-31920-DTR.

Finally, while your letter raises a question regarding whether unauthorized procedures are performed at the Center, the application made clear that the Center does not currently perform any procedures that require Department of Public Health licensure and that the Center will be seeking licensure at the new location in accordance with the Department of Public Health licensure requirements for outpatient surgical facilities.

Thank you for your attention to this matter.

Sincerely,

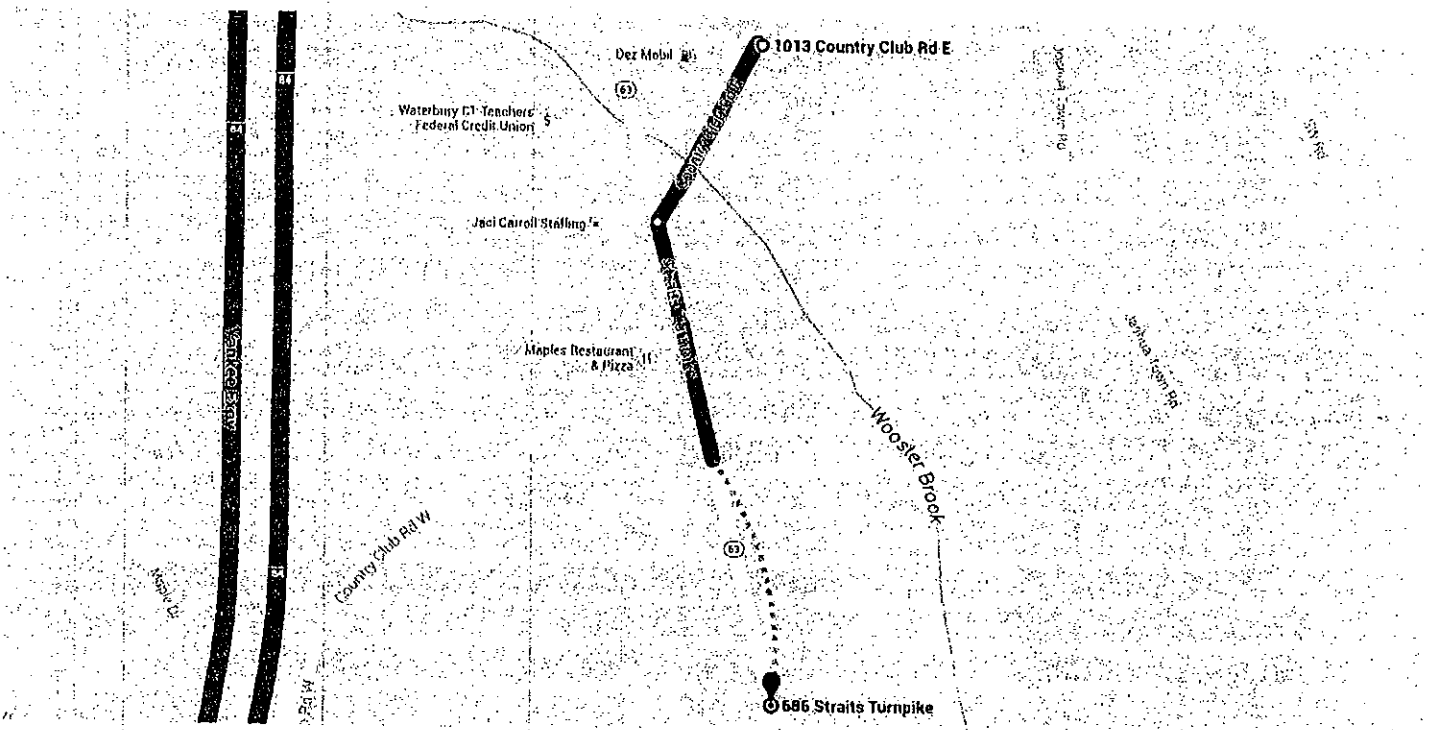
  
Paula Moynahan, M.D.





Drive 0.2 mile, 1 min

### Directions from 1013 Country Club Rd E to 686 Straits Turnpike



**○ 1013 Country Club Rd E**  
Waterbury, CT 06708



1. Head southwest on Country Club Rd E toward CT-63 S

0.1 mi

2. Turn left onto CT-63 S

**i** Destination will be on the left

0.1 mi

**◎ 686 Straits Turnpike**  
Middlebury, CT 06762

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2014 Google



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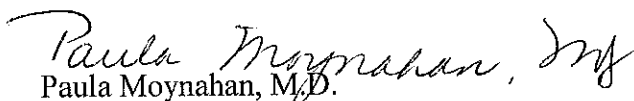
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