

WIGGIN AND DANA

Counsellors at Law

Wiggin and Dana LLP
One Century Tower
P.O. Box 1832
New Haven, Connecticut
06508-1832
www.wiggin.com

Rebecca A. Matthews
203.498.4502
203.782.2889 fax
rmatthews@wiggin.com

October 14, 2014

VIA HAND-DELIVERY

The Honorable Jewel Mullen
Commissioner
Department of Public Health
Office of Health Care Access
410 Capitol Avenue
Hartford, CT 06134

***Re: Certificate of Need Determination Request:
Restructuring of Membership of Tolland Imaging Center, LLC***

Dear Commissioner Mullen:

Enclosed please find a Determination Request on Form 2020 filed on behalf of Tolland Imaging Center, LLC.

Please feel free to contact Dennis McConville if you have any questions. Thank you in advance for your assistance with this Determination Request.

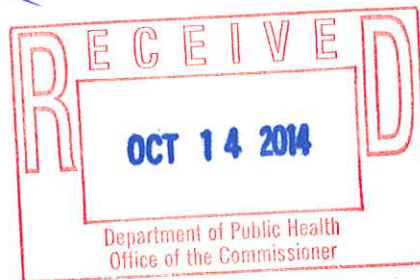
Sincerely,

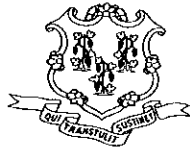


Rebecca A. Matthews

RAM:

Enclosure





State of Connecticut Office of Health Care Access CON Determination Form Form 2020

All persons who are requesting a determination from OHCA as to whether a CON is required for their proposed project must complete this Form 2020. The completed form should be submitted to the Director of the Office of Health Care Access, 410 Capitol Avenue, MS#13HCA, P.O. Box 340308, Hartford, Connecticut 06134-0308.

SECTION I. PETITIONER INFORMATION

If this proposal has more than two Petitioners, please attach a separate sheet, supplying the same information for each Petitioner in the format presented in the following table.

Please see separate sheet for additional Petitioner.

	Petitioner #1	Petitioner #2
Full Legal Name	Tolland Imaging Center, LLC	
Doing Business As	Tolland Imaging Center	
Name of Parent Corporation	N/A	
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	6 Fieldstone Commons Suite E Tolland, CT 06084	
What is the Petitioner's Status: P for profit and NP for Nonprofit	NP (Nonprofit)	
Contact Person at Facility, including Title/Position: This Individual at the facility will be the Petitioner's Designee to	Dennis P. McConville, President	

receive all correspondence in this matter.		
Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	71 Haynes Street Manchester, CT 06040	
Contact Person's Telephone Number	(860) 533-3429	
Contact Person's Fax Number	(860) 647-6860	
Contact Person's e-mail Address	dmconville@echn.org	

SECTION II. GENERAL PROPOSAL INFORMATION

a. Proposal/Project Title:

Restructuring of Membership of Tolland Imaging Center, LLC

b. Estimated Total Project Cost:

There are no capital costs in connection with this project. Legal and other fees and costs relating to the withdrawal of the member are expected to total approximately \$25,000.

c. Location of proposal, identifying Street Address, Town and Zip Code:

Petitioner Tolland Imaging Center, LLC ("TIC") provides multimodality imaging services at 6 Fieldstone Commons, Suite E, Tolland, Connecticut 06084.

d. List each town this project is intended to serve:

The following towns are included in TIC's service area: Coventry, Ellington, Mansfield, Stafford, Tolland, Union, Vernon and Willington.

e. Estimated starting date for the project:

As soon as possible following receipt of required approvals.

SECTION IV. PROPOSAL DESCRIPTION

Please provide a description of the proposed project, highlighting each of its important aspects, on at least one, but not more than two separate 8.5" X 11" sheets of paper. At a minimum each of the following elements need to be addressed, if applicable:

1. If applicable, identify the types of services currently provided and provide a copy of each Department of Public Health license held by the Petitioner.
2. Identify the types of services that are being proposed and what DPH licensure categories will be sought, if applicable.
3. Identify the current population served and the target population to be served.

Please see description attached.

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)


Petitioner: Tolland Imaging Center, LLC

Project Title: Restructuring of Membership of Tolland Imaging Center, LLC

I, Dennis P. McConville, President
(Name) (Position – CEO or CFO)

of Tolland Imaging Center, LLC being duly sworn,
(Organization Name)

depose and state that the information provided in this CON Determination form is true and accurate to the best of my knowledge.

 10.14.14
Signature Date

Subscribed and sworn to before me on October 14, 2014


Notary Public/Commissioner of Superior Court

**Yvonne Johnson, Notary Public
My Commission Expires Jan. 31, 2017**

My commission expires: _____

SECTION IV: PROPOSAL DESCRIPTION

Background and Types of Services Provided by Petitioner: Tolland Imaging Center, LLC ("TIC") operates a multi-modality imaging center in Tolland. Services provided include MRI, CT, bone density, mammography, ultrasound and radiography (x-ray). As a free-standing imaging center, TIC is not required to be licensed by the State of Connecticut, Department of Public Health.

TIC was originally formed as a joint enterprise among Johnson Memorial Hospital, Manchester Memorial Hospital, Rockville General Hospital and Windham Community Memorial Hospital, with the mission of providing comprehensive imaging services to patients in the greater Tolland area. TIC is a nonprofit limited liability company whose existing ownership/membership structure is as follows:

Johnson Memorial Hospital	15%
Manchester Memorial Hospital	35%
Rockville General Hospital	35%
Windham Community Memorial Hospital	15%

TIC is governed by a six (6)-member Board of Managers. Manchester Memorial Hospital and Rockville General Hospital, which are each members of the Eastern Connecticut Health Network (ECHN), have the right to appoint four (4) members of the Board. Johnson Memorial Hospital and Windham Community Memorial Hospital each have the right to appoint one (1) member to the Board. The Board, a majority of whose members are representatives of ECHN, has general authority over the affairs of TIC, except where a member vote is required in accordance with TIC's Operating Agreement.¹

TIC received initial approval to commence operations under the Office of Health Care Access Docket Number 06-30841-CON as three-year demonstration project. Earlier this year, TIC obtained approval to continue services as a permanent program (Office of Health Care Access in Docket Number 13-31833-CON).

Summary of Proposal: Since the commencement of TIC's operations in 2008, each of the member hospitals have undergone significant changes in connection with the evolving health care environment. As a result of many of these changes, including Windham Community Memorial Hospital's desire to focus its resources in its service area, Windham Community Memorial Hospital proposes to have its membership interest in TIC redeemed. Following such redemption, TIC would continue as a joint venture among the remaining three (3) hospitals: Johnson Memorial Hospital, Rockville General Hospital, and Manchester Memorial Hospital. Organizational charts depicting the current and proposed structures are set forth in Exhibit A.

As consideration for the redemption of Windham Community Memorial Hospital's interest in TIC, TIC will pay to Windham Community Memorial Hospital the fair market value of the interest (in other words, cash equal to fifteen percent (15%) of the fair market value of TIC, as determined by an independent appraisal process). The cash received by Windham Community Memorial Hospital will then be available for its use in furtherance of Windham Community Memorial Hospital's charitable purposes.

Although the redemption will remove a minority member (Windham Community Memorial Hospital) from TIC, the three remaining hospital members have agreed upon an appropriate allocation of voting rights so there will not be a substantive change in governance or control of TIC. The three remaining hospital members who, collectively, held eighty-five percent (85%) of the voting power both at the member level

¹ Under the Operating Agreement, a simple majority vote of the members is required for most actions. Certain specified actions, however, require unanimous approval of the members.

and eighty-three (83%) of the voting power at the Board level will continue the operations of TIC, but now with total (100%) control. In fact, ECHN, which currently holds, through Manchester Memorial Hospital and Rockville General Hospital, a controlling interest (seventy percent (70%) of the membership interests and sixty-seven percent (67%) of the Board), will retain control following Windham Community Memorial Hospital's withdrawal.

No new members are proposed to be added at this time, nor will any new managers be appointed to TIC's Board.² No change in the services provided will result from the withdrawal of a minority member. As described in more detail below, there will be no change to the population served and access to care will not be affected.

Population Served: The current population served includes patients from the towns of Coventry, Ellington, Mansfield, Stafford, Tolland, Union, Vernon and Willington. The target population and current payor mix are not expected to change as a result of the proposed withdrawal of a minority member.

Benefits/Conclusion: Although a minority member will withdraw from TIC, three of the existing four members will continue to own TIC; no new entity will have any role in governance. ECHN, which has a controlling interest in TIC currently, will retain this controlling interest. Operationally, all services will continue in the same manner as they are provided currently. There will be no change in the physical locations of services, facilities or equipment and no changes in the service areas, target populations to be served or current payor mix. Services offered to patients will remain the same and there will be no impact on other providers or on payors.

The proposal will permit both TIC and the hospital members flexibility to continue their missions in their respective service areas without any substantive change in ownership, governance or oversight. The proposed reorganization is much like other corporate restructurings that do not result in any substantive change of ownership and, thus, do not require a certificate of need.³

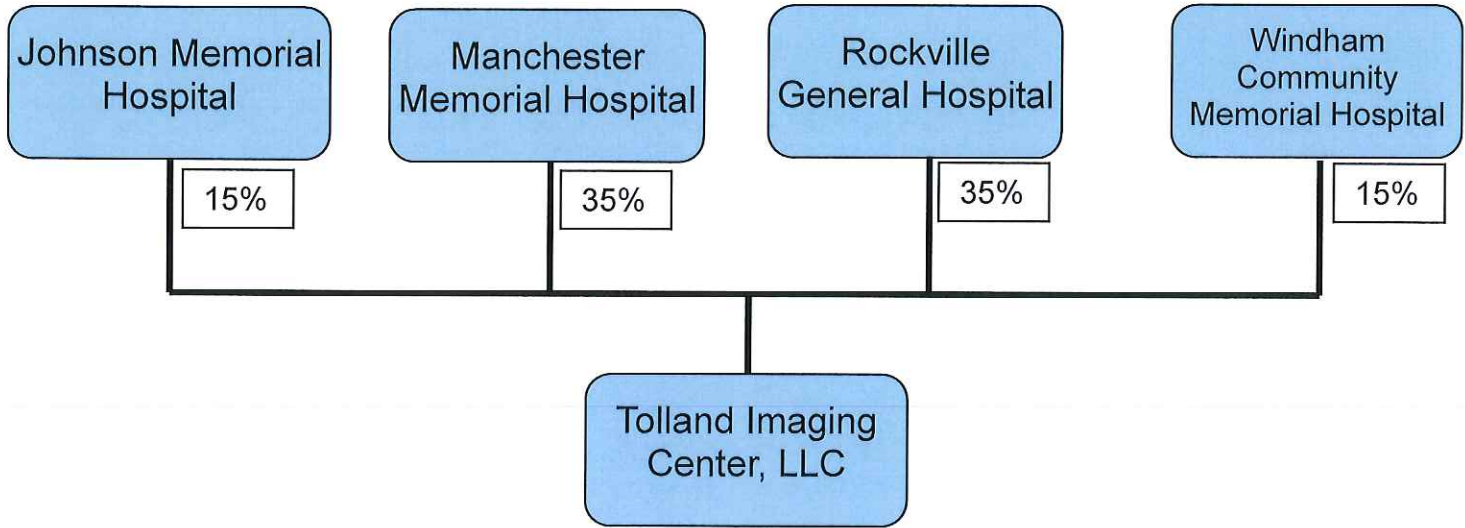
² TIC and its members acknowledge that future transfers of membership interests may constitute a transfer of ownership that would require a Certificate of Need under Conn. Gen. Stat. § 19a-638 and will seek approval from the Office of Health Care Access in the event that such a transfer is contemplated. As an example, as the Office of Health Care Access is aware, ECHN recently filed a determination letter regarding a proposed acquisition of its assets by a joint venture to be formed by Tenet Healthcare Corporation and Yale-New Haven Health Services Corporation. If approved, these assets would include the interests in TIC held by Manchester Memorial Hospital and Rockville General Hospital. The parties understand that the transfer of any interest in TIC to such joint venture or any other party may require a Certificate of Need and, in connection with the proposed transfer to a for-profit, would require approval of the Attorney General under Conn. Gen. Stat. § 19a-486 et seq. In any event, the Operating Agreement of TIC includes certain protections to ensure that distributions to any remaining tax-exempt member are not subject to unrelated business income tax, and also to ensure that such tax-exempt member's participation in the venture does not jeopardize its tax-exempt status.

³ Although certificate of need decisions and determinations are made on a case by case basis, OHCA has determined that certain internal reorganizations, particularly changes of ownership or membership where a majority of the owners/members do not change, are permitted without a certificate of need where there will be no change in the services provided and no change in ultimate control. The proposed reorganization here will similarly be effected without any change in services or addition of any third party with ultimate governance or control.

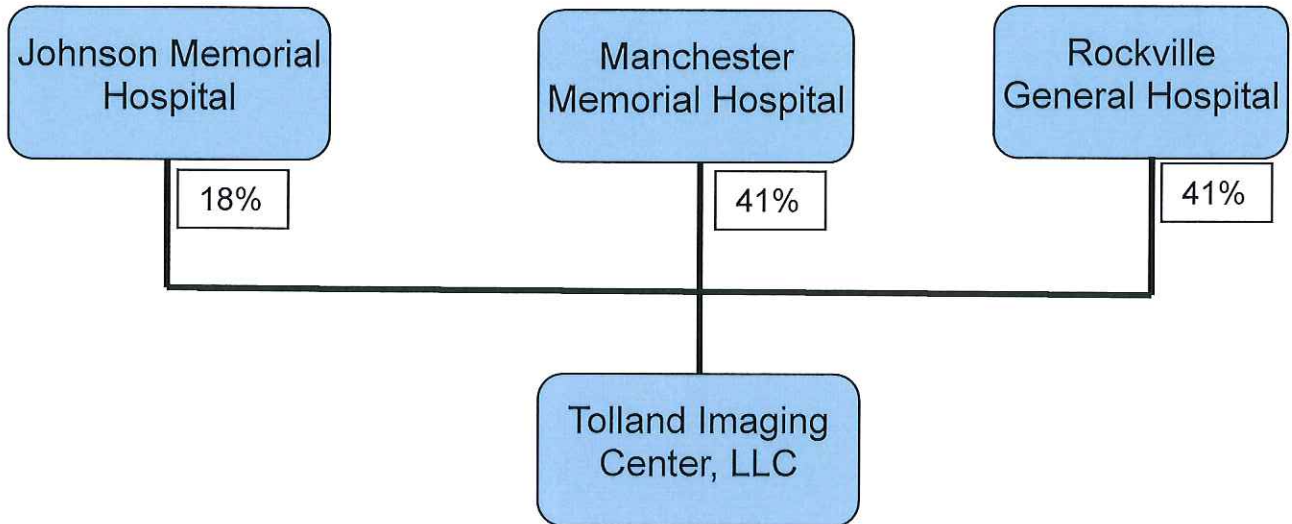
EXHIBIT A

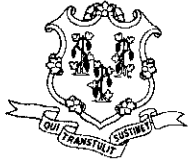
Current and Proposed Organizational Charts

Current:



Proposed:





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

October 23, 2014

VIA FACSIMILE ONLY

Dennis P. McConville
President
Tolland Imaging Center, LLC
71 Haynes Street
Manchester, CT 06040

RE: Certificate of Need Determination Report Number 14-31957-DTR
Restructuring of Membership of Tolland Imaging Center, LLC

Dear Mr. McConville:

On October 15, 2014, the Office of Health Care Access ("OHCA") received your Certificate of Need ("CON") Determination request on behalf of Tolland Imaging Center, LLC ("Petitioner") with respect to an internal corporate restructuring of Tolland Imaging Center, LLC.

The Petitioner is a free-standing imaging center located in Tolland, Connecticut. Services provided include MRI, CT, bone density, mammography, ultrasound and radiography. The Petitioner is a joint venture between Manchester Memorial Hospital, Rockville General Hospital, Johnson Memorial Hospital and Windham Community Memorial Hospital. The Petitioner is governed by a six (6)-member Board of Managers with four (4) members appointed by Manchester Memorial Hospital and Rockville General Hospital, one (1) member appointed by Windham Community Memorial Hospital, and one (1) member appointed by Johnson Memorial Hospital.

Windham Community Memorial Hospital proposes to have its membership interest in the Petitioner redeemed. Following the redemption, the Peitioner would continue to be operated as a joint venture between Manchester Memorial Hospital, Rockville General Hospital and Johnson Memorial Hospital. The three remaining members have agreed upon an appropriate allocation of voting rights so there will be no change in governance or control. Additionally, no new members are being added to the Board.

Connecticut General Statutes § 19a-638(a)(2) requires CON authorization for the "transfer of ownership of a health care facility". Connecticut General Statutes §19a-630(10) defines a "health care facility" as "(A) hospitals licensed by the Department of Public Health under chapter 368v; (B) specialty hospitals; (C) freestanding emergency departments; (D) outpatient surgical facilities, as defined in section 19a-493b and licensed under chapter 368v; (E) a hospital or other facility or institution operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as

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

amended; (F) a central service facility; (G) mental health facilities; (H) substance abuse treatment facilities; and (I) any other facility requiring certificate of need review pursuant to subsection (a) of section 19a-638. Health care facility includes any parent company, subsidiary, affiliate or joint venture, or any combination thereof, of any such facility.” Since the Petitioner is a joint venture between four (4) hospitals, it qualifies as a health care facility for purposes of Connecticut General Statutes §19a-630(10).

Connecticut General Statutes §19a-630(14) defines a “transfer of ownership” as “a transfer that impacts or changes the governance or controlling body of a health care facility...” Since there will be no impact or change to the governance or controlling body of the Petitioner, OHCA hereby determines that a ***CON is not required*** for the proposal.

Sincerely,



Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR
Rebecca A. Matthews, Esq.

* * * COMMUNICATION RESULT REPORT (OCT. 23. 2014 10:36AM) * * *

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	OCT. 23. 2014 10:35AM OPTION	ADDRESS	RESULT	PAGE
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REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 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: DENNIS P. MCCONVILLE

FAX: 860 647-6860

AGENCY: TOLLAND IMAGING CETNER, LLC

FROM: OHCA

DATE: 10/23/14 **Time:** _____

NUMBER OF PAGES: 3
(including transmittal sheet)

Comments:
 Determination for Report Number 14-31957 regarding restructuring of Membership of Tolland Imaging Center

PLEASE PHONE Barbara K. Olejrz 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**