

Greer, Leslie

From: Lazarus, Steven
Sent: Friday, September 11, 2015 7:11 AM
To: Greer, Leslie
Cc: Hansted, Kevin; Martone, Kim; Riggott, Kaila
Subject: FW: ProHealth Physicians CON Determination Form 2020
Attachments: CON Determination Form 2020.pdf

Leslie,

Please see the attached CON Determination request submitted by ProHealth Physicians. Please process as new filing.

Thank you,

Steve

Steven W. Lazarus

Associate Health Care Analyst
Division of Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134
Phone: 860-418-7012
Fax: 860-418-7053



From: Reshotnik, Victoria [<mailto:vreshotnik@ProHealthMD.com>]
Sent: Thursday, September 10, 2015 4:31 PM
To: Lazarus, Steven
Cc: Lugli, Richard; jnewman@jmeisner.com
Subject: ProHealth Physicians CON Determination Form 2020

Steve, I submit to you the attached CON Determination Form 2020 pursuant to your discussion with attorney John Newman. The original will follow via Federal Express delivery tomorrow, to your attention.

Please let us know if you have any questions.

Thank you,
Vicki

Victoria Reshotnik | Paralegal

ProHealth Physicians

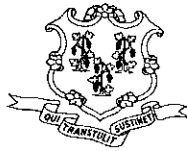
Three Farm Glen • Farmington CT • 06032

P: 860.284.5356 • F: 860.409.4075

vreshotnik@prohealthmd.com

www.prohealthmd.com

The ProHealth Promise: We believe that our first responsibility is to our patients. We believe in the importance of health promotion and disease prevention. We are all members of the same team working together with a common purpose. We will bring honesty, integrity, trust and value to all our relationships. This is a confidential email message. If you are not the intended recipient, please return the message to the sender or contact ProHealth Physicians, Inc. at (860) 284-5200.



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.

	Petitioner	Petitioner
Full Legal Name	ProHealth Physicians, PC	
Doing Business As		
Name of Parent Corporation	NA	
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	Administrative Offices 3 Farm Glen Boulevard Farmington, CT 06032	
What is the Petitioner's Status: P for profit and NP for Nonprofit	P	
Contact Person at Facility, including Title/Position: This Individual at the facility will be the	C. Todd Staub, MD Chairman	

Petitioner's Designee to receive all correspondence in this matter.		
Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	ProHealth Administrative Offices 3 Farm Glen Boulevard Farmington, CT 06032	
Contact Person's Telephone Number	860-284-5200	
Contact Person's Fax Number	860-567-3933	
Contact Person's e-mail Address	cstaub@prohealth md.com	

SECTION II. GENERAL PROPOSAL INFORMATION

- a. Proposal/Project Title: Merger of ProHealth Physicians, PC
- b. Estimated Total Project Cost: \$ NA _____
- c. Location of proposal, identifying Street Address, Town and Zip Code: ProHealth Physicians, PC, Corporate/Administrative Office, Three Farm Glen Boulevard, Farmington, CT 06032
- d. List each town this project is intended to serve: ProHealth has medical offices in the following communities:
Avon, Bethel, Bloomfield, Bristol, Cheshire, Colchester, Danbury, Enfield, Essex, Farmington, Glastonbury, Groton, Guilford, Hamden, Hartford, Higganum, Kensington, Litchfield, Madison, Manchester, Mansfield Center, Marlborough, Meriden, Middletown, New London, New Milford, Newington, North Haven, Plainville, Putnam, Ridgefield, South Windsor, Southington, Tolland, Torrington, Unionville, Vernon, Wallingford, Waterbury, Waterford, Weatogue, West Hartford, Wethersfield, Willimantic, Winsted
-
- e. Estimated starting date for the project: Closing predicated on certain closing conditions. Targeting Q4 2015. _____

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.

PROPOSAL DESCRIPTION

The Petitioner submits this CON Determination Form with respect to the proposed merger between ProHealth Physicians, P.C. (“ProHealth”), a multi-specialty physician practice, and a new physician-owned professional corporation to be created for the purpose of the proposed merger. The parties to the proposed merger are both Connecticut professional corporations and neither is a facility licensed by the Connecticut Department of Public Health nor associated with such a facility.

BACKGROUND

For several years ProHealth and its affiliated management services company, ProHealth Physicians, Inc. (“PHI”) have been exploring potential business opportunities for the purpose of enhancing the high quality care delivered to ProHealth patients by raising additional capital and securing additional resources and expertise needed by ProHealth to implement the technology transformation required under health care reform while remaining an independent physician practice. After a thorough evaluative request for proposal process, ProHealth has determined that its ongoing needs and objectives as an independent medical practice can best be met by a merger with a new professional services corporation, and related transactions with Collaborative Care Holdings, LLC (“CCH”), a wholly-owned subsidiary of Optum, Inc. (“Optum”). Optum is a leading national health services, analytics and innovations company.

ProHealth is a Connecticut medical practice engaged in the provision of primary care and other medical services. Physician specialties within ProHealth include family practice, internal medicine, pediatrics and other specialties such as audiology, ENT, Gastroenterology, physical therapy, plastic surgery, psychiatry, pulmonary medicine, surgery and sleep medicine. ProHealth’s payor mix fluctuates, but is currently estimated as follows: Medicaid, 11%, Medicare, 23% and commercial and other payors 66%. No change in services or payor mix is proposed in this transaction.

ProHealth believes that the reorganization of ProHealth’s ownership and governance as a result of the transactions do not require a CON. To execute the proposed merger and reorganization of ProHealth, as a component of the overall transactions, one or two existing ProHealth physician shareholder(s) will create a new professional corporation, (“NewCo PC”). The purpose of NewCo PC will be to provide a merger vehicle to purchase the ProHealth shares owned by the shareholders.¹ ProHealth will be the surviving professional corporation with NewCo PC merging into ProHealth. As a result of the merger, the physician shareholder(s) who created NewCo PC will be the sole shareholder(s) and director(s) of post-merger ProHealth. An advisory board composed of ProHealth physicians will advise the board of directors of ProHealth.

Under the proposed arrangements, PHI will continue to provide to ProHealth substantially the same management services, such as administrative and financial support, through an amended and restated management services agreement (“MSA”). PHI will become a wholly owned subsidiary of a newly created joint venture owned by CCH, PHI executives and ProHealth physicians (the “Joint Venture”) and will be funded by a capital infusion from CCH to support the enhanced delivery of management services to ProHealth. ProHealth will retain exclusive responsibility for decision-making relating to the delivery of professional services. Such arrangements do not invoke OHCA’s CON jurisdiction.

In connection with the financial support arrangements of the MSA that will be in place for the benefit of ProHealth, ProHealth and its post-merger physician owner(s) (the “PC Shareholders”) will enter into a succession agreement (the “Succession Agreement”) with the Joint Venture. The Succession Agreement

¹ CCH will loan money to NewCo PC as evidenced by a promissory note.

provides that the Joint Venture will have the right to appoint a substitute “Qualified Buyer” (who must be a physician licensed to practice medicine in Connecticut) to become ProHealth’s shareholder and director only upon certain designated material events called “Succession Events,” such as, for example, (i) the death or disability of the PC Shareholder, (ii) the PC Shareholder’s loss of license or ability to participate in government health programs, (iii) uncured breach of the MSA that is the result of the PC Shareholder’s action or inaction, (iv) any action by the PC Shareholder to dissolve ProHealth or (v) termination of the PC Shareholder’s services agreement with the Joint Venture or an affiliate thereof. ProHealth will commit not to undertake a sale without the consent of the Joint Venture and the Joint Venture will have a security interest in the stock of ProHealth. These provisions do not give rise to any automatic right by the Joint Venture, short of a Succession Event, to require a transfer of stock in ProHealth or a change in ProHealth’s director(s). At all times, the shareholder(s) and director(s) of ProHealth will remain one or more physicians licensed in Connecticut.

DISCUSSION

Pursuant to § 19a-638 (a) (3) of the Conn. Gen. Stat., a CON is required when there is a “transfer of ownership” of a group practice to any entity other than a physician or group of physicians. For the reasons set forth below, ProHealth respectfully believes that the proposed merger does not require a CON under this provision.

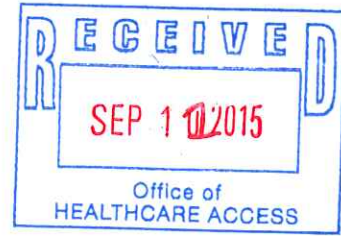
Conn. Gen. Stat. §19a-630(16) defines a “transfer of ownership” as a “transfer that impacts or changes the governance or controlling body of a health care facility, institution or group practice, including, but not limited to, all affiliations, mergers or any sale or transfer of net assets of a health care facility.”

Given the proposed transfer is to another physician or to two physicians, ProHealth does not believe § 19a-638 (a) (3) of the Conn. Gen. Stat applies. Under the proposed merger, ProHealth will be the sole surviving corporate entity with NewCo PC merging into ProHealth. The ownership of ProHealth, a physician group practice, is being transferred to one or two ProHealth physician(s) who will be the sole shareholders.

Moreover, there is not a transfer that impacts or changes governance or the controlling body. As a result of the merger, the physician shareholder(s) that created NewCo PC will be the sole shareholder(s) and director(s) of post-merger ProHealth. An advisory board composed of ProHealth physicians will advise ProHealth’s board of directors. ProHealth will continue to have physician leadership and medical direction. Under the MSA, ProHealth retains exclusive authority and control over all medical aspects of ProHealth, including the supervision and control of all medical and professional affairs, all diagnosis, treatment and ethical determinations with respect to patients and all clinical decision-making. In addition, ProHealth retains the right to make final decisions in certain business areas.

The financial safeguards reserved by the Joint Venture are commercially reasonable for the associated financial support and services to be provided to ProHealth and do not affect the delivery of medical services by ProHealth which remains under the control of licensed physicians. Nothing in any of the transaction documents gives Optum, CCH, the Joint Venture or PHI any right or ability to influence the independent medical judgment of ProHealth’s physician employees in their professional medical practices. The Succession Agreement only gives rise to the ability by CCH or the Joint Venture to exercise certain rights in the event of certain defined Succession Events, as noted above.

For the reasons set forth above, the Petitioner respectfully requests that OHCA issue a determination that the proposed merger of ProHealth with NewCo PC does not require CON approval.



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Office of Health Care Access
CON Determination Form
Form 2020**

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Petitioner's Designee to receive all correspondence in this matter.		
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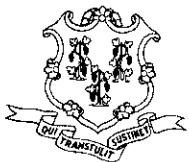
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Moreover, there is not a transfer that impacts or changes governance or the controlling body. As a result of the merger, the physician shareholder(s) that created NewCo PC will be the sole shareholder(s) and director(s) of post-merger ProHealth. An advisory board composed of ProHealth physicians will advise ProHealth’s board of directors. ProHealth will continue to have physician leadership and medical direction. Under the MSA, ProHealth retains exclusive authority and control over all medical aspects of ProHealth, including the supervision and control of all medical and professional affairs, all diagnosis, treatment and ethical determinations with respect to patients and all clinical decision-making. In addition, ProHealth retains the right to make final decisions in certain business areas.

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For the reasons set forth above, the Petitioner respectfully requests that OHCA issue a determination that the proposed merger of ProHealth with NewCo PC does not require CON approval.



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

September 22, 2015

VIA FACSIMILE ONLY

C. Todd Staub, MD
Chairman
ProHealth Physicians, PC
3 Farm Glen Blvd.
Farmington, CT 06032

RE: Certificate of Need Determination Report Number 15-32028-DTR
Transfer of Ownership of Group Practice

Dear Dr. Staub:

On September 11, 2015, the Office of Health Care Access ("OHCA") received your Certificate of Need ("CON") Determination Form on behalf of ProHealth Physicians, PC ("ProHealth") with respect to a transfer of ownership.

ProHealth is a Connecticut group medical practice that provides primary care and other medical services. ProHealth is currently controlled by a sixteen (16) member Board of Directors. All member of the Board of Directors are licensed physicians in Connecticut. ProHealth is proposing a reorganization whereby one or two of the existing ProHealth physician shareholders will create a new professional corporation ("NewCo") in order to purchase the ProHealth shares owned by the other physician shareholders. ProHealth will be the surviving professional corporation with NewCo merging into ProHealth. As a result of the merger, the physician shareholders who created NewCo will be the sole shareholders and directors of post-merger ProHealth. An advisory board composed of ProHealth physicians will advise the board of directors of ProHealth.

Connecticut General Statutes § 19a-638(a)(3) requires CON authorization for "A transfer of ownership of a group practice to any entity other than a physician or group of physicians, ..." Since the proposed transfer of ownership will be to a physician or group of physicians, 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.

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

* * * COMMUNICATION RESULT REPORT (SEP. 22. 2015 11:58AM) * * *

FAX HEADER:

TRANSMITTED/STORED FILE MODE	SEP. 22. 2015 11:58AM OPTION	ADDRESS	RESULT	PAGE
293	MEMORY TX	98605673933	OK	2/2

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: C. TODD STAUB, MD

FAX: 860 567 3933

AGENCY: PROHEALTH PHYSICIANS

FROM: OHCA

DATE: 9/22/15 **Time:** _____

NUMBER OF PAGES: _____
(including transmittal sheet)

Comments: Determination for Report Number: 15-32028-DTR is attached for the Transfer of Ownership of Group Practice

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**