

Olejarz, Barbara

From: Martone, Kim
Sent: Thursday, July 06, 2017 7:52 AM
To: Hansted, Kevin
Cc: Olejarz, Barbara
Subject: FW: Orthopaedic & Neurosurgery Surgery Center of Greenwich, LLC
Attachments: Determination Request for Termination of Services at ONSCG 7-5-17 - EXECUTED.PDF

Kimberly R. Martone

Director of Operations, Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue, MS #13 CMN, Hartford, Connecticut 06134
Phone: 860-418-7029 Fax: 860-418-7053
Email: Kimberly.Martone@ct.gov Website: www.ct.gov/ohca



From: Pimentel, Elisabeth [mailto:EPimentel@wiggin.com]
Sent: Thursday, July 06, 2017 7:47 AM
To: Martone, Kim
Cc: Hodys, Deborah (Deborah.Hodys@greenwichhospital.org)
Subject: RE: Orthopaedic & Neurosurgery Surgery Center of Greenwich, LLC

Good Morning Ms. Martone,

Please find attached the requested Certificate of Need Determination form for the termination of services at Orthopaedic & Neurosurgery Center of Greenwich, LLC. The original document was put in yesterday's mail and should arrive shortly. If you do not receive the original, please let me know.

If you have questions or need anything further, please contact me at your convenience.

Best,

Elisabeth

Elisabeth A. Pimentel

Direct: 203.498.4343 | epimentel@wiggin.com

WIGGIN AND DANA

Connecticut | New York | Philadelphia | Washington, DC | Palm Beach | www.wiggin.com

From: Martone, Kim [<mailto:Kimberly.Martone@ct.gov>]
Sent: Thursday, June 22, 2017 12:02 PM
To: Pimentel, Elisabeth <EPimentel@wiggin.com>
Cc: Hodys, Deborah (Deborah.Hodys@greenwichhospital.org) <Deborah.Hodys@greenwichhospital.org>
Subject: RE: Orthopaedic & Neurosurgery Surgery Center of Greenwich, LLC

Elisabeth, please complete the CON determination form on our website at <http://www.ct.gov/dph/cwp/view.asp?a=3902&q=562014&dphNav=1>

Kim

Kimberly R. Martone

Director of Operations, Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue, MS #13 CMN, Hartford, Connecticut 06134
Phone: 860-418-7029 Fax: 860-418-7053
Email: Kimberly.Martone@ct.gov Website: www.ct.gov/ohca



From: Pimentel, Elisabeth [<mailto:EPimentel@wiggin.com>]
Sent: Tuesday, June 20, 2017 10:04 PM
To: Martone, Kim
Cc: Hodys, Deborah (Deborah.Hodys@greenwichhospital.org)
Subject: Orthopaedic & Neurosurgery Surgery Center of Greenwich, LLC

Dear Ms. Martone,

Please find attached a letter from Greenwich Hospital and Greenwich Ambulatory Surgery Center, LLC with regard to the above-referenced entity.

Best,

Elisabeth

Elisabeth A. Pimentel

Wiggin and Dana LLP
265 Church Street, P.O. Box 1832
New Haven, Connecticut 06508-1832
Direct: 203.498.4343 | epimentel@wiggin.com

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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	Orthopaedic & Neurosurgery Center of Greenwich, LLC	
Doing Business As		
Name of Parent Corporation	Greenwich Ambulatory Surgery Center, LLC	
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	55 Holly Hill Lane, Greenwich, CT 06830	
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 Petitioner's Designee to receive all	Susan Brown, Chief Operating Officer	

correspondence in this matter.		
Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	Greenwich Ambulatory Surgery Center, LLC c/o Greenwich Hospital 5 Perryridge Road, Greenwich, CT 06830	
Contact Person's Telephone Number	203-863-3932	
Contact Person's Fax Number		
Contact Person's e-mail Address	Susan.Brown@greenwichhospital.org	

SECTION II. GENERAL PROPOSAL INFORMATION

- a. Proposal/Project Title: Termination of Services at Orthopaedic & Neurosurgery Center of Greenwich, LLC
- b. Estimated Total Project Cost: \$0
- c. Location of proposal, identifying Street Address, Town and Zip Code: 55 Holly Hill Lane, Greenwich, CT 06830
- d. List each town this project is intended to serve: Not Applicable
- e. Estimated starting date for the project: August 1, 2017

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:

Greenwich Hospital (“GH”) and Greenwich Ambulatory Surgery Center, LLC (“GASC”) received Certificate of Need (“CON”) approval from the Office of Health Care Access (“OHCA”) pursuant to Docket Number 06-30813-CON, as modified by Docket Numbers 08-30813-MDF, 09-30813-MDF and 10-30813-MDF, to establish an ambulatory surgery center joint venture with physician ownership. Orthopaedic & Neurosurgery Center of Greenwich, LLC (“ONSCG”) is the joint venture that was formed with ONS ASC, LLC in accordance with this CON approval. Effective April 1, 2016, ONS ASC, LLC separated from ONSCG. Since that time, ONSCG has not served any patients. As such, GH and GASC have decided to dissolve ONSCG. In accordance with Condition #5 of the CON Final Decision, GH and GASC notified OHCA of its termination of services.

Because ONSCG is terminating outpatient surgical services due to insufficient patient volume, ONSCG believes CON approval is not required pursuant to Conn. Gen. Stat. § 19a-638(a)(7)(A).

Patients will still be able to access outpatient surgical services through Greenwich Hospital’s outpatient surgery department operating out of 55 Holly Hill Lane, Greenwich, CT 06830.

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.

ONSCG is not currently providing any services and did not renew its license this year with the Department of Public Health’s Facility Licensing and Investigations Section because it would be unable to meet the requirement to perform at least one surgery annually.

2. Identify the types of services that are being proposed and what DPH licensure categories will be sought, if applicable.

Not applicable.

3. Identify the current population served and the target population to be served.

Not applicable.

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)

Petitioner: Orthopaedic & Neurosurgery Center of Greenwich, LLC

Project Title: Termination of Services at Orthopaedic & Neurosurgery Center of Greenwich, LLC

I, Norman G. Roth, Chief Executive Officer of Orthopaedic & Neurosurgery Center of Greenwich, LLC, being duly sworn, depose and state that the information provided in this CON Determination form is true and accurate to the best of my knowledge.

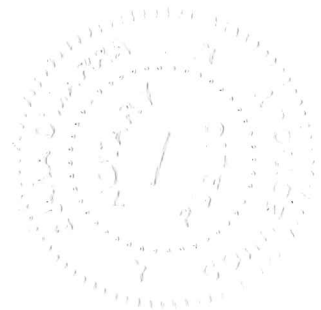
Signature W Roth Date 7/5/17

Subscribed and sworn to before me on July 5, 2017

Diana O'Marra
Notary Public/Commissioner of Superior Court

DIANA O'MARRA
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 2022

My commission expires: _____



Olejarz, Barbara

From: Hansted, Kevin
Sent: Wednesday, July 12, 2017 11:49 AM
To: Olejarz, Barbara
Subject: FW: OHCA Determination Report # 17-32177-DTR

Please add to the record.

Kevin T. Hansted
Staff Attorney
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134
Phone: 860-418-7044
kevin.hansted@ct.gov



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From: Hansted, Kevin
Sent: Wednesday, July 12, 2017 11:49 AM
To: 'susan.brown@greenwichhospital.org' <susan.brown@greenwichhospital.org>
Subject: OHCA Determination Report # 17-32177-DTR

Good morning Ms. Brown:

I am in receipt of your determination request regarding the termination of services at Orthopaedic & Neurosurgery Center of Greenwich, LLC ("ONSCG"). Please provide the patient volumes at ONSCG for the 3 year period ending April 1, 2016. Also, please provide a detailed explanation for the reduction in volume at ONSCG over that 3 year period of time.

Thank you,

Kevin T. Hansted
Staff Attorney
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134

Phone: 860-418-7044
kevin.hansted@ct.gov



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Olejarz, Barbara

From: Hansted, Kevin
Sent: Friday, July 14, 2017 11:12 AM
To: Olejarz, Barbara
Subject: FW: OHCA Determination Report # 17-32177-DTR
Attachments: 20170714105951736.pdf

Please add to the record

Kevin T. Hansted
Staff Attorney
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134
Phone: 860-418-7044
kevin.hansted@ct.gov



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From: BROWN, SUSAN [mailto:Susan.Brown@greenwichhospital.org]
Sent: Friday, July 14, 2017 11:10 AM
To: Hansted, Kevin <Kevin.Hansted@ct.gov>
Cc: 'Pimentel, Elisabeth' <EPimentel@wiggin.com>; Hodys, Deborah <Deborah.Hodys@greenwichhospital.org>; BROWN, SUSAN <Susan.Brown@greenwichhospital.org>
Subject: OHCA Determination Report # 17-32177-DTR

Please see the attached document that addresses the closing of Orthopaedic and Neurosurgery Center of Greenwich. Please let me know if you have any further concerns that I can assist you with.

Respectfully,
Sue Brown

SUSAN BROWN
Executive Vice President of Operations

Greenwich Hospital
5 Perryridge Rd.
Greenwich, CT 06830

Phone:2038633932
Mob:914 552-3002
Fax:203 863-3943

Susan.Brown@greenwichhospital.org
www.greenwichhospital.org

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Orthopaedic & Neurosurgery Center of Greenwich, LLC
55 Holly Hill Lane, Greenwich, Connecticut 06830

VIA E-MAIL kevin.hansted@ct.gov

July 14, 2017

Mr. Kevin Hansted
Office of Health Care Access
Department of Public Health
410 Capitol Avenue, MS# 13HCA
P.O. Box 340308
Hartford, CT 06134-0308

Re: Orthopaedic & Neurosurgery Center of Greenwich, LLC – Response to Follow-Up Questions to Determination Request

Dear Mr. Hansted:

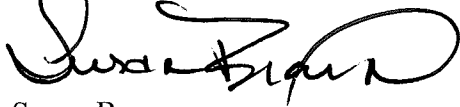
This letter responds to your e-mail request from July 12, 2017. As noted in the initial Determination Request, Orthopaedic & Neurosurgery Center of Greenwich, LLC (“ONSCG”) was a joint venture between Greenwich Hospital (“GH”), Greenwich Ambulatory Surgery Center, LLC (“GASC”) and ONS ASC, LLC. In the chart below, please find the volume of patient cases performed at ONSCG each year for the three years prior to April 1, 2016. As you can see, there was not a reduction in patient volumes over those three years, and, in fact, patient volumes were increasing. However, effective April 1, 2016, ONS ASC, LLC separated from ONSCG. GH and GASC intended to find another joint venture partner for ONSCG, but since that has not occurred and ONSCG has not served any patients since April 1, 2016, GH and GASC have decided to dissolve ONSCG.

ONSCG Case Volume

Year	Case Volume
April 1, 2013 – March 31, 2014	1096
April 1, 2014 – March 31, 2015	1557
April 1, 2015 – March 31, 2016	1605
April 1, 2016 – Present	0

If you have questions or require additional information, please contact me 203-863-3932.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Susan Brown". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke.

Susan Brown
Executive Vice President of Operations
Orthopaedic & Neurosurgery Center of Greenwich, LLC

24208\79\3718036.v1

Olejarz, Barbara

From: Hansted, Kevin
Sent: Friday, July 14, 2017 1:45 PM
To: Olejarz, Barbara
Subject: FW: OHCA Determination Report # 17-32177-DTR

Please add to the record.

Kevin T. Hansted
Staff Attorney
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134
Phone: 860-418-7044
kevin.hansted@ct.gov



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From: BROWN, SUSAN [mailto:Susan.Brown@greenwichhospital.org]
Sent: Friday, July 14, 2017 11:37 AM
To: Hansted, Kevin <Kevin.Hansted@ct.gov>
Cc: 'Pimentel, Elisabeth' <EPimentel@wiggin.com>; Hodys, Deborah <Deborah.Hodys@greenwichhospital.org>
Subject: RE: OHCA Determination Report # 17-32177-DTR

All services provided by ONSCG were billed under ONSCG provider number.
Thank you,
Sue

SUSAN BROWN
Executive Vice President of Operations

Greenwich Hospital
5 Perryridge Rd.
Greenwich, CT 06830
Phone:2038633932
Mob:914 552-3002
Fax:203 863-3943

Susan.Brown@greenwichhospital.org
www.greenwichhospital.org

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From: Hansted, Kevin [<mailto:Kevin.Hansted@ct.gov>]
Sent: Friday, July 14, 2017 11:17 AM
To: BROWN, SUSAN <Susan.Brown@greenwichhospital.org>
Cc: 'Pimentel, Elisabeth' <EPimentel@wiggin.com>; Hodys, Deborah <Deborah.Hodys@greenwichhospital.org>
Subject: RE: OHCA Determination Report # 17-32177-DTR

Thank you for the response Ms. Brown. I just have one follow-up question. Were the services provided at ONSCG billed by Greenwich Hospital or another entity?

Kevin T. Hansted
Staff Attorney
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue
Hartford, CT 06134
Phone: 860-418-7044
kevin.hansted@ct.gov



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From: BROWN, SUSAN [<mailto:Susan.Brown@greenwichhospital.org>]
Sent: Friday, July 14, 2017 11:10 AM
To: Hansted, Kevin <Kevin.Hansted@ct.gov>
Cc: 'Pimentel, Elisabeth' <EPimentel@wiggin.com>; Hodys, Deborah <Deborah.Hodys@greenwichhospital.org>; BROWN, SUSAN <Susan.Brown@greenwichhospital.org>
Subject: OHCA Determination Report # 17-32177-DTR

Please see the attached document that addresses the closing of Orthopaedic and Neurosurgery Center of Greenwich. Please let me know if you have any further concerns that I can assist you with.

Respectfully,
Sue Brown

SUSAN BROWN
Executive Vice President of Operations

Greenwich Hospital
5 Perryridge Rd.
Greenwich, CT 06830
Phone:2038633932
Mob:914 552-3002
Fax:203 863-3943

Susan.Brown@greenwichhospital.org
www.greenwichhospital.org

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Greer, Leslie

From: Greer, Leslie
Sent: Friday, July 21, 2017 9:34 AM
To: 'susan.brown@greenwichhospital.org'
Cc: 'epimentel@wiggins.com'; McLellan, Rose; Hansted, Kevin; Martone, Kim; Olejarz, Barbara
Subject: Orthopaedic & Neurosurgery Center of Greenwich, LLC CON Determination
Attachments: 17-32177-DTR CON req.pdf

Tracking:	Recipient	Delivery
	'susan.brown@greenwichhospital.org'	
	'epimentel@wiggins.com'	
	McLellan, Rose	Delivered: 7/21/2017 9:34 AM
	Hansted, Kevin	Delivered: 7/21/2017 9:34 AM
	Martone, Kim	Delivered: 7/21/2017 9:34 AM
	Olejarz, Barbara	Delivered: 7/21/2017 9:34 AM

Ms. Brown,

Attached is the decision for Orthopaedic & Neurosurgery Center of Greenwich, LLC's CON determination.

Thank you,

Leslie M. Greer
Consumer Information Representative (PPT)
Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue, MS#13HCA, Hartford, CT 06134
Phone: (860) 418-7013 Fax: (860) 418-7053
Website: www.ct.gov/ohca



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Raul Pino, M.D., M.P.H.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

July 20, 2017

VIA EMAIL ONLY

Susan Brown
Chief Operating Officer
Orthopaedic & Neurosurgery Center of Greenwich, LLC
55 Holly Hill Lane
Greenwich, CT 06830

RE: Certificate of Need Determination Report Number 17-32177-DTR
Termination of Outpatient Surgical Services

Dear Ms. Brown:

On July 12, 2017, the Office of Health Care Access (“OHCA”) received your Certificate of Need (“CON”) Determination Form on behalf of Orthopaedic & Neurosurgery Center of Greenwich, LLC (“ONSCG”) with respect to the termination of services.

ONSCG is a licensed outpatient surgical facility joint venture between ONS ASC, LLC and Greenwich Ambulatory Surgery Center, LLC (“GASC”). All services provided by ONSCG were billed under ONSCG’s provider number. ONS ASC, LLC separated from ONSCG on April 1, 2016. ONSCG’s case volume for the three years ending April 1, 2016 was as follows: 1096 (April 1, 2013 – March 31, 2014); 1557 (April 1, 2014 – March 31, 2015); and 1605 (April 1, 2015 – March 31, 2016). Due to ONS ASC, LLC’s separation from ONSCG, ONSCG has not served any patients since April 1, 2016. Consequently, ONSCG will be dissolved.

Connecticut General Statutes § 19a-638(a)(7) requires a CON for the “termination of surgical services by an outpatient surgical facility, as defined in section 19a-493b, or a facility that provides outpatient surgical services as part of the outpatient surgery department of a short-term acute care general hospital, provided termination of outpatient surgical services due to (A) insufficient patient volume, ... shall not require certificate of need approval” Since the volume of outpatient surgical services was increasing, the termination of surgical services at ONSCG cannot be attributed to insufficient patient volume. Rather, the termination was the direct result



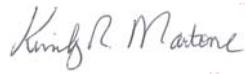
Phone: (860) 418-7001 • Fax: (860) 418-7053
410 Capitol Avenue, P.O. Box 340308
Hartford, Connecticut 06134-0308
www.ct.gov/dph

Affirmative Action/Equal Opportunity Employer



of ONS ASC, LLC's separation from ONSCG. Therefore, ONSCG does not meet the statutory exception of insufficient patient volume. As a result, a *CON is required* for the proposal.

Sincerely,



Digitally signed by Kimberly
Martone
Date: 2017.07.21 07:52:39 -04'00'

Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR.

Greer, Leslie

From: Martone, Kim
Sent: Monday, August 7, 2017 10:24 AM
To: Hansted, Kevin
Cc: Greer, Leslie
Subject: FW: ONS CON Letter
Attachments: ONS Certification of Need Rpt 17-32177- DTR.pdf

Kimberly R. Martone

Director of Operations, Office of Health Care Access
Connecticut Department of Public Health
410 Capitol Avenue, MS #13 CMN, Hartford, Connecticut 06134
Phone: 860-418-7029 Fax: 860-418-7053
Email: Kimberly.Martone@ct.gov Website: www.ct.gov/ohca



From: Romano, Mary Lou [mailto:MaryLou.Romano@greenwichhospital.org]
Sent: Monday, August 07, 2017 10:12 AM
To: Martone, Kim
Cc: BROWN, SUSAN; Hodys, Deborah; 'rmatthews@wiggin.com'
Subject: ONS CON Letter

Good Morning, Kim,
Sending attached document on behalf of Sue Brown.

Thank you.
Regards,
Mary Lou

MaryLou Romano

Administrative Assistant/Administration

Greenwich Hospital
5 Perryridge Rd.
Greenwich, CT 06830
Phone:(203) 863-3927

MaryLou.Romano@greenwichhospital.org
www.greenwichhospital.org

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Orthopaedic & Neurosurgery Center of Greenwich, LLC
55 Holly Hill Lane, Greenwich, Connecticut 06830

VIA E-MAIL kimberly.martone@ct.gov

August 7, 2017

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

Re: Orthopaedic & Neurosurgery Center of Greenwich, LLC – Certification of Need Determination Report 17-32177-DTR

Dear Ms. Martone:

On July 21, 2017, we received the above-referenced Determination Report indicating that Orthopaedic & Neurosurgery Center of Greenwich, LLC (“ONSCG”) must submit a full Certificate of Need (“CON”) application in order to terminate its outpatient surgical services. As indicated in our Determination Request, Greenwich Hospital (“GH”) and Greenwich Ambulatory Surgery Center, LLC (“GASC”) decided to dissolve ONSCG in response to conversations in May 2017 with the Department of Public Health (“DPH”) in which DPH stated that ONSCG must surrender its license because ONSCG had zero volume for over twelve months. As such, we believe that the termination falls within the exception to the CON requirements set forth in Connecticut General Statutes §19a-638(a)(7)(A) and respectfully request that, on that basis and to avoid GH, GASC and the Office of Health Care Access (“OHCA”) having to expend the resources associated with a CON application, OHCA reconsider its determination to require a CON under these circumstances.

As noted in our Determination Request, ONSCG was a joint venture between GASC (an affiliate of GH) and a physician-owned limited liability company, ONS ASC, LLC. ONS ASC, LLC withdrew from the joint venture effective March 31, 2016 and the physician members of ONS ASC, LLC opened their own ambulatory surgery center, Stamford ASC, LLC, in nearby Stamford, Connecticut, immediately thereafter (on or about April 1, 2016). We understand that no CON approval was required for the physicians to acquire and operate Stamford ASC, LLC, but understand that OHCA is aware of this entity and its ownership through Docket Number 14-31911-DTR (in which OHCA confirmed that a surgery center owned by Gad Levy, MD, was permitted to relocate and change ownership). Because this transaction did not require a CON, we do not have information on volumes, but expect that volume originally directed by the physician owners of ONS ASC, LLC to ONSCG is now being directed to Stamford ASC, LLC.

Although GH and GASC diligently attempted to find another joint venture partner for ONSCG, that has not occurred. Accordingly, despite its intent to continue services after ONS ASC, LLC’s

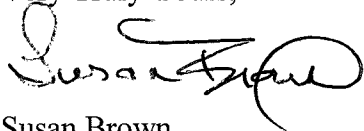
withdrawal in March 2016 once a new partner could be identified, that option was no longer available for ONSCG after DPH directed ONSCG to surrender its license because no procedures had been performed for a twelve-month period.

Under these circumstances, GH and GASC respectfully submit that ONSCG be permitted to terminate services effective August 1, 2017, to coincide with the termination date of ONSCG's provider agreement with the Centers for Medicare and Medicaid Services and consistent with the surrender of the license to DPH, due to insufficient volume and in accordance with the exception to the CON rules set forth in Connecticut General Statutes §19a-638(a)(7)(A). Although legislative history on this exception is scant, our understanding is that this exception was added in 2011 in recognition of the fact that a CON should not be required where, due to circumstances beyond the control of the facility, volume is insufficient to continue operations and where patients are not adversely affected. GH and GASC respectfully submit that the circumstances here are precisely the type that should fit within the exception.

Finally, as mentioned in our initial Determination Request, we reiterate that patients are still able to access outpatient surgical services through GH's outpatient surgical department that operates out of the same location at which ONSCG operated at 55 Holly Hill Lane, Greenwich, CT. This GH outpatient surgical department has increased the number of days it provides services at 55 Holly Hill Lane since ONSCG stopped providing services and is able and intends to schedule additional days and times to accommodate need. In light of the circumstances here, it would seem that a full CON application and process is unnecessary and would not represent an efficient use of resources either for the applicants or for OHCA.

If you have questions or require additional information, please contact me 203-863-3932. We would be happy to provide any further information you may need in reconsidering your determination in this matter.

Very Truly Yours,



Susan Brown
Executive Vice President of Operations
Orthopaedic & Neurosurgery Center of Greenwich, LLC

Cc: Rebecca A. Matthews, Wiggin and Dana, LLP

Orthopaedic & Neurosurgery Center of Greenwich, LLC
55 Holly Hill Lane, Greenwich, Connecticut 06830

VIA E-MAIL kimberly.martone@ct.gov

August 7, 2017

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

Re: Orthopaedic & Neurosurgery Center of Greenwich, LLC – Certification of Need Determination Report 17-32177-DTR

Dear Ms. Martone:

On July 21, 2017, we received the above-referenced Determination Report indicating that Orthopaedic & Neurosurgery Center of Greenwich, LLC (“ONSCG”) must submit a full Certificate of Need (“CON”) application in order to terminate its outpatient surgical services. As indicated in our Determination Request, Greenwich Hospital (“GH”) and Greenwich Ambulatory Surgery Center, LLC (“GASC”) decided to dissolve ONSCG in response to conversations in May 2017 with the Department of Public Health (“DPH”) in which DPH stated that ONSCG must surrender its license because ONSCG had zero volume for over twelve months. As such, we believe that the termination falls within the exception to the CON requirements set forth in Connecticut General Statutes §19a-638(a)(7)(A) and respectfully request that, on that basis and to avoid GH, GASC and the Office of Health Care Access (“OHCA”) having to expend the resources associated with a CON application, OHCA reconsider its determination to require a CON under these circumstances.

As noted in our Determination Request, ONSCG was a joint venture between GASC (an affiliate of GH) and a physician-owned limited liability company, ONS ASC, LLC. ONS ASC, LLC withdrew from the joint venture effective March 31, 2016 and the physician members of ONS ASC, LLC opened their own ambulatory surgery center, Stamford ASC, LLC, in nearby Stamford, Connecticut, immediately thereafter (on or about April 1, 2016). We understand that no CON approval was required for the physicians to acquire and operate Stamford ASC, LLC, but understand that OHCA is aware of this entity and its ownership through Docket Number 14-31911-DTR (in which OHCA confirmed that a surgery center owned by Gad Levy, MD, was permitted to relocate and change ownership). Because this transaction did not require a CON, we do not have information on volumes, but expect that volume originally directed by the physician owners of ONS ASC, LLC to ONSCG is now being directed to Stamford ASC, LLC.

Although GH and GASC diligently attempted to find another joint venture partner for ONSCG, that has not occurred. Accordingly, despite its intent to continue services after ONS ASC, LLC’s

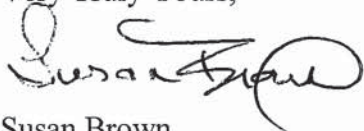
withdrawal in March 2016 once a new partner could be identified, that option was no longer available for ONSCG after DPH directed ONSCG to surrender its license because no procedures had been performed for a twelve-month period.

Under these circumstances, GH and GASC respectfully submit that ONSCG be permitted to terminate services effective August 1, 2017, to coincide with the termination date of ONSCG's provider agreement with the Centers for Medicare and Medicaid Services and consistent with the surrender of the license to DPH, due to insufficient volume and in accordance with the exception to the CON rules set forth in Connecticut General Statutes §19a-638(a)(7)(A). Although legislative history on this exception is scant, our understanding is that this exception was added in 2011 in recognition of the fact that a CON should not be required where, due to circumstances beyond the control of the facility, volume is insufficient to continue operations and where patients are not adversely affected. GH and GASC respectfully submit that the circumstances here are precisely the type that should fit within the exception.

Finally, as mentioned in our initial Determination Request, we reiterate that patients are still able to access outpatient surgical services through GH's outpatient surgical department that operates out of the same location at which ONSCG operated at 55 Holly Hill Lane, Greenwich, CT. This GH outpatient surgical department has increased the number of days it provides services at 55 Holly Hill Lane since ONSCG stopped providing services and is able and intends to schedule additional days and times to accommodate need. In light of the circumstances here, it would seem that a full CON application and process is unnecessary and would not represent an efficient use of resources either for the applicants or for OHCA.

If you have questions or require additional information, please contact me 203-863-3932. We would be happy to provide any further information you may need in reconsidering your determination in this matter.

Very Truly Yours,



Susan Brown
Executive Vice President of Operations
Orthopaedic & Neurosurgery Center of Greenwich, LLC

Cc: Rebecca A. Matthews, Wiggin and Dana, LLP

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



Raul Pino, M.D., M.P.H.
Commissioner

Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

August 18, 2017

VIA EMAIL ONLY


Susan Brown
Executive Vice President of Operations
Orthopaedic & Neurosurgery Center of Greenwich, LLC
55 Holly Hill Lane
Greenwich, CT 06830

RE: Certificate of Need Determination Report Number 17-32177-DTR
Termination of Outpatient Surgical Services

Dear Ms. Brown:

The Office of Health Care Access (“OHCA”) is in receipt of your letter regarding the Certificate of Need (“CON”) determination report issued under Docket Number 17-32177-DTR. In your letter you request that OHCA reconsider its determination that a CON is required for ONSCG to terminate services. Our review of the information provided in this matter does not indicate the necessity to reverse the original determination made by OHCA. Therefore, the determination issued under Docket Number 17-32177-DTR remains valid.

Sincerely,

 Digitally signed by
Kimberly Martone
Date: 2017.08.18 11:12:29
-04'00'

Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR.



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Affirmative Action/Equal Opportunity Employer



Olejarz, Barbara

From: Microsoft Outlook
To: Susan.Brown@greenwichhospital.org
Sent: Friday, August 18, 2017 11:21 AM
Subject: Relayed: Determination

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

Susan.Brown@greenwichhospital.org (Susan.Brown@greenwichhospital.org)

Subject: Determination

Olejarz, Barbara

From: Olejarz, Barbara
Sent: Friday, August 18, 2017 11:21 AM
To: 'Susan.Brown@greenwichhospital.org'
Cc: McLellan, Rose
Subject: Determination
Attachments: 17-32177-DTR reply.pdf

Tracking:	Recipient	Delivery
	'Susan.Brown@greenwichhospital.org'	
	McLellan, Rose	Delivered: 8/18/2017 11:21 AM
	Hansted, Kevin	Delivered: 8/18/2017 11:21 AM
	Martone, Kim	
	Riggott, Kaila	Delivered: 8/18/2017 11:21 AM
	Kimberly.Martone@ct.gov	Delivered: 8/18/2017 11:21 AM

8/18/17

Susan Brown,

Please see the attached letter regarding Determination for Orthopaedic & Neurosurgery Center of Greenwich, LLC

Barbara K. Olejarz
Administrative Assistant to Kimberly Martone
Office of Health Care Access
Department of Public Health
Phone: (860) 418-7005
Email: Barbara.Olejarz@ct.gov



User, OHCA

From: Patel, Shraddha <SHRADDHA.PATEL@YNHH.ORG>
Sent: Tuesday, October 10, 2017 2:52 PM
To: User, OHCA; Martone, Kim
Cc: Salsgiver Kobsa, Lyn; Topalian, Jeryl
Subject: CON Determination 17-32177-DTR

Hello,

We are in receipt of your Determination Report 17-32177-DTR – Termination of Outpatient Surgical Services (Orthopaedic & Neurosurgery Center of Greenwich, LLC).

We are actively working on the CON and plan to submit our application by 12/31/17.

Please contact me if you have any questions.

Thank you,
Shraddha

Shraddha Patel, FACHE
Director of Strategy and Regulatory Planning & Reporting
2 Howe 3rd Floor
New Haven, CT 06519
Phone: 860-912-5324
Email: shraddha.patel@ynhh.org

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