



Office of Health Care Access Certificate of Need Application

Agreed Settlement

Applicant: Jefferson Radiology, P.C. and
Marc B. d'Avignon, M.D., P.C.

Docket Number: 06-30762-CON

Project Title: Acquisition of an Magnetic Resonance Imaging Scanner
and Computer Tomography Scanner by Jefferson
Radiology, P.C.

Statutory Reference: Section 19a-639, Connecticut General Statutes

Filing Date: October 26, 2006

Hearing Date: None

Commissioner: Cristine A. Vogel

Decision Date: January 16, 2007

Default Date: January 24, 2007

Staff Assigned: Steven W. Lazarus

Project Description: Jefferson Radiology, P.C. ("Jefferson Radiology") and Marc B. d'Avignon, M.D. P.C. ("Practice") propose the acquisition of a Magnetic Resonance Imaging ("MRI") scanner and a Computer Tomography ("CT") scanner by Jefferson Radiology from the Practice, at a total capital expenditure of \$101,500.

Nature of Proceedings: On October 26, 2006, the Office of Health Care Access ("OHCA") received Jefferson Radiology and Practice's (collectively known as Applicants) proposal for the acquisition of an MRI scanner and a CT scanner by Jefferson Radiology from the Practice, at a total capital expenditure of \$101,500.

Pursuant to Section 19a-639 of the Connecticut General Statutes ("C.G.S."), a notice to the public concerning OHCA's receipt of the Applicants' Letter of Intent was published in *The Hartford Courant* on June 25, 2006. Pursuant to Public Act 05-75, three individuals or an individual representing an entity with five or more people had until October 27, 2006, the twenty-first calendar day following the filing of the Applicants' CON application, to request that OHCA hold a public hearing on the Applicants' proposal. OHCA received no hearing requests from the public.

OHCA's authority to review and approve, modify or deny the CON application is established by Section 19a-639, C.G.S. The provisions of this section, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were fully considered by OHCA in its review.

Findings of Fact

Clear Public Need

Impact of the Proposal on the Applicants' Current Utilization Statistics **Proposal's Contribution to the Quality of Health Care Delivery in the Region** **Proposal's Contribution to the Accessibility of Health Care Delivery in the Region**

1. Jefferson Radiology P.C. ("Jefferson Radiology") is a for-profit private radiology practice with 38 physicians providing radiology services at hospitals and radiology offices located at various locations in Connecticut. (*June 9, 2006, CON Determination Report No.: 06-30762*)
2. Marc B. d'Avignon, M.D. P.C. ("Practice") is a for-profit corporation, owned solely by Marc B. d'Avignon, with offices located at 40 Dale Road (d/b/a Westwood Imaging Center) and 23B Arts Center Court (Farmington Valley MRI, LLC) in Avon, Connecticut. (*June 9, 2006, CON Determination Report No.: 06-30762 and Initial CON Application, page 2, September 13, 2006*)
3. Jefferson Radiology and the Practice ("Applicants") propose the acquisition of the Practice's current MRI scanner and CT scanner by Jefferson Radiology. (*Initial CON Application, page 2, September 13, 2006*)
4. The Applicants based the need for this proposal on the following:
 - The proposed acquisition of the Practice's fixed assets, which includes equipment such as X-Ray, nuclear medicine, ultrasound, mammography, bone density, as well as a CT scanner and an MRI scanner by Jefferson Radiology, and
 - Dr. d'Avignon's desire to sell his practice and transition his patients to a high quality radiology provider.
(*Initial CON Application, page 2, September 13, 2006 and Responses to OHCA Completeness Letter, page 1, October 26, 2006*)

5. After the proposed acquisition of the Practice by Jefferson Radiology, Dr. d'Avignon will become an employee of Jefferson Radiology. *(Initial CON Application, page 30, September 13, 2006)*
6. Jefferson Radiology stated that it would perform a full evaluation of the need for the radiology services and equipment in Avon within the next year and will determine what services, offices and imaging equipment might be consolidated or what imaging equipment might require upgrading in Avon. *(Initial CON Application, page 4 and Responses to OHCA Completeness Letter, Page 1, October 26, 2006)*
7. Jefferson Radiology provides radiology services for Hartford Hospital, Johnson Memorial Hospital, Windham Memorial Community Hospital and Connecticut Children's Medical Center. *(October 26, 2006 CON Application page 2)*
8. Jefferson Radiology has imaging offices in the following towns, offering the following radiology services:

Table 1: Services offered by Jefferson Radiology by Location

Radiology Service	West					
	Avon	Enfield	Glastonbury	Hartford	Hartford	Wethersfield
General X-Ray	X		X	X	X	X
CT	**X		X	X	X	X
MRI	**X	X	X	X	X	X*
Nuclear Medicine	X		X	X	X	X
General	X		X	X	X	X
Ultrasound						
Mammography	X	X	X	X	X	X
Bone Densitometry	X	X	X	X	X	X
Fluoroscopy	X		X	X	X	X
Vascular Ultrasound	X		X	X	X	X

*Mobile MRI joint venture with Hartford Hospital.

** Jefferson Radiology's CT and MRI scanners located in Avon were not authorized through the CON process.

(June 23, 2006, Completeness Letter Responses, page 2, CON Docket Number: 06-30655)

9. Jefferson Radiology currently operates the following equipment in its Avon offices:
 - A GE Goldseal Lightspeed 8-slice CT scanner, and
 - A 1.0 Tesla MRI scanner*(Completeness Letter Responses, October 26, 2006, page 11)*

10. According to the Applicants, the Practice currently offers the following services at its two offices in Avon:

Table 2: Services offered by The Practice by Location

40 Dale Road	X-ray, nuclear medicine ultrasound, mammography, bone densitometry and CT scanning services
23B Arts Center Court	MRI services exclusively

(Initial CON Application, page 2, September 13, 2006)

11. The Practice's current MRI scanner is a GE 0.5 Tesla Long Bore magnet and the CT scanner is a GE high speed DXi helical CT scanner. *(Initial CON Application, page 2, September 13, 2006)*
12. According to the Applicants, the CT scanner was purchased by the Practice in 1999 for under the \$400,000 CON threshold and did not require a CON. *(Letter of Intent, June 7, 2006)*
13. The proposed MRI was installed in 2001 and was also under the \$400,000 CON threshold and did not require a CON, as determined under CON Determination Report Number 00-Z1. *(CON Determination Report No.: 00-Z1)*
14. Jefferson Radiology's service area for its Avon Office CT scanner service includes the following towns:

Table 3: Jefferson Radiology's Service Area for CT Scanner

Primary	Secondary
Simsbury	Bloomfield
Avon	Burlington
Granby	West Hartford
Farmington	Farmington (Unionville)
Canton	Bristol

Note: PSA towns represent 60% of all CT scans performed at the Avon office.

SSA towns represent 20% of all CT scans performed at the Avon office.

(Initial CON Application, page 5, September 13, 2006)

15. Jefferson Radiology's service area for its Avon Office MRI scanner service includes the following towns: *(Initial CON Application, page 5, September 13, 2006)*

Table 4: Jefferson Radiology's Service Area for MRI Scanner

Primary	Secondary
Avon	Burlington
Simsbury	Bloomfield
Canton	Farmington (Unionville)
Granby	Torrington
West Hartford	New Hartford
Farmington	Bristol

Note: PSA towns represent 60% of all CT scans performed at the Avon office.
SSA towns represent 20% of all CT scans performed at the Avon office.

16. The Practice's service area for its Westwood Imaging and Farmington Valley MRI offices includes the following towns:

Table 5: The Practice's Service Area

Primary	Secondary
Avon	Bristol (& Forestville)
Burlington	Granby
Canton (Canton Center & Collinsville)	Harwinton
Farmington (Unionville & Tariffville)	New Hartford
Simsbury (West Simsbury)	Barkhamsted (Pleasant Valley)
	Torrington
	West Hartford
	Winsted

Note: PSA towns represent 65% of all volume.
SSA towns represent 25% of all volume.
(Initial CON Application, pages 4 & 5, September 13, 2006)

17. The Practice's historical volume for MRI and CT scans in Avon is as follows:

Table 6: The Practice's Historical Imaging Volume

	FY 2003	FY 2004	FY 2005	FY 2006
CT Scans	1,256	1,159	1,068	1,312
MRI Scans	1,158	1,133	1,192	1,052

OHCA can not verify this data.
(Initial CON Application, pages 6 & 10, September 13, 2006)

18. Jefferson Radiology's historical volume for MRI and CT scans for its Avon office is as follows:

Table 7: Jefferson Radiology's Historical Imaging Volume for its Avon Office

	FY 2003	FY 2004	FY 2005	FY 2006
CT Scans	2,122	2,143	2,202	2,362
MRI Scans	0*	1,207	1,576	1,658

*MRI not operational in FY 2003. OHCA can not verify this data.
 (Initial CON Application, pages 6&7, September 13, 2006)

19. The Applicants are projecting the following MRI and CT scans for the first three years of the proposal:

Table 8: Jefferson Radiology's Projected MRI & CT Scan Volumes for all Avon Locations

	FY 2007	FY 2008	FY 2009
CT -Total	3,642	3,875	4,124
-Jefferson Radiology	2,527	2,704	2,894
-Practice	1,115	1,171	1,230
MRI -Total	2,635	2,767	2,905
-Jefferson Radiology	1,741	1,828	1,919
-Practice	894	939	986

Note: The Applicants based the projected volume on the premise that Jefferson Radiology will retain 85% of Dr. d'Avignon's projected CT and MRI volume in the first year of the combined practice (2007).

For FY 2008 & 2009, it is assumed by the Applicants that Dr. d'Avignon and Jefferson Radiology's MRI & CT volume will increase 5% each year from the previous year.

Jefferson Radiology's projected volume for 2007-2009 (not including Dr. d'Avignon's volume) are based on historical growth in the Avon office between 2005& 2006 (annualized) and expectations for future growth in this office.

OHCA can not verify this data.

(Initial CON Application, pages 10&11, September 13, 2006)

20. According to the Applicants, both Jefferson Radiology and the Practice incorporate all of American College of Radiology's ("ACR") standards and guidelines in their practices. Further, both Applicants are accredited by the ACR for CT and MRI, and Jefferson Radiology will continue to maintain such accreditation. (Initial CON Application, page 13, September 13, 2006)

21. The proposed hours of operation for the Applicants are as follows:

- Westwood Imaging and Farmington Valley MRI sites operate Monday through Friday from 8 am to 5 pm.
- Jefferson Radiology's Avon office hours of operation are as follows:
 - CT: Monday through Friday: 7:45 am to 4:45 pm
 - MRI: Mon., Wed. & Fri.: 7 am- 5 pm
 - Tues. & Thurs.: 7 am- 9 pm
 - Saturday: 7 am- 1 pm

(Initial CON Application, page 10, September 13, 2006)

Financial Feasibility of the Proposal and its Impact on the Applicants' Rates and Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care Services and Payers for Such Services
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines

22. The proposal has a proposed capital expenditure of \$101,500, which consists of:

Table 9: Total Capital Expenditure for the Proposal

Project Component	Cost
Medical Equipment (Purchase)	\$25,000
Construction/Renovation	75,000
Other (sales tax)	1,500
Total Capital Expenditure	\$101,500

(Initial CON Application, page 18, September 13, 2006)

23. Jefferson Radiology plans to fund the proposal through an equity contribution, specifically through operating funds. *(Initial CON Application, page 19, September 13, 2006)*

24. Jefferson Radiology will be the sole owner of Dr. d'Avignon's entire current practice and will perform all professional and technical billing. *(Initial CON Application, page 17, September 13, 2006)*

25. Jefferson Radiology projects incremental gains from operations of this proposal of \$1,631,870, \$1,674,204 and \$1,717,773 for FYs 2007 through 2009, respectively. *(Completeness Letter Responses, page 11, October 26, 2006)*

26. The projected Payer Mix for the proposal for Jefferson Radiology and the Practice are as follows:

Table 10: Jefferson Radiology's Payer Mix for its Avon office

	Year 1	Year 2	Year 3
Medicare	27.4%	27.4%	27.4%
Medicaid	2.1%	2.1%	2.1%
CHAMPUS and TriCare			
Total Government	29.5%	29.5%	29.5%
Commercial Insurers	70.5%	70.5%	70.5%
Uninsured			
Worker's Compensation			
Total Non-Government Payers	70.5%	70.5%	70.5%
Total Payer Mix	100.0%	100.0%	100.0%

(Initial CON Application, page 21, September 13, 2006)

Table 11: Practice's Combined Proposed Payer Mix for the Two Offices

	Year 1	Year 2	Year 3
Medicare	16.0%	16.0%	16.0%
Medicaid	1.0	1.0	1.0
CHAMPUS and TriCare	<1%	<1%	<1%
Total Government	17.0%	17.0%	17.0%
Commercial Insurers	80.0%	80.0%	80.0%
Uninsured	1.0%	1.0%	1.0%
Worker's Compensation	2.0%	2.0%	2.0%
Total Non-Government Payers	83.0%	83.0%	83.0%
Total Payer Mix	100.0%	100.0%	100.0%

(Initial CON Application, page 21, September 13, 2006)

27. Jefferson Radiology's rates are sufficient to cover the proposed capital expenditure and operating costs. *(Completeness Letter Responses, page 11, October 26, 2006)*
28. There is no State Health Plan in existence at this time. *(Initial CON Application, page 4, September 13, 2006)*
29. The Applicants have adduced that this proposal is consistent with their long-range plan. *(Initial CON Application, page 4, September 13, 2006)*
30. According to the Applicants, there are no distinguishing characteristics of the Applicants' patient/physician mix related to this proposal. *(Initial CON Application, page 16, September 13, 2006)*
31. The Applicant has undertaken group purchasing, staff cross training and credentialing and application of technology in an effort to improve productivity and contain costs. *(Initial CON Application, page 16, September 13, 2006)*
32. The proposal will not result in changes to the Applicants' teaching and research responsibilities. *(Initial CON Application, page 16, September 13, 2006)*
33. The Applicants have sufficient technical, financial and managerial competence to provide efficient and adequate services to the public. *(Initial CON Application, pages 13-14 and Attachment IV, September 13, 2006)*

Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for Certificate of Need (“CON”) proposals on a case by case basis. CON applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of an existing service, the specific type of service proposed to be offered, the current utilization of the service and the financial feasibility of the proposal.

Jefferson Radiology, P.C. (“Jefferson Radiology”) and Marc B. d'Avignon, M.D., P.C. (“Practice”) propose the acquisition of a MRI and CT scanner by Jefferson Radiology from the Practice. The Practice currently operates a 0.5 Tesla MRI scanner and a single slice CT scanner in Avon. Jefferson Radiology is a private radiology practice with 38 physicians providing radiology services to four hospitals and operating six radiology offices located in six different Connecticut towns including Avon. Jefferson Radiology currently operates an 8-slice CT scanner and a 1.0 Tesla MRI scanner in its Avon office.

Jefferson Radiology proposes to acquire all the fixed assets of the Practice including the CT and MRI scanner. Dr. d'Avignon, a sole practitioner, proposes to sell his practice and transition his patients to a high quality radiology provider. After the proposed acquisition, Dr. d'Avignon will become an employee of Jefferson Radiology. Jefferson Radiology will perform a full evaluation of the need for the radiology services and equipment in Avon within the next year and will determine what services, offices and imaging equipment might be consolidated and/or what imaging equipment might require upgrading in Avon.

The Applicants reported the Practice’s historical volume for its existing 0.5 Tesla MRI scanner as 1,158, 1,133 and 1,192 scans for FYs 2003, 2004 and 2005, respectively. The Practice’s historical single slice CT volume was reported as 1,256, 1,159 and 1,068 scans for FYs 2003, FY 2004 and FY 2005, respectively. The Applicants reported Jefferson Radiology’s historical MRI volume in Avon as 1,207 and 1,576 scans for FYs 2004 and 2005, respectively. Jefferson Radiology’s historical CT volume for the Avon office was reported as 2,122, 2,143 and 2,502 scans for FYs 2003, 2004, and 2005, respectively. Based on the evidence presented, the Applicants demonstrated need for the proposal.

The total capital expenditure associated with the proposed project is \$101,500. Jefferson Radiology will fund the proposal through an equity contribution, specifically through operating funds. Jefferson Radiology projects an incremental gain from operations for the first three years of operation as a result of implementation of the proposal of \$1,631,870, \$1,674,204 and \$1,717,773, for FYs 2007, 2008 and 2009, respectively. Although OHCA can not draw any conclusions, the volumes and financial projections appear to be reasonable and achievable.

In summary, the proposed acquisition of the MRI and CT scanner by Jefferson Radiology from the Practice may result in improvements to the quality of health care delivery through enhanced access for the patients of Jefferson Radiology and the Practice.

Jefferson Radiology shall perform a full evaluation of the need for radiology services and equipment in Avon. Jefferson Radiology will determine what equipment needs to be replaced or disposed of in Avon. Since the imaging equipment of the Practice is approximately 6 years old, Jefferson Radiology may need a temporary mobile MRI scanner if the existing MRI scanner at the Practice fails.

Based on the foregoing Findings and Rationale, the Certificate of Need application of Jefferson Radiology, P.C. and Marc B d'Avignon, M.D., P.C. for the acquisition of an MRI scanner and a CT scanner by Jefferson Radiology, P.C. from Marc B. d'Avignon, M.D., P.C., with an associated capital expenditure of \$101,500, is hereby GRANTED, subject to the following conditions:

Order

NOW, THEREFORE, the Office of Health Care Access (“OHCA”) and Jefferson Radiology, P.C. and Marc B. d'Avignon, M.D., P.C. (together known as “Applicants”) hereby stipulate and agree to the terms of settlement with respect to the Applicants’ request for a Certificate of Need (“CON”) for the acquisition of an MRI scanner and a CT scanner by Jefferson Radiology, P.C. (“Jefferson Radiology”) from Marc B. d'Avignon, M.D., P.C. (“Practice”), with an associated capital expenditure of \$101,500, as follows:

1. The Applicants’ request for the acquisition of the MRI scanner and the CT scanner by Jefferson Radiology from the Practice, at a total capital expenditure of \$101,500 is hereby approved.
2. As a result of this proposal Jefferson Radiology will operate in the town of Avon two (2) MRI scanners and two (2) CT scanners, for a combined total of four (4) pieces of imaging equipment (MRI and CT).
3. Jefferson Radiology agrees to perform a full evaluation of the need for the radiology services and equipment within the next year to determine what services, office locations and imaging equipment might be consolidated and/or what imaging equipment might require upgrading in Avon.
4. By February 29, 2008, Jefferson Radiology must submit to OHCA a written copy of the result of its evaluation of the need of its imaging services in Avon.
5. Based on the findings of the report under stipulation number 3, Jefferson Radiology may apply for a waiver to replace one (1) existing CT scanner and one (1) existing MRI scanner in Avon through the Certificate of Need (“CON”) waiver process.
6. Should Jefferson Radiology intend or plan to upgrade or replace any additional MRI or CT scanner in Avon not identified in stipulation number 4, a CON is required.
7. Should Jefferson Radiology intend or plan any change in the scope or location of the imaging services currently located in Avon, Connecticut, Jefferson Radiology shall file with OHCA a Certificate of Need, Determination Request or Letter of Intent regarding the intended or planned service change or location.
8. In the event of the Practice’s MRI scanner failing due to maintenance issues and can not be repaired, Jefferson Radiology may request OHCA’s approval or determination to operate a temporary mobile MRI.
9. This authorization shall expire on February 29, 2008. Should Jefferson Radiology be unable to acquire from the Practice and begin operation of the authorized MRI scanner and the CT scanner by that date, the Applicants must seek further approval from OHCA to complete the acquisition beyond that date.

10. Jefferson Radiology will notify OHCA in writing of the commencement of this proposal within 30 days of the acquisition and operation of the proposed MRI and CT scanner no later than February 29, 2008.
11. Jefferson Radiology shall not exceed the approved total capital expenditure of \$101,500. In the event that the Applicants learn of potential cost increases or expects that the final project costs will exceed those approved, the Applicants shall file with OHCA a request for approval of the revised CON budget.
12. OHCA and the Applicant agree that this Agreed Settlement represents a final agreement between OHCA and the Applicants with respect to this request. The signing of this Agreed Settlement resolves all objections, claims and disputes, which may have been raised by the Applicants with regard to Docket Number 06-30762.
13. This Agreed Settlement is an order of the Office of Health Care Access with all the rights and obligations attendant thereto, and the Office of Health Care Access may enforce this Agreed Settlement pursuant to the provisions of Sections 19a-642 and 19a-653 of the Connecticut General Statutes at the Applicants' expense, if the Applicants fails to comply with its terms.

January 16, 2007

Signed by:

Duly Authorized Agent for
Marc B d'Avignon, M.D., P.C.

January 16, 2007

Signed by: Mark Grossman

Duly Authorized Agent for
Jefferson Radiology, P.C.

The above Agreed Settlement is hereby accepted and so ordered by the Office of Health Care Access on January 16, 2007.

January 16, 2007

Signed by Cristine A. Vogel

Commissioner
Office of Health Care Access

CAV:swl