



## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicant:** Diagnostic Imaging of Southbury, LLC

**Docket Number:** 06-30793-CON

**Project Title:** Acquisition of a Second (Open) Magnetic Resonance Imaging Scanner

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

**Filing Date:** January 29, 2007

**Decision Date:** April 19, 2007

**Default Date:** April 29, 2007

**Staff Assigned:** Steven W. Lazarus

**Project Description:** Diagnostic Imaging of Southbury, LLC (“Applicant or DIS”) proposes the acquisition of a second (open) magnetic resonance imaging (“MRI”) scanner, at an associated capital expenditure of \$1,266,510.

**Nature of Proceedings:** On January 29, 2007, the Office of Health Care Access (“OHCA”) received a Certificate of Need (“CON”) application from the Applicant for the acquisition of a second (open) MRI scanner, at an associated capital expenditure of \$1,266,510. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

A notice to the public concerning OHCA’s receipt of the Applicant’s Letter of Intent was published on July 21, 2006, in *The News Times* (Danbury). Pursuant to 19a-639 (C)(3), three individuals or an individual representing an entity with five or more people had until February 19, 2007, the twenty-first calendar day following the filing of the Applicant’s

CON Application, to request that OHCA hold a public hearing on the Applicant's proposal. On February 16, 2007, OHCA received a request from Danbury Hospital to hold a public hearing in this matter. On February 28, 2007, OHCA received a request from Danbury Hospital withdrawing its request for a public hearing.

Pursuant to Section 19a-639, C.G.S., a public hearing regarding the CON application was held on March 27, 2007. On February 22, 2007, the Applicant was notified of the date, time and place of the hearing. On February 22, 2007, a notice to the public was published in *The Waterbury Republican*. On February 27, 2007, a notice to the public was published in *The News Times* (Danbury). Commissioner Cristine A. Vogel served as Presiding Officer. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-639, C.G.S.

The Presiding Officer heard testimony from the Applicant and its witnesses, in rendering this decision and considered the entire record of the proceeding. 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 Applicant's 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. Diagnostic Imaging of Southbury, LLC ("Applicant or DIS"), located at 385 Main Street, Southbury, Connecticut, is a freestanding imaging center owned by Saint Mary's Hospital ("SMH"), Southbury Holding, LLC ("SH LLC") and Radcorp of Southbury, LLC ("Radcorp"). (*November 27, 2006, Initial CON Application, pages 4-5*)
2. Southbury Holding, LLC members include radiologists at Naugatuck Valley Radiology Associates, P.C. and Northeast Radiology, P.C. radiologists are members of Radcorp of Southbury, P.C. (*November 27, 2006, Initial CON Application, pages 4-5*)
3. On June 5, 1998, OHCA authorized Southbury Diagnostic Imaging Center and SMH to establish an imaging center to be located in Southbury, CT. The ownership of the new imaging center was 60% owned by SMH, 20% by Northeast Radiology and 20% by Naugatuck Valley Radiology Associates. As part of this proposal the new imaging center acquired an MRI Scanner. (*OHCA Agreed Settlement, Docket Number 97-572*)

4. DIS' currently offers the following imaging services:

**Table 1: Services presently offered at DIS**

Diagnostic radiography	Fluoroscopic radiology
Computerized Tomography	Ultrasound
Mammography	Bone densitometry
Nuclear Medicine	Magnetic Resonance Imaging

*(November 27, 2006, Initial CON Application, page 6)*

5. DIS is requesting authorization for the acquisition of a second magnetic resonance imaging ("MRI") scanner. The proposed MRI scanner will be an Airis Elite Open Permanent Magnet System. *(November 27, 2006, Initial CON Application, page 5 and January 29, 2007, Completeness Letter Responses, Exhibit 3)*
6. DIS' primary service area ("PSA") includes the towns of Southbury, Woodbury and Newtown. *(November 27, 2006, Initial CON Application, page 9)*
7. According to DIS, the PSA towns are based on the fact that 65% of DIS' volume of procedures is drawn from residents of these three towns. During FY 2005, 57% of MRI scans performed at DIS were from these three towns. *(November 27, 2006, Initial CON Application, page 9)*
8. DIS' secondary service area ("SSA") includes the towns of Waterbury, Watertown, Oxford, Naugatuck, Middlebury and Bethlehem. *(November 27, 2006, Initial CON Application, page 9)*
9. According to DIS, the SSA towns are based on the fact that 20% of DIS' volume is generated from these 6 towns. During FY 2005, 22% of the MRI scan volume was generated from these 6 towns. *(November 27, 2006, Initial CON Application, page 9)*
10. The Applicant claimed the need for the proposed acquisition of the second (open) MRI scanner is based on the following:
- Continued MRI demand;
  - Increase in the size of the aging population;
  - Improved access and quality of care for the claustrophobic, obese or children;
  - Constrained ability to respond to current and future patient needs; and
  - Enhance existing MRI services at DIS.
- (November 27, 2006, Initial CON Application, page 14)*
11. DIS currently operates a 1.5 Tesla high field MRI scanner at the proposed Southbury location. *(November 27, 2006, Initial CON Application, page 21)*

12. The Applicant reported DIS' MRI scan volume for fiscal years ("FY") 2003-2006, as follows

**Table 2: DIS' FY 2003-2006 Annual MRI Scans**

Service Area Towns	2003	2004	2005	2006
PSA				
Southbury	1,095	1,397	1,343	1,512
Newtown	488	692	632	370
Woodbury	439	425	472	470
SSA				
Waterbury	211	357	311	352
Oxford	138	126	166	151
Middlebury	92	125	150	203
Naugatuck	127	123	116	146
Watertown	102	109	107	157
Bethlehem	69	85	98	116
All Other	792	875	926	804
<b>Total MRI scans</b>	<b>3,533</b>	<b>4,313</b>	<b>4,321</b>	<b>4,281</b>

Note: Approximately 55% of DIS' FY 2006 MRI volume was from the 3 PSA towns. Approximately 63% of DIS' FY 2006 MRI volume was from its PSA and the city of Waterbury.

*(January 29, 2007, Completeness Letter Responses, page 2)*

13. Chad W. Wable, Vice President of Ambulatory Care and Business Development for Saint Mary's Health System, testified that the city of Waterbury was not considered in their PSA since "very little of DIS' current population comes from Waterbury." *(Public Hearing, March 22, 2007, Applicant Testimony)*
14. According to the Applicant, the proposed second (open) MRI scanner will free up available procedure time on the high field MRI scanner. This will enable DIS to perform the newer, advanced, and time consuming MRI applications on the existing high field MRI scanner including:
- Angiography;
  - Breast imaging;
  - High resolution neurological exams for cranial nerves, epilepsy, and pituitary; and
  - Cardiac imaging.
- (November 27, 2006, Initial CON Application, page 21)*
15. The Applicant did not provide sufficient evidence on the following:
- Inability of DIS' patients to access open MRI services in the region; and
  - Inability of patients who are claustrophobic, obese or children to access open MRI services.
16. According to the Applicant, DIS' internal reports indicate that an average of 11 patients per month could not complete their MRI scan due to either claustrophobia or obesity. *(November 27, 2006, Initial CON Application, page 18)*

17. According to the Applicant, the patients who are claustrophobic, obese or children that are unable to receive their MRI scans at DIS are currently being referred to Prospect Diagnostic Imaging or Northeast Radiology's Brewster, NY office, where open MRI scanners are in operation. *(January 29, 2007, Completeness Letter Responses, page 7)*
18. Prospect Diagnostic Imaging, is owned and operated by Naugatuck Valley Radiology Associates, whose radiologists are member of Southbury Holding, LLC and Northeast Radiology, P.C. radiologists are also a part owner of DIS as member of Radcorp of Southbury, P.C. *(January 29, 2007, Completeness Letter Responses, pages 13-16)*
19. The following providers of imaging services are in the Applicant's PSA:

**Table 3: Imaging Services Providers in DIS' PSA**

<b>Name</b>	<b>Address</b>	<b>Equipment</b>	<b>Hours of Operation</b>
Southbury Imaging, P.C./ Housatonic Valley Radiology Associates	800 Main Street, Southbury, CT	1.5 Tesla Mobile MRI Scanner	5 days per week.
Newtown Diagnostic Imaging	153 South Main Street, Newtown, CT	1.5 Tesla High Field MRI Scanner	M-F 8 AM-4 PM

*(November 27, 2006, Initial CON Application, page 24 and Public Hearing, March 22, 2007, Applicant Testimony)*

20. The following providers of imaging services are in the DIS' SSA:

**Table 4: Imaging Services Providers in DIS' SSA**

<b>Name</b>	<b>Address</b>	<b>Equipment</b>
Naugatuck Valley MRI (Joint Venture with St. Mary's Hospital)	56 Franklin Street, Waterbury, CT	1.5 Tesla Fixed High Field MRI Scanner
Saint Mary's Health System, Inc. d/b/a Saint Mary's Partner's Inc.	1312 West Main Street, Waterbury, CT	1.5 Tesla Open MRI Scanner
Diagnostic Radiology Associates, LLC	1579 Straits Turnpike Avenue, Middlebury, CT	High Field MRI Scanner
Valley Imaging Partners (Diagnostic Radiology Associates)	799 New Haven Road Naugatuck, CT	Open MRI scanner
Waterbury Hospital (GWIC)	60 Robbins Street Waterbury, CT	High Field MRI Scanner and an Open MRI scanner

*(January 29, 2007, Completeness Letter Responses, page 14, OHCA's Schedule 500 of Annual Reporting, and Public Hearing, March 27, 2007, Applicant Testimony)*

21. The Applicant is projecting the following MRI scan volume for FYs 2007-2009:

**Table 5: DIS' FY 2003-2006 Annual MRI Scans**

<b>Equipment</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Proposed Open MRI Scanner	812	1,784	2,394
Existing High Field MRI Scanner	4,281	4,281	4,281
<b>Total</b>	<b>5,093</b>	<b>6,064</b>	<b>6,675</b>

Note: The projected MRI scans are based on the following:

- DIS' historical market share of the service area towns;
- DIS' historical utilization;
- Schedule backlogs;
- New applications; and
- Previously patients that were unable to utilize the closed MRI.  
(January 29, 2007, Completeness Letter Responses, pages 3-5 Public Hearing, Applicant Testimony, March 27, 2007))

22. The Applicant testified to the following:

- The impact of some of the MRI scanners in DIS' service area were not taken into account when developing this application as those scanners were either not in operation or the hours of operations had not expanded at the time this CON application was submitted; and
- There is no incremental growth directly related to the proposed open MRI scanner, rather the volume is being shifted from the existing high field MRI scanner. (Public Hearing, March 22, 2007, Applicant Testimony)

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

23. The proposed total capital expenditure associated with this proposal is as follows:

**Table 6: Proposed Total Capital Expenditure**

Major Medical Equipment (Purchase)	\$997,400
Non-Medical Equipment (Purchase)	\$50,000
Construction/Renovation	\$219,110
<b>Total Capital Expenditure</b>	<b>\$1,266,510</b>
Capitalized Financing Costs	\$196,206
Total Capital Expenditure with Cap. Fin. Costs	\$1,462,716

(November 27, 2006, Initial CON Application, page 34)

24. DIS' current and projected payer mix is as follows:

**Table 7: DIS' Current & Projected Payer Mix**

<b>Payer</b>	<b>Current Payer Mix</b>	<b>Year 1 Projected Payer Mix</b>	<b>Year 2 Projected Payer Mix</b>	<b>Year 3 Projected Payer Mix</b>
Medicare	36.2%	36.2%	36.2%	36.2%
Medicaid	1.0%	1.0%	1.0%	1.0%
CHAMPUS & TriCare				
<b>Total Govnt. Payers</b>	<b>37.2%</b>	<b>37.2%</b>	<b>37.2%</b>	<b>37.2%</b>
Commercial Insurers	61.2%	61.2%	61.2%	61.2%
Uninsured	0.6%	0.6%	0.6%	0.6%
Workers Compensation	1.0%	1.0%	1.0%	1.0%
<b>Total Non-Govnt. Payers</b>	<b>62.8%</b>	<b>62.8%</b>	<b>62.8%</b>	<b>62.8%</b>
<b>Payer Mix</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

*(November 27, 2006, Initial CON Application, page 40)*

25. DIS reported projected net income incremental to the project of \$234,663, \$408,455 and \$618,939 for FYs 2007, 2008 and 2009. *(January 29, 2007, Completeness Letter Responses, page 51)*
26. There is no State Health Plan in existence at this time. *(November 27, 2006, Initial CON Application, page 7)*
27. The proposal is consistent with the Applicant's long-range plan. *(November 27, 2006, Initial CON Application, page 8)*
28. The Applicant's proposal will not change the Applicant's teaching or research responsibilities. *(November 27, 2006, Initial CON Application, page 31)*
29. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(November 27, 2006, Initial CON Application, page 31)*
30. This proposal will aid the Applicant in improved productivity and cost containment through application of technology and reengineering of operations. *(November 27, 2006, Initial CON Application, page 33)*
31. The Applicant has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(November 27, 2006, Initial CON Application, page 27)*

## Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for the proposed service on a case by case basis. Certificate of Need (“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 the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposed services.

Diagnostic Imaging of Southbury, LLC (“Applicant or DIS”), is a freestanding imaging center owned by Saint Mary’s Hospital (“SMH”), Southbury Holding, LLC (“SH LLC”) and Radcorp of Southbury, LLC (“Radcorp”) and is located at 385 Main Street, Southbury, Connecticut. DIS is requesting authorization for the acquisition of a second (open) magnetic resonance imaging (“MRI”) scanner. DIS currently operates a 1.5 Tesla high field MRI scanner at the proposed Southbury location. The Applicant asserted that the proposed open MRI scanner will free up the existing high field MRI scanner and will provide DIS with the ability to perform newer and advanced scans such as angiography, breast imaging, high resolution neurological exams and cardiac imaging. The Applicant failed to provide sufficient evidence on the current availability of open MRI services within its service area and its impact on their patients’ access to care. Based upon insufficient evidence, OHCA can not conclude definitively that there is a need for an open MRI scanner at this time.

The Applicant claimed that there is no projected incremental growth for the proposed open MRI scanner; rather the existing volume will be shifted to the proposed Open MRI scanner. Further, the Applicant testified that it did not account for all the MRI scanners in its service area as some of the MRI scanners were either not in operation or had not expanded their service at the time DIS submitted this proposal to OHCA. Specifically, the recently approved second high field MRI scanner for SMH in Waterbury, the recent expansion of Housatonic Valley Radiology Associates’ mobile high field MRI scanner to 5 days per week, and the existence of other MRI scanners in Waterbury, Naugatuck and Middlebury were not included in the Applicant’s evaluation of the service area. Therefore, OHCA is concerned that the projected volumes do not accurately reflect the need for MRI services in the area and do not support the need for an additional MRI scanner.

The associated capital expenditure with the proposal is \$1,266,510. The Applicant reported net income incremental revenues of \$234,633, \$408,455 and \$618,939 for FYs 2007-2009. Since OHCA can not conclude definitively that there is a need for an open MRI scanner and believes that the projected volumes do not accurately reflect the need for MRI services in the area, OHCA finds that the financial projections which are based on the projected volumes are questionable. Therefore, OHCA does not find the Applicant’s proposal to be financially feasible or cost-effective.

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Diagnostic Imaging of Southbury, LLC for the acquisition of a second (open) magnetic resonance imaging scanner at a total capital expenditure of \$1,266,510, is hereby **Denied**.

## Order

Diagnostic Imaging of Southbury, LLC proposal for the acquisition of a second (open) magnetic resonance imaging scanner at a total capital expenditure of \$1,266,510, is hereby **Denied**.

The foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the  
Office of Health Care Access

April 19, 2007

Signed by Cristine A. Vogel  
Commissioner

CAV; swl