



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Mandell & Blau, M.D.'s P.C.

Docket Number: 07-31041-CON

Project Title: Acquisition of a 1.5 Tesla Magnetic Resonance Imaging Scanner for the Glastonbury Office

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

Filing Date: April 4, 2008

Hearing Date: May 21, 2008

Decision Date: July 3, 2008

Default Date: July 3, 2008

Staff Assigned: Steven W. Lazarus

Project Description: Mandell & Blau, M.D.'s, P.C. ("Applicant" or "Practice") proposes the acquisition of a 1.5 Tesla magnetic resonance imaging ("MRI") scanner for the Glastonbury office, at an associated capital cost of \$2,053,544.

Nature of Proceedings: On April 4, 2008, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from the Applicant for the acquisition of a 1.5 Tesla MRI scanner for the Glastonbury office, at an associated capital cost of \$2,053,544.

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published on October 16, 2007, in *The Hartford Courant* (Hartford). Pursuant to Section 19a-639 (C)(3), three individuals or an individual representing an entity with five or more people had until April 25, 2008, 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. OHCA did not receive any requests by April 25, 2008, to hold a public hearing in this matter.

Pursuant to Section 19a-639, C.G.S., a public hearing regarding the CON application was held on May 21, 2008. On April 23, 2008, the Applicant was notified of the date, time, and place of the hearing. On April 26, 2008, a notice to the public announcing the hearing was published in *The Hartford Courant*.

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. Mandell & Blau, M.D.'s P.C. ("Applicant" or "Practice"), is a radiology practice with offices located in Glastonbury, New Britain, Southington, West Hartford, South Windsor, Enfield, and Middletown. The main office is located at 40 Hart Street, New Britain, CT. *(September 17, 2007, Letter of Intent and January 17, 2008, Initial CON Application)*
2. The Practice currently operates a 0.23 Tesla Picker Outlook Open magnetic resonance imaging ("MRI") scanner at its Glastonbury office, called the Open MRI of Glastonbury, located at 2450 Main Street, Glastonbury, Connecticut. *(September 17, 2007, Letter of Intent and January 17, 2008, Initial CON Application)*
3. The Practice acquired the existing MRI scanner under OHCA's CON Determination Report No.: 00-G3, dated September, 13. 2000. *(September 13, 2000, Report No.: 00-G3)*
4. The Applicant is proposing to replace its existing 0.23 Tesla Open MRI scanner with a Siemen's MAGNETOM Espree 1.5 Tesla MRI scanner. *(January 17, 2008, Initial CON Application, page 4)*
5. The Applicant's service area towns for this proposal are as follows:

Table 1: Service Area

Primary Service Area ("PSA")	Glastonbury, Wethersfield, Rocky Hill, Cromwell, Newington, East Hartford, Manchester, South Windsor, Hebron and Marlborough
Secondary Service Area ("SSA")	Hartford, Colchester, Vernon, Columbia, Lebanon, Tolland, Portland, Windsor, Berlin, Bolton and Middletown.

Note: The service area towns are based on the historical utilization of the existing MRI scanner.

The PSA towns are those towns that the practice served in the past 3 years, that are within 10 miles of the Practice's Glastonbury office.

The Exception to this is the City of Harford, as patients in Hartford have access to services at hospitals within the City of Hartford.

The SSA are towns the practice has served in the past 3 years that are within 20 miles, but not less than 10 miles from the Practice's Glastonbury office.

(January 17, 2008, Initial CON Application, page 3)

6. The Applicant based the need for this proposal on the following:
 - a. Historical volume;
 - b. Referring physicians' support; and
 - c. The scanner is nearing the end of its useful life.*(January 17, 2008, Initial CON Application page 2 and May 16, 2008, Prefile Testimony of Dr. Blau, page 283)*

7. The Applicant listed the following as benefits of acquiring the new 1.5 Tesla MRI scanner:

- a. Serve patients quickly;
- b. Reduce wait times; and
- c. Faster throughput.

(January 17, 2008, Initial CON Application, page 2)

8. The Practice reported its historical MRI volume for its Glastonbury office location as follows:

Table 2: Glastonbury Office Historical MRI Scanner Utilization

Type of Scan	FY 2005	FY 2006	FY 2007
MRI	2,578	2,149	2,144

Note: The Applicant attributes the decline in utilization from FY 2005-2007 to the inability of the current scanner to perform complex studies and a decision by the Applicant not to perform certain studies that would be better performed on a more advanced MRI.

(April 4, 2008, Completeness Letter Responses, page 183)

9. The total capacity for the Applicant's existing MRI scanner at the Glastonbury office is illustrated in the table below:

Table 3: Glastonbury Office's Existing MRI Capacity

<i>Existing</i> MRI Scanner			
Hours of Operations*	Scans per Day	Scans per Week	Scans per Year
Monday-Friday (8 a.m. - 6 p.m.)	1 Scan = 1 Hour	10 hours/day= 10 Scans/day	50 scans/52 weeks = 2,600 scans (Less 5% downtime 2,600-130 scans)
Totals capacity of the existing MRI scanner	Daily Capacity = 10 Scans	Weekly Capacity = 50 scans	Annual Capacity = 2,470

*The annual capacity is based on the existing hours of operations.

(January 17, 2008, Initial CON Application, pages 4&5)

10. The total capacity for the Applicant's proposed MRI scanner at the Glastonbury office is illustrated in the table below:

Table 4: Glastonbury Office's Proposed MRI Capacity

<i>Proposed</i> MRI Scanner			
Hours of Operations*	Scans per Day	Scans per Week	Scans per Year
Monday-Friday (8 a.m. - 6 p.m.)	1 Scan = 35 Mins. (Approximately)	10 hours/day= 17 Scans/day	50 scans/52 weeks = 4,420 scans (Less 5% downtime 4,420-221 scans)
Totals capacity of the proposed MRI scanner	Daily Capacity = 17 Scans	Weekly Capacity = 85 scans	Annual Capacity = 4,199

*The annual capacity is based on the existing hours of operations.

(January 17, 2008, Initial CON Application, pages 4&5)

11. The following table indicates the existing providers of MRI services in the Applicant's PSA and SSA:

Table 5: Existing MRI Service Provider

MRI Provider:	Town	Street Address	Magnet	FY 2007 Utilization
<i>Primary Service Area</i>				
Radiology Associates of Hartford, PC	Glastonbury	31 Sycamore Commons	Mobile	Unknown
Jefferson Radiology, P.C.	Glastonbury	704 Hebron Avenue	1.5 Tesla	3,012
Jefferson Radiology, P.C.	Glastonbury	704 Hebron Avenue	1.5 Tesla	6,892
Open MRI of Glastonbury (Applicant)	Glastonbury	2450 Main Street	0.23 Tesla	2,470
Middlesex Hospital's Marlborough Medical Center	Marlborough	14 Jones Hollow Road	1.5 Tesla	Unknown
Manchester Memorial Hospital	Manchester	71 Haynes Street	1.5 Tesla	4,165
Medical Imaging Center, P.C.	Rocky Hill	1084 Cromwell Avenue	0.23 Tesla	Unknown
Evergreen Imaging Center, LLC	South Windsor	2800 Tamarack Avenue	1.5 Tesla	Unknown
Open MRI at Buckland Hills	South Windsor	491 Buckland Avenue	0.6 Tesla	3,750
Connecticut Imaging Partners, LLC	Wethersfield	1260 Silas Deane Highway	1.5 Tesla	1,620
<i>Secondary Service Area</i>				
Backus Health Center	Colchester	140 Broadway	1.5 Tesla	Unknown
Saint Francis Hospital & Medical Center	Hartford	114 Woodland Street	1.5 Tesla (x2)	Unknown
Hartford Hospital	Hartford	80 Seymour Street	1.5 Tesla (x2)	Unknown
Connecticut Children's Medical Center	Hartford	282 Washington Street	1.5 Tesla	1,000-1,300
Connecticut Valley Radiology	Hartford	19 Woodland Street	Unknown	Unknown
Rehabilitation Hospital of Connecticut	Hartford	500 Blue Hills Avenue	1.5 Tesla	Unknown
Middlesex Medical Center Outpatient Center	Middletown	534 Saybrook Road	1.5 Tesla	Unknown
Open MRI of Middletown	Middletown	140 Main Street	1.5 Tesla 0.23 Tesla	2,710
Middlesex Orthopedic Surgeons	Middletown	410 Saybrook Road		Unknown
Tolland Imaging Center	Tolland	6 Fieldstone Commons	0.7 Tesla	Not Yet Operational
Rockville General Hospital	Vernon	31 Union Street	1.5 Tesla	2,165

(May 16, 2008, Responses to OHCA's Interrogatories, page 279-280)

12. The projected utilization for the proposed MRI scanner is as follows:

Table 6: Projected MRI Scanner Utilization

	FY 2008	FY 2009	FY 2010
MRI scanner	2,795	3,354	3,857

(January 17, 2008, Initial CON Application, page 6)

13. According to the Applicant, increases in MRI scan volume based on the premise that the existing volume of the types of scans (based on CPT codes) the practice currently

performs would increase by 501 scans. This is based on the replacement of the equipment allowing the Practice to perform scans that are not currently performed on any patients except those that are claustrophobic. Extrapolating from that volume to the typical volumes for scans that the Practice does not currently perform (such as MR Angiography, Breast Imaging, Chest Imaging, etc.) the additional volume added to the Practice would be 361 scans per year. The total of 501 scans and the 361 scans would be an additional 862 scans. This would represent an initial increase of 40% percent over the base year (2007) scan volume of 2,150. For the purpose of the projections, the Applicant has assumed an initial scan volume increase of 30%. In years 2 and 3, the projections assume an increase of 20% and 15%. The increase is based on the growing need for MRI services as the population ages, together with the increase in demand for services such as new applications evolve.
(January 17, 2008, Initial CON Application, pages 14&15)

14. Dr. Blau testified that with the proposed MRI scanner, the Glastonbury office will provide MRI services to “virtually all sub-specialties,” and especially those that it was unable to provide services to with the current 0.23 Tesla MRI scanner, sub-specialties such as internal medicine, vascular, orthopedic, brain, OB/GYN, etc.
(May 21, 2008, Public Hearing Testimony of Dr. Jeffery S. Blau)

15. Dr. Blau further testified:

- The Practice’s South Windsor office performs approximately 10,000 MRI scans per year;
- Approximately 500-700 of the South Windsor office mammography patients will require Breast MRI; and
- Of the 361 projected new volume procedures, 25 are breast MRI scans.
(May 21, 2008, Public Hearing Testimony of Dr. Jeffery S. Blau)

16. Dr. Miller, a radiologist with the Practice, testified that according to her analysis performed based on her previous work experience, she expects an additional 558 Breast MRI studies to result from the Applicant’s South Windsor practice location, which currently performs 10,000 mammography’s annually.
(May 21, 2008, Public Hearing Testimony of Dr. Dena Miller)

17. Dr. Blau on behalf of the Applicant, testified that the Practice knows women currently travel fifteen minutes to get an exam, so the Applicant has not even estimated how many of the approximately 500-700 women will need the MRI of the breast, from the South Windsor office. *(May 21, 2008, Public Hearing Testimony of Dr. Jeffery Blau)*

18. Dr. Blau testified that he was unable to quantify the number of claustrophobic patients for the proposed MRI scanner.

**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**

19. The proposed total capital cost associated with this proposal is as follows:

Table 7: Proposed Total Capital Cost

Type	Cost
Major Medical Equipment (Lease, FMV)	\$1,753,544
Construction/Renovation	\$300,000
Total Capital Cost	\$2,053,544

(January 17, 2008, Initial CON Application, page 10)

20. The Applicant proposes to finance the proposed \$2,053,544 through lease financing.
(January 17, 2008, Initial CON Application, page 12)

21. The Practice's current and projected payer mix based on Net Patient Revenue is as follows:

Table 8: Practice's Current & Projected Payer Mix

Payer	Current Payer Mix	Year 1 Projected Payer Mix	Year 2 Projected Payer Mix	Year 3 Projected Payer Mix
Medicare	20%	20%	20%	20%
Medicaid	<1%	<1%	<1%	<1%
CHAMPUS & TriCare				
Total Govnt. Payers	21%	21%	21%	21%
Commercial Insurers	68%	68%	68%	68%
Uninsured	<1%	<1%	<1%	<1%
Workers Compensation	10%	10%	10%	10%
Total Non-Govnt. Payers	79%	79%	79%	79%
Payer Mix	100%	100%	100%	100%

(January 17, 2008, Initial CON Application, page 13)

22. The Applicant reported projected net income incremental to the project of \$(98,563), \$79,917 and \$324,461, for FYs 2008, 2009 and 2010, respectively.
(January 17, 2008, Initial CON Application, page 143)

23. The Applicant projects a net income loss the first year of the proposal based solely on the additional cost of the equipment and the renovations to the facility.
(January 17, 2008, Initial CON Application, page 15)

24. There is no State Health Plan in existence at this time. *(January 17, 2008, Initial CON Application, page 2)*

25. The proposal is consistent with the Applicant's long-range plan. *(January 17, 2008, Initial CON Application, page 2)*
26. The Applicant's proposal will not change the Applicant's teaching or research responsibilities. *(January 17, 2008, Initial CON Application, page 9)*
27. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(January 17, 2008, Initial CON Application, page 2-15)*
28. The Practice has improved productivity and contained costs through energy conservation, application of technology and group purchasing. *(January 17, 2008, Initial CON Application, pages 8-9)*

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.

Mandell & Blau, M.D., P.C. (“Applicant” or “Practice”), is a private radiology practice with offices in seven towns. The Applicant is proposing to acquire a MAGNETOM Espreo 1.5 Tesla Magnetic Resonance Imaging (“MRI”) scanner to replace its existing 0.23 Tesla Picker Outlook Open MRI scanner located at its Glastonbury office. The Applicant did not receive a CON authorization for the existing MRI scanner.

The Applicant asserts that the acquisition of the proposed 1.5 Tesla MRI scanner is needed based on its historical volume, the referring physician support and the existing 0.23 Picker Outlook open MRI scanner nearing the end of its useful life. However, the Applicant’s existing MRI scanner is operating below capacity while operating Mondays through Friday and no weekend hours. Furthermore, the Applicant’s historical MRI volume of the existing MRI scanner located at the Glastonbury office has been declining steadily for the past three fiscal years. The Applicant claims that the decline in the historical MRI utilization at the Glastonbury office between FYs 2005-2007 is attributed to the inability of the existing 0.23 Tesla MRI scanner to perform complex studies.

Additionally, there are currently approximately twenty MRI (high field units and low fields units) scanners operating in the proposed service area towns of which, sixteen are high field units (1.0T and higher). Two of these high field scanners are currently located within the town of Glastonbury. OHCA can not conclude that there is an unmet need in the area since there is unknown utilization and capacity in the service area.

Since OHCA cannot conclude definitively that need exists for the additional proposed MRI scanner capacity, OHCA is unable to evaluate the financial feasibility of the proposal.

Order

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Mandell & Blau, M.D.'s, P.C. for the acquisition of a 1.5 Tesla magnetic resonance imaging scanner to replace its existing 0.23 Tesla Open MRI scanner at a total capital cost of \$2,053,544, 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

Signed by Commissioner Vogel on July 3, 2008

Date

Cristine A. Vogel
Commissioner

CAV:swl