



## Office of Health Care Access Certificate of Need Application

### Final Decision

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

**Docket Number:** 07-31073-CON

**Project Title:** Acquisition of a 1.5 Tesla Magnetic Resonance Imaging Scanner for the West Hartford (Blue Back Square) Office

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

**Filing Date:** April 25, 2008

**Hearing Date:** May 21, 2008

**Decision Date:** July 14, 2008

**Default Date:** July 24, 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 West Hartford (Blue Back Square) office, at an associated capital cost of \$1,227,479.

**Nature of Proceedings:** On April 24, 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 West Hartford (Blue Back Square) office, at an associated capital cost of \$1,227,479.

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published on January 22, 2008, 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 May 12, 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 May 12, 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, at 12:00 pm. On April 30, 2008, the Applicant was notified of the date, time, and place of the hearing. On May 4, 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. (*December 10, 2007, Letter of Intent and April 1, 2008, Initial CON Application, pages 2-4*)
2. The Applicant's main office is located at 40 Hart Street, New Britain, Connecticut. (*December 10, 2007, Letter of Intent and April 1, 2008, Initial CON Application, pages 2-4*)
3. On May 20, 2005, under Docket No.: 04-30307-CON, Office of Health Care Access ("OHCA") approved Hartford Hospital and Connecticut Surgical Group, P.C. Certificate of Need proposal for the establishment and operation of an ambulatory surgery center to be located on Memorial Drive in West Hartford (the West Hartford Surgery Center). On July 2, 2007, OHCA approved a modification to the original CON authorization under Docket No.: 04-30307-CON to change the ownership of the West Hartford Surgery Center to solely Hartford Hospital. (*May 20, 2005, OHCA Final Decision, Docket No.: 04-30307-CON and July 2, 2007, OHCA Final Decision Docket No.: 07-30307-MD2*)
4. The Practice currently operates a 0.23 Tesla Open magnetic resonance imaging ("MRI") scanner at its West Hartford office located at 901 Farmington Avenue, d/b/a MRI of Farmington Ave. (*April 1, 2008, Initial CON Application, page 2*)
5. The Applicant is proposing to acquire a Phillips Diamond Select Intera Power 1.5 Tesla MRI scanner to replace its existing 0.23 Tesla Open MRI scanner and to relocate its existing West Hartford MRI service from 901 Farmington Avenue, West Hartford to Blue Back Square ("BBS") in West Hartford. (*December 10, 2007, Letter of Intent and April 1, 2008, Initial CON Application, pages 2-4*)
6. The Applicant's BBS office location currently provides the following services: digital mammography, general radiography, ultrasound and bone density. (*May 21, 2008, Public Hearing Testimony of Dr. Jeffrey S. Blau*)
7. The Applicant's service area towns for this proposal are as follows:

**Table 1: Service Area**

Primary Service Area ("PSA")	West Hartford
Secondary Service Area ("SSA")	Hartford, New Britain, Newington, Farmington , Avon, Bloomfield and Windsor

Note: The service area towns are based on the historical results of the existing MRI scanner. The PSA town was chosen as 28% of the 928 cases studied in 2006 were from West Hartford.

The SSA area towns were selected because they constitute 47% of the volume. The total services represent 75% of the Practice's 901 Farmington Avenue, West Hartford office. (*April 1, 2008, Initial CON Application, page 4*)

8. The Applicant based the need for this proposal on the following:
  - a. Limitations of the existing low field MRI scanner;
  - b. Ability to offer a full continuum of breast imaging modalities in one location; and  
(*April 1, 2008, Initial CON Application, pages 2-5, and May 16, 2008, Prefile Testimony of Dr. Blau*)
  
9. The Applicant listed the following as benefits of acquiring the new 1.5 Tesla MRI scanner:
  - a. Faster throughput;
  - b. Ability to perform high field MRI scans including MR angiography, and Neurological imaging including weighted imaging; and
  - c. Ability to offer a full continuum of women's care through the following:
    - i. Ability to offer breast imaging services with biopsy capability; and
    - ii. Location adjacent to an existing ambulatory surgery center.  
(*April 1, 2008, Initial CON Application, pages 2-3*)
  
10. Dr. Blau at the public hearing testified that most of the existing claustrophobic and obese patients will be able to be accommodated on the proposed 1.5 Tesla MRI scanner as it has a wide opening and a small percentage will be accommodated at the on the Practice's other offices. (*May 21, 2008, Public Hearing Testimony of Dr. Jeffrey S. Blau*)
  
11. The Practice reported its historical MRI volume by procedure type for the Practice's 901 Farmington Avenue, West Hartford location, is as follows:

**Table 2: West Hartford Office Historical MRI Scanner Utilization**

<b>MRI Procedure</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
Orbit, Face, Neck	83	52	54
Brain	218	183	155
Cervical Spine	114	113	88
Chest	0	0	0
Lumbar Spine	349	266	248
Thoracic Spine	23	12	8
Pelvis	20	14	9
Upper Extremity	7	5	2
Upper Extremity Joint (Shoulder)	170	93	90
Lower Extremity	38	31	17
Lower Joint (Knee)	235	179	167
<b>Total Historical MRI Scans</b>	<b>1,257</b>	<b>948</b>	<b>838</b>

Note: The Applicant attributes the decline in utilization from FY 2005-2007, to the inability to perform complex studies required today by the radiologists and referring physicians.  
(*April 1, 2008, Initial CON Application Submission, page 20 and April 24, 2008, Completeness Letter Responses, page 371*)

12. Dr. Blau, President of the Practice, testified to the following:

- a. The Practice currently offers digital mammography, general radiography, ultrasound and bone density services at its Blue Back Square (“BBS”) office; and
- b. The proposed MRI scanner, along with its adjacent location to the surgery center, will provide a full continuum of care for women;
- c. The proposed MRI scanner will be located in the Practice’s BBS office which is five feet from the surgery center;
- d. After the proposal is implemented, this model of a full continuum of women’s care will be the only one of its kind in the Harford area;
- e. The Practice has hired Dr. Dena Miller, an expert in women’s breast imaging; and
- f. The Practice will refer its women patients from its other office locations that require a breast MRI to the proposed MRI scanner, including the women from the South Windsor office that live west of the Connecticut River.

*(May 21, 2008, Public Hearing Testimony of Dr. Jeffrey S. Blau)*

13. Dr Saidel, one of the founders of Physicians for Women’s Health, LLC (“PWH”), testified for the Applicant regarding the following:

- a. PHW is a single group practice comprised of over 150 OB/GYNs in Connecticut;
- b. This proposal offers a full continuum of care for women in the Hartford area;
- c. The proposal is unique, as it’s the only radiology practice that is adjacent to an ambulatory surgery center; and
- d. Currently there are two (2) surgeons that specialize in “breast” that are located adjacent to the Practice’s BBS office location.

*(May 21, 2008, Public Hearing Testimony of Dr. Matthew L. Saidel)*

14. The total capacity for the Applicant’s existing MRI scanner at the West Hartford office is illustrated in the table below:

**Table 3: West Hartford Office’s Existing MRI Capacity**

<b>Existing MRI Scanner</b>	<b>FY 2007 Data</b>
Average # Hours/Week Scanner Operates	44 Hours
Weeks per Year (Operational)	50 Weeks
Target Utilization as % of Capacity	85%
Annual Total Capacity for Scans in Hours	1,870
Average Scan Time in Hours	1
Annual Capacity-# MRI scans	1,590
Actual Number of Scans	839
<b>% Total MRI Capacity</b>	<b>53%</b>

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

*(April 1, 2008, Initial CON Application, pages 6-7)*

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

**Table 4: West Hartford Office's Proposed MRI Capacity**

<b>Proposed MRI Scanner</b>	
Average # Hours/Week Scanner Operates	44 Hours
Weeks per Year (Operational)	50 Weeks
Target Utilization as % of Capacity	85%
Annual Total Capacity for Scans in Hours	1,870
Average Scan Time in Hours	.75
Annual Capacity-# MRI scans	1,986
Actual Number of Scans	1,500
<b>% Total MRI Capacity</b>	<b>76%</b>

(April 1, 2008, Initial CON Application, pages 6-7)

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

**Table 5: Existing MRI Providers in the Applicant's Proposed Service Area**

<b>MRI Provider:</b>	<b>Town</b>	<b>Street Address</b>	<b>Magnet</b>	<b>FY 2007 Utilization</b>
<i>Primary Service Area</i>				
Open MRI of Farmington Avenue	West Hartford	901 Farmington Avenue	0.23 Tesla	838
Jefferson Radiology, P.C.	West Hartford	941 Farmington Avenue	1.5 Tesla	6,414
West Hartford Open MRI	West Hartford	8 North Main Street	0.3 Tesla	Unknown
<i>Secondary Service Area</i>				
Radiology Associates of Hartford	Avon	33 Nod Road	1.5 Tesla	Unknown
Jefferson Radiology, P.C.	Avon	100 Simsbury Road	1.0 Tesla	2,273
Jefferson Radiology, P.C.	Avon	23B Arts Center Court	0.5 Tesla	Unknown
Connecticut Valley Radiology, P.C.	Bloomfield	701 Cottage Grove Road	1.5 Tesla	Unknown
Connecticut Imaging Center	Bloomfield	6 Northwestern Drive	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
Rehab. Hospital of Connecticut	Hartford	490 Blue Hills Avenue	1.5 Tesla	Unknown
Connecticut Valley Radiology, P.C.	Hartford	19 Woodland Street	Unknown	Unknown
Connecticut Children's Medical Center	Hartford	282 Washington Street	1.5 Tesla	2,837
John Dempsey Hospital	Farmington	263 Farmington Avenue	1.5 Tesla	Unknown
Farmington Imaging Center	Farmington	353 Scott Swamp Road	0.23 Tesla	Unknown
UCONN Medical Arts Building	Farmington	263 Farmington Avenue	0.6 Tesla	Unknown
Grove Hill Radiology	New Britain	300 Kensington Avenue	1.5 Tesla	Unknown
MRI of New Britain	New Britain	100 Grand Street	1.0 Tesla	Unknown
MRI of New Britain	New Britain	100 Grand Street	1.5 Tesla	Unknown

(May 16, 2008, Responses to OHCA's Interrogatories, page 382)

17. The projected utilization by procedure for the proposed MRI scanner operating at the new location at Blue Back Square in West Hartford, is as follows:

**Table 6: Projected MRI Scanner Utilization**

MRI Procedure	FY 2008	FY 2009	FY 2010	FY 2011
Orbit, Face, Neck	61	69	83	86
Brain	171	187	218	227
Cervical Spine	95	101	114	119
Chest	0	0	0	0
Lumbar Spine	273	299	349	363
Thoracic Spine	12	16	23	24
Pelvis	12	15	20	21
Upper Extremity	3	5	7	7
Extremity Joint (Shoulder)	110	130	170	177
Lower Extremity	22	28	38	40
Lower Joint (Knee)	184	201	235	244
<b>Subtotal</b>	<b>943</b>	<b>1,051</b>	<b>1,257</b>	<b>1,308</b>
<i>Additional imaging not done with the current MRI</i>				
Abdomen	5	20	21	22
Abdomen (MRA)	4	15	16	16
Bilateral Lower Extremities (MRA)	1	3	3	5
Neck (MRA)	5	21	22	23
Brain (MRA)	10	40	42	43
<b>Subtotal</b>	<b>25</b>	<b>99</b>	<b>103</b>	<b>109</b>
Breast	91	365	390	584
<b>Total Scans</b>	<b>1,059</b>	<b>1,515</b>	<b>1,750</b>	<b>2,001</b>

Note: FY is from January 1 to December 31.  
 For FY 2009 the projected volume of scans is based on recovering half of the volume lost between FY 2005 and FY 2007 for the categories of scans that are currently performed and achieving the statewide percentages for scans that can't be performed with the existing magnet, coupled with the anticipated number of breast MRI scans based on calculation using a ratio of mammograms per MRI (Faulkner Breast Center Formula).  
 (April 1, 2008, Initial CON Application, pages 6&24)

**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**

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

**Table 7: Proposed Total Capital Cost**

<b>Type</b>	<b>Cost</b>
Major Medical Equipment (Lease, FMV)	\$874,142
Construction/Renovation	\$300,000
Other Non-Major Medical	\$53,337
<b>Total Capital Cost</b>	<b>\$1,227,479</b>

*(April 1, 2008, Initial CON Application, page 12)*

19. The Applicant proposes to finance the proposed \$874,142 through lease and lease financing and the remaining \$353,337 through a sub-lease of other equipment and leasehold improvements from MRI of Farmington Avenue. *(April 1, 2008, Initial CON Application, pages 14-15)*

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

**Table 8: Practice's 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	23%	23%	23%	23%
Medicaid	7%	7%	7%	7%
CHAMPUS & TriCare				
<b>Total Govnt. Payers</b>	<b>30%</b>	<b>30%</b>	<b>30%</b>	<b>30%</b>
Commercial Insurers	60%	60%	60%	60%
Uninsured	6%	6%	6%	6%
Workers Compensation	4%	4%	4%	4%
<b>Total Non-Govnt. Payers</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>
<b>Payer Mix</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

*(April 1, 2008, Initial CON Application, page 15)*

21. The Applicant reported projected net income incremental to the project of \$194,344 \$221,977, \$340,755, for FYs 2009, 2008 and 2011, respectively. *(April 24, 2008, Completeness Letter Responses, page 380)*

22. There is no State Health Plan in existence at this time. *(April 1, 2008, Initial CON Application, page 2)*

23. The proposal is consistent with the Applicant's long-range plan. *(April 1, 2008, Initial CON Application, page 2)*
24. The Applicant's proposal will not change the Applicant's teaching or research responsibilities. *(April 1, 2008, Initial CON Application, page 11)*
25. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(April 1, 2008, Initial CON Application, page 2-11)*
26. The Practice has improved productivity and cost containment through energy conservation and group purchasing. *(April 1, 2008, Initial CON Application, page 10)*
27. The Practice has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(April 1, 2008, Initial CON Application, page 9 and Exhibit F)*

## 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 Phillips Diamond Select Intera Power 1.5 Tesla MRI scanner to replace its existing 0.23 Tesla Open MRI scanner and relocate its West Hartford MRI service from 901 Farmington Avenue, West Hartford to Blue Back Square (“BBS”) in West Hartford.

The Applicant’s current MRI service along with its existing patient base will be relocated to the Applicant’s BBS office which is physically adjacent to an ambulatory surgery center (“ASC”). Most patients (including obese, claustrophobic etc.) seeking MRI imaging services at this location will be able to access MRI services at the proposed location.

The Applicant’s BBS location currently provides digital mammography, general radiography, ultrasound and bone density. The Applicant’s proposal to site the 1.5 Tesla MRI immediately adjacent to the BBS ASC will enhance patient care by allowing access to the continuum of breast services in one location. This proposal is unique as it is the only imaging center in the Hartford area with an MRI scanner physically located adjacent to an ASC. OHCA concludes that the siting of the proposed MRI adjacent to the ASC will enhance both the quality and accessibility of breast health services for women in the proposed service area.

The total capital expenditure associated with this CON proposal is \$1,227,479, will be financed through lease financing. Although OHCA can not draw any conclusions, the Applicant’s financial projections and volumes upon which they are based appear to be reasonable and achievable. Therefore, OHCA finds that the CON proposal is cost effective.

## 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 Phillips Diamond Select Intera Power 1.5 Tesla MRI scanner to replace its existing 0.23 Tesla Open MRI scanner and to relocate its West Hartford MRI service from 901 Farmington Avenue, West Hartford to Blue Back Square in West Hartford, is hereby **APPROVED**.

1. This authorization shall expire on July 14, 2009. Should the Applicant's proposal not be completed by that date, the Applicant must seek further approval from OHCA to complete the project beyond that date.
2. The Applicant shall not exceed the approved total capital cost of \$1,227,479. In the event that the Applicant learns of potential cost increases or expect that final project costs will exceed those approved, the Applicant shall notify OHCA immediately.
3. The Applicant shall notify OHCA in writing of the initial date of the operation of the 1.5 Tesla MRI scanner by no later than one month after the new unit becomes operational.
4. This authorization requires the removal of the Applicant's existing 0.23 Tesla MRI scanner currently located at 901 Farmington Avenue for certain disposition, such as sale or salvage, outside of and unrelated to the Applicant's service provider locations. Furthermore, the Applicant will provide evidence to OHCA of the final disposition of its existing MRI unit by no later than three months after the 1.5 Tesla MRI scanner at the Blue Back Square has become operational.

Should the Applicant fail to comply with any of the aforementioned conditions, OHCA reserves the right to take additional action as authorized by law.

All of 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 14, 2008*

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Date

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Cristine A. Vogel  
Commissioner

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