



## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicant:** Orthopaedic & Neurosurgery Specialists, P.C.

**Docket Number:** 08-31120-CON

**Project Title:** Acquisition of a 1.5 Tesla Magnetic Resonance Imaging Scanner

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

**Filing Date:** August 15, 2008

**Hearing Date:** Not Applicable

**Decision Date:** November 4 2008,

**Default Date:** November 13, 2008

**Staff Assigned:** Steven W. Lazarus  
Paolo Fiducia

**Project Description:** Orthopaedic & Neurosurgery Specialists, P.C. (“Applicant” or “Practice”) proposes the acquisition of a 1.5 Tesla magnetic resonance imaging (“MRI”) scanner, at an associated capital cost of \$1,665,860.

**Nature of Proceedings:** On August 15, 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, at an associated capital cost of \$1,665,860.

A notice to the public concerning OHCA’s receipt of the Applicant’s Letter of Intent was published on April 12, 2008, in the *Greenwich Times* (Greenwich). Pursuant to Section 19a-639 (C)(3), three individuals or an individual representing an entity with five or more people had until September 5, 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 received no hearing requests from the public by September 5, 2008.

OHCA's authority to review and approve, modify or deny the CON application is established by Section 19a-638, 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. Orthopaedic & Neurosurgery Specialists, P.C. ("ONS" or "Practice"), is a combined orthopedic and neurosurgical private practice located in Greenwich, Connecticut. *(March 18, 2008, Letter of Intent)*
2. ONS is currently comprised of orthopedic surgeons, neurosurgeons, physiatrists, a sports medicine physician, a radiologist, physician assistants and nurses. *(March 18, 2008, Letter of Intent)*
3. The Practice offers orthopedic, neurosurgical and radiological professional services. Additionally, the Practice offers services that are ancillary to the practice of orthopedics and neurosurgery, such as physical therapy and pain management. *(March 18, 2008, Letter of Intent)*
4. ONS state that it provides services for orthopedic and neurosurgery patients only. The MRI services it provides are associated with this patient volume only. MRIs performed at the ONS practice in Greenwich are only those scans specifically for patients of the practice. *(July 15, 2008, Initial CON Application, page 7)*
5. ONS also states that no patients from the outside of its own practice will be accepted for scanning on the MRI unit. *(March 2, 2006, CON Determination Docket Number 06-30662-DTR)*
6. ONS operates an on-site radiology suite, which is used for diagnostic radiology services and selected interventional physiatry procedures that treat pain using injections guided by a specialty equipped fluoroscopic unit. Diagnostic imaging services are provided by radiology technicians employed by ONS. *(March 18, 2008, Letter of Intent)*
7. The Practice currently operates a 1.0 Tesla LX HiSpeed Magnetic Resonance Imaging ("MRI") System at its Greenwich Park location, which was originally purchased by ONS in 2005 as a pre-owned unit, which was refurbished in 2003. *(March 18, 2008, Letter of Intent and July 15, 2008, Initial CON Application, page 7)*

8. The 1.0 Tesla LX HiSpeed Magnetic Resonance Imaging (“MRI”) System was purchased pursuant to a Certificate of Need Determination issued on March 30, 2006 in which OHCA determined that Orthopaedic & Neurosurgery Specialists, P.C.’s proposal to purchase a pre-owned 1.0 Tesla LX HiSpeed Magnetic Resonance Imaging (“MRI”) System would not require Certificate of Need approval from OHCA pursuant to Sections 19a-638 or 19a-639 of the Connecticut General Statutes. (*March 30, 2006, CON Determination Docket Number 06-30704-DTR*)
9. ONS is proposing to acquire a Siemens 1.5T MAGNETOM Espree MRI scanner. (*March 18, 2008, Letter of Intent and July 15, 2008, Initial CON Application Filing, pages 5-7*)
10. According to ONS, the existing 1.0 Tesla MRI scanner:
- a. cannot be further upgraded;
  - b. Is nearing the end of its useful life;
  - c. It has experienced excessive down time; and
  - d. It is fully depreciated.
- (*July 15, 2008, Initial CON Application, page 7*)
11. According to ONS, since it is located near the Connecticut-New York State border, its physicians serve residents of communities in each state. For the purpose of this application, ONS has developed an overall service area and a Connecticut portion of that service area, as follows

**Table 1: Service Area**

<b>Total Service Area Towns</b>	<b>Connecticut Service Area Towns</b>
Greenwich	Greenwich
Stamford	Stamford
Darien	Darien
New Canaan	New Canaan
Prot Chester (NY)	
Rye (NY)	

Note: The service area towns represent a geographically contiguous area containing the majority of ONS patient.

The total service area represented over 75% of ONS’ total patient volume and its MRI volumes in 2007.

In addition, the four Connecticut towns within the ONS service are accounted for over 85% of ONS’ total Connecticut patient volumes and Connecticut MRI volumes in 2007.

(*July 15, 2005, Initial CON Application, page 9*)

12. According to the Practice, the need for the acquisition for the proposed MRI scanner to replace the existing MRI scanner is for “improved clinical quality and better service for its patients. The stronger magnet and improved software capability will allow for better quality images at no incremental cost to ONS patients or their payers.” (*July 15, 2005, Initial CON Application, page 8*)

13. The Practice stated that to the best of their knowledge no other MRI provider in the service area currently provides cartilage mapping capability. The cartilage mapping capability is a software package that will enable ONS physicians to better diagnose conditions involving degeneration of and/or injury to articular cartilage in select orthopedic patients. *(August 15, 2008, Completeness Letter Responses, page 290)*
14. ONS listed the following as benefits of acquiring the proposed 1.5 Tesla MRI scanner:
- Higher quality scans such as imaging studies on smaller joints (like the wrist);
  - A wider bore for greater patient comfort; and
  - Provide consistent reliability.
- (July 15, 2008, Initial CON Application, pages 6-8)*
15. The Practice reported its historical MRI volume by procedure type is as follows:

**Table 2: Historical and FY 2008 Annualized MRI Scanner Utilization**

MRI	FY 2006	FY 2007	FY 2008 (Jan.-July)
Orthopedic	624	1,471	1,086
Neurosurgery	730	1,157	840
<b>Total MRI Scans</b>	<b>1,354</b>	<b>2,628</b>	<b>3,400</b> <i>(Annualized)</i>

Note: Existing MRI service began in July 2006.

FY 2008 MRI scans have been annualized to provide total.

FY 2007: Known MRI scans from CT: 2,103 (80%), NY: 525(20%),

Unknown patient origin: 458 MRI scans

*(July 15, 2008, Initial CON Application, page 11 and Completeness Letter, page 291)*

16. The following table indicates the existing providers of MRI services in the Practice's Connecticut service area:

**Table 5: Existing MRI Providers in the Practice's Connecticut Service Area**

Provider Name (Town)	Type of MRI ("T": Tesla)	Hours of Operation	Current Utilization
ONS (Greenwich)	1.0 T Closed	Mon. – Fri.: 7am to 7pm	2,628 (FY 2007)
Greenwich Hospital (Greenwich)	3.0 T Closed 1.5 T Closed	Mon.-Fri.: 7am-7pm Sat.: 7am- Noon	8,795
Greenwich Hospital (Stamford Diagnostic Center)	1.5 T Closed	Mon.-Fri.: 8 am-4pm	
Stamford Hospital (Stamford)	1.5 T Closed	Mon.-Fri.: 8am-10pm Sat.-Sun.: 8am-4pm	7,325
Tully Health Center (Stamford)	1.5 T Closed	Mon.-Fri.: 8am-10pm Sat.-Sun.: 8am-4pm	3,991
TSH's Imaging Center (Darien)	1.5 T Closed	Mon.-Fri.: 8am-4pm	1,653
Advanced Radiology Consultants (Stamford)	1.5 T Open	Mon.-Fri.: 7:30a-5:30p Sat.: 7:30 am-2:30pm	3,156

*(July 15, 2008, Initial CON Application, page 14)*

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

**Table 6: Projected MRI Scanner Utilization**

	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Number of MRI Scans</b>	<b>3,400</b>	<b>3,400</b>	<b>3,400</b>

Note: According to ONS, the projected number of scans that will come from the Connecticut portion of the service area was based upon the actual 2007 portions applied to the annualized 2008 volume of 3,400 scans. The same proportion would be applied to the future projected volume of 3,400 scans per year in 2009, 2010 and 2011. ONS projects 2,220 MRI scans from the CT service area, 353 from the NY service area for a total of 75.7% of the total service area and 827 MRI scans or 24.3% to come from outside the service area. According to ONS the proposed MRI will not shift volume away from any current providers in the service area as the annual volume projections have held constant at actual FY 2008 annualized levels.  
*(July 15, 2008, Initial CON Application, page 11 and Completeness Letter Responses, pages 290-292)*

**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)	\$1,356,000
Construction/Renovation	\$193,300
Other Non-Major Medical	\$116,560
<b>Total Capital Cost</b>	<b>\$1,665,860</b>

*(July 15, 2008, Initial CON Application, pages 21-22)*

19. ONS proposes to finance the proposed \$1,356,000 through lease financing and the remaining \$309,860 through Operating Funds. *(July 15, 2008, Initial CON Application, pages 23-24)*

20. The Practice's current and projected payer mix based on Gross 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	10.3%	10.3%	10.3%	10.3%
Medicaid	0.0%	0.0%	0.0%	0.0%
CHAMPUS & TriCare	0.0%	0.0%	0.0%	0.0%
<b>Total Govnt. Payers</b>	<b>10.3%</b>	<b>10.3%</b>	<b>10.3%</b>	<b>10.3%</b>
Commercial Insurers	81.9%	81.9%	81.9%	81.9%
Uninsured	1.2%	1.2%	1.2%	1.2%
Workers Compensation	6.6%	6.6%	6.6%	6.6%
<b>Total Non-Govnt. Payers</b>	<b>89.7%</b>	<b>89.7%</b>	<b>89.7%</b>	<b>89.7%</b>
<b>Payer Mix</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

*(July 15, 2008, Initial CON Application, page 25)*

21. ONS reported projects incremental losses from operations of \$(212,506), \$(254,023), and \$(295,540) for FYs 2009, 2010 and 2011, respectively.  
*(July 15, 2008, Initial CON Application, page 28)*
22. The incremental losses from operations to the project are related to lease expense associated with the proposed MRI scanner. *(July 15, 2008, Initial CON Application, pages 27 & 28)*
23. The income from operations with the CON proposal is projected as \$1,524,430, \$1,570,430 and \$1,817,583, for FYs 2009, 2010 and 2011, respectively.  
*(July 15, 2008, Initial CON Application, page 28)*
24. There is no State Health Plan in existence at this time. *(July 15, 2008, Initial CON Application, page 5)*
25. The proposal is consistent with the Practice's long-range plan. *(July 15, 2008, Initial CON Application, page 5)*
26. The Practice's proposal will not change ONS' teaching or research responsibilities.  
*(July 15, 2008, Initial CON Application, page 20)*
27. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(July 15, 2008, Initial CON Application, pages 5-20)*
28. The Practice has improved productivity and cost containment through energy conservation, application of new technology and group purchasing. *(July 15, 2008, Initial CON Application, page 19)*

29. The Practice has sufficient technical and managerial competence to provide efficient and adequate service to the public. (*July 15, 2008, Initial CON Application, page 18 and Attachments F&G*)

## 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 the existing services, the specific types of services proposed to be offered, the current utilization of services and the financial feasibility of the proposal.

Orthopaedic & Neurosurgery Specialists, P.C. (“ONS” or “Practice”) is a combined orthopedic and neurosurgical private practice comprised of orthopedic surgeons, neurosurgeons, physiatrists, a sports medicine physician, a radiologist, physician assistants and nurses, located at 10 Valley Road, Greenwich Park, Valley Drive, Greenwich, Connecticut. Orthopaedic & Neurosurgery Specialists, P.C. is proposing the acquisition through replacement of a Siemens 1.5 Tesla Magnetom Espree MRI scanner to be located at their practice in Greenwich to improve clinical quality for their orthopedic and neurosurgical patients. The Practice will provide MRI services only to its own patients. The Practice performed 1,354, 2,628 and 3,400 MRI scans in FY 2006, FY 2007, and FY 2008, respectively and projects no annual growth.

The proposed Siemens 1.5 Tesla Magnetom Espree MRI scanner will provide higher quality studies, particularly on smaller joints. Replacing the 1.0 Tesla LX HiSpeed Magnetic MRI scanner with the Siemens 1.5 Tesla Magnetom Espree MRI scanner will improve diagnostic capabilities. The proposed Siemens 1.5 Tesla Magnetom Espree MRI scanner will allow the Practice to conduct cartilage mapping that will enable ONS physicians to better diagnose conditions involving degeneration of and/or injury to articular cartilage in select orthopedic patients. The Practice has demonstrated a need to maintain access to MRI scanning services in the area and improve the quality of MRI scanning to patients of Orthopaedic & Neurosurgery Specialists, P.C.

The total capital expenditure for the CON proposal is \$1,665,860, which will be financed through lease financing. 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 and is in the best interest of consumers and payers.

## Order

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Orthopaedic & Neurosurgery Specialists, P.C. to acquire the Siemens 1.5 Tesla Magnetom Espree MRI scanner to be operated at 10 Valley Road, Greenwich Park, Valley Drive, Greenwich, Connecticut, at a total capital expenditure of \$1,665,860, is hereby APPROVED.

1. This authorization shall expire on October xx, 2009. Should the Practice's 1.5 Tesla MRI scanner project not be completed by that date, the Practice must seek further approval from OHCA to complete the project beyond that date.
2. The Applicant shall not exceed \$3 million in replacement fair market value or capital expenditure for the proposed replacement equipment. In the event that the Practice learns of potential cost increases or expects the final project costs will exceed \$3 million, the Practice shall notify OHCA in writing.
3. The Practice will provide MRI services only to its own orthopedic and neurosurgical patients.
4. This authorization requires the removal of the Practice existing 1.0 Tesla LX HiSpeed MRI scanner for certain disposition, such as sale or salvage, outside of and unrelated to the Applicants' service provider locations. Furthermore, the Practice will provide evidence to OHCA of the final disposition of its existing 1.0 Tesla MRI scanner by no later than three months after the 1.5 Tesla MRI scanner 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 November 4, 2008*

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Date

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Cristine A. Vogel  
Commissioner

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