

**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

June 11, 2010

**IN THE MATTER OF:**

A Request for Waiver of Certificate of Need Requirements for Replacement Equipment filed pursuant to Section 19a-639c, C.G.S., as amended by P.A. 09-232, Section 96 by

Notice of Final Decision  
Office of Health Care Access  
Docket Number: 10-31625-WVR

**Robert D. Russo, M.D. & Associates  
Radiology, PC**

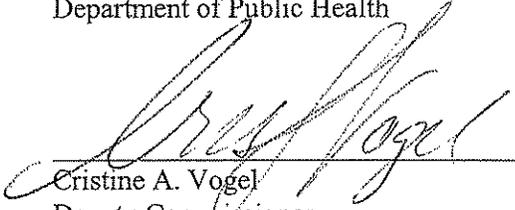
**Request to Waive CON Requirements for the  
Replacement of an Existing .03 Tesla MRI Scanner  
with a 3.0 Tesla MRI Scanner in Shelton, CT**

To: Robert D. Russo, M.D.  
Robert D. Russo, M.D. & Associates Radiology, PC  
2660 Main Street, Suite 216  
Bridgeport, CT 06606

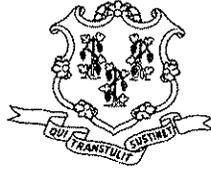
Dear Dr. Russo:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter as provided by Section 19a-639c, C.G.S., as amended by P.A. 09-232, Section 96. On June 11, 2010, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

By Order of the Division of  
Office of Health Care Access  
Department of Public Health

  
Cristine A. Vogel  
Deputy Commissioner

CAV: jah



**Department of Public Health  
Office of Health Care Access  
Certificate of Need Application**

**Final Decision**

**Applicant:** Robert D. Russo, M.D. & Associates Radiology, PC

**Docket Number:** 10-31625-WVR

**Project Title:** Request to Waive CON Requirements for the Replacement of an Existing 0.3 Tesla-Strength MRI Scanner with a 3.0 Tesla-Strength MRI Scanner in Shelton, Connecticut

**Statutory Reference:** Section 19a-639c of the Connecticut General Statutes as amended by Public Act: 09-232, Section 96

**Filing Date:** May 21, 2010

**Decision Date:** June 11, 2010

**Staff:** Jack A. Huber

**Project Description:** Robert D. Russo, M.D. & Associates Radiology, PC, requests a waiver of Certificate of Need requirements for replacement equipment for the purpose of replacing its existing 0.3 tesla-strength magnetic resonance imaging (“MRI”) scanner with a 3.0 tesla-strength MRI scanner at its office located at 25 Constitution Boulevard in Shelton, Connecticut. The total capital cost for the replacement equipment project is \$2,493,000.

**Nature of Proceedings:** On May 21, 2010, the Office of Health Care Access (“OHCA”) received the completed waiver of Certificate of Need (“CON”) request for replacement equipment from Robert D. Russo, M.D. & Associates Radiology, PC (“Applicant”). The Applicant proposes to replace its existing 0.3 tesla-strength magnetic resonance imaging (“MRI”) scanner with a 3.0 tesla-strength MRI scanner at its office located at 25 Constitution Boulevard in Shelton, Connecticut. The total capital cost for the replacement equipment project is \$2,493,000.

OHCA’s authority to review and approve, modify or deny the requested waiver of CON requirements for replacement equipment is established by Section 19a-639c of the Connecticut

General Statutes (“C.G.S.”) as amended by Public Act: 09-232, Section 96. 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

1. On April 6, 2006, Robert D. Russo, M.D. & Associates Radiology, PC (“Applicant”) received a Certificate of Need (“CON”) determination from the Office of Health Care Access (“OHCA”) under Report Number: 06-30697-DTR. The determination report indicated that the Applicant was not required to obtain CON authorization to acquire a 0.3 tesla-strength magnetic resonance imaging (“MRI”) scanner for use at its office located at 25 Constitution Boulevard in Shelton, Connecticut. *(May 21, 2010, CON Waiver Form 2040, page 2 and Exhibit A, pages 5 & 6)*
2. Pursuant to Section 19a-639c, of the Connecticut General Statutes (“C.G.S.”) as amended by Public Act: 09-232, Section 96, a proposal may be eligible for a waiver of replacement equipment from the CON process when a provider has previously obtained a determination that a CON was not required for the original acquisition of the equipment and the expenditure or value of the replacement equipment is less than \$3 million. *(Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96)*
3. The total capital cost for the replacement equipment proposal is \$2,493,000. The proposal’s costs consist of \$2,193,000 for the acquisition of the replacement MRI scanner and \$300,000 for other project costs. *(May 21, 2010, CON Waiver Form 2040, page 2 and Exhibit B, pages 8 through 22)*
4. The replacement equipment cost is below the \$3 million threshold used to determine whether a request is eligible to receive a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S. as amended by Public Act: 09-232, Section 96. *(Section 19a-639c, C.G.S., as amended by Public Act: 09-232, Section 96)*

## Rationale

Robert D. Russo, M.D. & Associates Radiology, PC (“Applicant”) is requesting a waiver of Certificate of Need (“CON”) requirements for replacement equipment pursuant to Section 19a-639c of the Connecticut General Statutes (“C.G.S.”) as amended by Public Act: 09-232, Section 96. The Applicant is seeking to replace its existing 0.3 tesla-strength magnetic resonance imaging (“MRI”) scanner with a 3.0 tesla-strength MRI scanner at its office located at 25 Constitution Boulevard in Shelton, Connecticut.

On April 6, 2006, the Applicant received a CON determination from the Office of Health Care Access under Report Number: 06-30697-DTR. The Applicant was informed that it was not required to obtain CON authorization for the acquisition of a 0.3 tesla-strength MRI scanner for use at its office located at 25 Constitution Boulevard in Shelton, Connecticut.

The replacement equipment cost for the proposed 3.0 tesla-strength MRI scanner is \$2,193,000, which is below the \$3 million threshold for determining eligibility for a waiver of CON requirements for replacement equipment pursuant to Section 19a-639c, C.G.S. as amended by Public Act: 09-232, Section 96.

## Order

Based on the foregoing Findings and Rationale, the Office of Health Care Access (“OHCA”) has determined that the request of Robert D. Russo, M.D. & Associates Radiology, PC (“Applicant”) for a waiver of Certificate of Need (“CON”) requirements in order to replace its existing 0.3 tesla-strength magnetic resonance imaging (“MRI”) scanner with a new MRI scanner at its office located at 25 Constitution Boulevard in Shelton, Connecticut, at a replacement equipment cost of \$2,193,000, meets the requirements for a waiver of the CON process pursuant to Section 19a-639c of the Connecticut General Statutes as amended by Public Act: 09-232, Section 96, and is hereby **approved**, subject to the following condition.

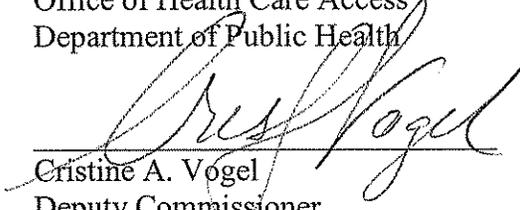
1. This authorization requires the removal of the Applicant’s existing 0.3 tesla-strength MRI scanner for certain disposition, such as sale or salvage, outside of and unrelated to the Applicant’s Connecticut service locations by no later than six months after the replacement MRI scanner has become operational.

Should the Applicant fail to comply with the aforementioned condition, 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.

Date

6-11-10

By Order of the Division of  
Office of Health Care Access  
Department of Public Health

  
Cristine A. Vogel  
Deputy Commissioner

CAV:jah