



Office of Health Care Access

Final Decision

Applicant: Advanced Radiology Consultants, LLC

Docket Number: 01-1005

Project Title: Acquisition of a Multi-Slice Computer Tomography Scanning Unit

Statutory Reference: Sections 19a-638 & 19a-639, Connecticut General Statutes

Filing Date: May 24, 2002

Hearing Date: June 21, 2002

Presiding Officer: Raymond J. Gorman, Commissioner

Decision Date: June 27, 2002

Staff: Kimberly Martone
Steven Lazarus

Project Description: Advanced Radiology Consultants, LLC (“Applicant”) proposes to acquire a Multi-Slice Computer Tomography (“CT”) Scanning unit to be located at 1315 Washington Boulevard, Stamford, Connecticut, at a total capital cost of \$1,107,239.

Nature of Proceedings: On May 24, 2002, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application of Advanced Radiology Consultants, LLC to acquire a Computer Tomography Scanning unit to be located at 1315 Washington Boulevard, Stamford, Connecticut, at a total capital cost of \$1,107,239. The Applicant is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes (“C.G.S.”).

A public hearing was held on June 10, 2002. The Applicant was notified of the date, time, and place of the hearing and a notice to the public was published prior to the hearing in *The Advocate* (Stamford). Commissioner Raymond J. Gorman served as presiding officer for this case. 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 Sections 19a-638 and 19a-639, C.G.S.

The Stamford Hospital petitioned for Intervenor Status with the right of cross-examination and was granted Intervenor status with no right of cross-examination in this proceeding. Greenwich Hospital petitioned for Intervenor Status and was granted Informal Participant status in this proceeding.

The Presiding Officer heard testimony from witnesses for the Applicant, Intervenor, and Informal Participant and in rendering this decision, considered the entire record of the proceeding. OHCA's authority to review, approve, modify or deny this proposal is established by Sections 19a-638 and 19a-639, C.G.S. The provisions of these sections, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were considered by OHCA in its review.

Findings of Fact

Each finding of fact included in this Final Decision has been taken from the CON application and related CON filings. A source reference is included with each finding of fact. All CON applicants must attest to the accuracy and correctness of the information submitted to OHCA as part of the CON application process.

Clear Public Need Impact on the Applicant's Current Utilization Statistics Contribution of the Proposal to the Quality and Accessibility of Health Care Delivery in the Region

1. Advanced Radiology Consultants, LLC ("Applicant") is a physician-owned radiology group. The Applicant is a limited liability corporation comprised of physicians who perform diagnostic radiology services, including CT services, at Bridgeport Hospital, as well as at a number of private offices located in Bridgeport, Stratford, Fairfield, Trumbull, Orange and Stamford. (*October 24, 2001, Letter of Intent and Applicant's website*)
2. According to CON Determination Report Number 01-N1, the Applicant was required to obtain a Certificate of Need to operate a CT scanner in the Stamford office. The Stamford office is located at 1315 Washington Boulevard (*CON Determination 01-N1*)

3. The Applicant commenced operation of a single-slice CT scanner at the Stamford office on January 7, 2002, without CON approval. *(Letter to OHCA by Attorney John Wolter, February 15, 2002)*
4. The Applicant proposes to acquire a multi-slice CT scanner, which would replace the existing single-slice CT scanner located at the Stamford office at a total capital cost of \$1,107,239. *(October 24, 2001, Letter of Intent and March 22, 2002, Question 9)*
5. According to the Applicant, the multi-Slice CT scanner has numerous advantages over the single-slice CT scanner including decreased length of time for scans, better quality imaging, higher resolution imaging with lower contrast doses and improved technology. *(May 24, 2002, Completeness Responses Question 11)*
6. The primary service area for the proposal is Stamford and surrounding towns of Darien and New Canaan. *(October 24, 2001, Letter of Intent)*
7. The Applicant identified The Stamford Hospital (“TSH”) as the one provider of CT scanning services in the service area. *(March 22, 2002 CON Application, 4(A)(ii))*
8. The Applicant’s Stamford Office is less than a mile away from The Stamford Hospital, which takes approximately three minutes to commute to one way. *(Source: Mapquest.Com)*
9. The Applicant indicated that implementation of the proposal would not affect TSH because TSH’s CT service is currently fully scheduled and experiencing backlogs. The Applicant does not anticipate any significant effect on TSH, other than to diminish the delay in accommodating patients. *(March 22, 2002 CON Application, 4(A)(ii))*
10. Greenwich Hospital stated that it provides a full range of diagnostic imaging services to residents in the Applicant’s service area. *(Petition of Greenwich Hospital for Intervenor Status, June 14, 2002)*
11. The Applicant based the need for the proposed multi-slice CT scanner is on the following:
 - Current utilization and projected growth in the demand for CT services in the primary service area due to aging of the population and technology advances;
 - Long waiting times at TSH for CT services;
 - Current referrals by service area physicians to existing Applicant offices;
 - Physician requests for additional CT services in the service area; and
 - Provision of CT services by an alternative, full service-imaging provider, thereby allowing patient choice.*(March 22, 2002, CON Application, May 24, 2002, Completeness Responses, and Prefiled Applicant Testimony, June 14, 2002, Dr. Kaye)*

12. The Applicant initially reported that the CT utilization for the Stamford Office was four to nine CT scans per day, which results in an annualized utilization of 1,040-2,340 CT scans. During the first quarter of 2002, 241 CT scans were performed on residents from the town of Stamford. *(March 22, 2002, CON Application, Question 4A(i)(b) and Exhibit E)*
13. The Applicant subsequently reported that the CT utilization rate for the Stamford office has been 5 examinations per day since the service commenced operation in January. *(Prefiled Applicant Testimony, June 14, 2002)*
14. The Applicant is projecting the following number of multi-slice CT scans for the first three years of operation of the Stamford office:

Utilization Projections			
Total CT Scans	Year One	Year Two	Year Three
With Project	1,690	2,197	2,527
Without Project	1,040	1,248	1,373
Incremental	650	949	1,154

* Projected 30% growth factor in years one and two and 15% in year three
(May 24, 2002, Completeness Responses Question 11, Exhibit G)

15. The Applicant submitted the following as its basis for the projected increase in CT volume in the primary service area:
 - a. The American College of Radiology (“ACR”) estimated a national figure of 141 scans per 1000 population for the year 2000, and an average annual compounded growth rate of 8.1% for the years 1995 through 2000.
 - b. National Imaging Associates, a radiology benefits utilization review and management company states that the number of CT scans per unit of national population has been increasing by over 21% per year for the last two years.
 - c. Applying reported increases in utilization between 54% and 77% to the actual utilization data referenced above, yields a projected utilization in the range of 110-176 scans per 1,000 population.
 - d. Applying these projections to the Stamford service area population of 173,600 as reported in the 2000 census yields a utilization of approximately 19,000 to 30,500 scans per year.
(May 24, 2002, Completeness Responses, Question 6)
16. The Applicant did not provide any of the following in its CON application:
 - a. Demographic data regarding the population in the primary service areas;
 - b. A copy of any community needs assessment or market surveys and survey instruments;
 - c. Quantification of scheduling backlogs; and
 - d. Documentation to support the projected increase in CT volume.
(March 22, 2002, CON Application and May 24, 2002, Completeness Responses)

17. The Applicant performed a market survey of the Stamford area in January 2000 with the opening of its HealthScreen Center for Early Diagnosis. The Applicant provided email correspondence received from unidentified Stamford area physicians via in-person interviews regarding the Applicant and TSH's radiology services. *(May 24, 2002, Completeness Responses, Exhibit D and Prefiled Testimony of Diane Czerniawski)*
18. These emails did not indicate how many CT studies the unidentified physicians would refer to the Applicant's proposed multi-slice CT scanner or how long the patients currently wait on average for a CT study. *(May 24, 2002, Completeness Responses, Exhibit D)*
19. The Applicant states that it referred 56 patients in calendar year 2001 and 18 patients in the first quarter of 2002 from the primary service area to its Fairfield office. *(May 24, 2002 Completeness Responses, Question 7)*
20. The Applicant testified regarding the following:
 - a. Dr. Kaye attended a presentation on June 18, 2002, where Dr. Orrison showed data that 58 million CT scans were performed in the U.S. in 2000. That translates to approximately 232 scans per 1000 population.
 - b. The Applicant submitted as part of the testimony a letter from GE Medical Systems, a vendor for CT scanners, dated June 19, 2002, in which GE indicated a 12.1% annual increase for scans in recent years and projected even greater increases as the population ages and the technology advances.
(Public Hearing, June 21, 2002, Applicant Exhibit 1)
21. The Applicant's testimony could not be corroborated, as neither Dr. Orrison nor a representative of GE Medical System was available to provide any calculations or evidence to support the Applicant's testimony. *(Public Hearing, June 21, 2002, Applicant Exhibit 1)*
22. The Applicant's hours of operation for CT scanning services are Monday through Friday from 8:00 a.m. to 5:00 p.m. If the volume projections are realized, the Applicant will add staff and hours as needed. *(March 22, 2002, CON Application, page 4(i)(e))*
23. Advanced Radiology Consultants, LLC adheres to and will seek accreditation from the American College of Radiology when the program is available. *(March 22, 2002, CON Application, Question 5)*
24. TSH testified at the Hearing as to the following:
 - a. TSH currently offers multi-slice CT services to patients in Stamford;
 - b. The multi-slice CT scanner became operational on January of 2002;
 - c. The multi-slice CT scanner is currently underutilized;
 - d. There are no scheduling backlogs;

- e. The multi-slice CT scanner is most appropriately used in an acute care setting; and
- f. The Applicant's projected growth of 15% to 30% for the first three years of operation is not in line with the industry wide projections of 4% to 7% growth annually for all imaging through the year 2010. TSH cited the American Journal of Roentgenology article written by Sunshine, et al.
(Public Hearing, June 21, 2002)
25. Dr. Steven Cohen on behalf of TSH testified to the following:
- "Most of the examinations performed on multi-slice CT scanner use intravenous contrast. Use of contrast agents requires the on-site presence of a radiologist; moreover, contrast injections carry a small but potentially serious risk of anaphylactoid-type reactions, which require immediate attention and life support."
 - "We are in direct competition with Norwalk and Greenwich hospitals and the two freestanding facilities in Norwalk. Also, Rye Radiology, Westchester Medical Center, Northern Westchester Hospital and White Plains Hospital and other alternative providers across the state line."
(Testimony Dr. Steven Cohen, Public Hearing, June 21, 2002)
26. The Applicant stated that each of his offices has appropriate equipment and trained staff to handle adverse reactions. However, the Applicant did not provide any information regarding the number of staff or their positions for the operation of the proposed multi-slice CT scanner. *(Applicant Exhibit 1, June 21, 2002)*
27. TSH stated that it currently has capacity to perform 12 additional CT scans per day during the week and 10 additional CT scans per day on the weekends. This results in the ability to perform an additional 4,160 CT scans on the multi-slice helical CT unit located at TSH on an annual basis. *(Prefiled Testimony TSH, Cathy Coleman, June 18, 2002)*
28. TSH's current hours of operation for the multi-slice unit are 8:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. Saturday and Sunday. *(Prefiled Testimony TSH, Cathy Coleman, June 18, 2002)*
29. TSH provided the following current utilization for TSH's multi-slice unit:

	Scans per Year	Scans per Year
	Weekdays	Weekends
Potential Capacity	10,920	1,872
Actual Average Use	7,800	832
Excess Capacity	3,120	1,040

(Prefiled Testimony TSH, Cathy Coleman, June 18, 2002)

**Financial Feasibility 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 Payers for Such Services**

30. The proposal has a total capital cost of \$1,107,239 as follows: *(March 22, 2002 CON Application, Question 9)*

Total Capital Cost Breakdown	
Description	Cost
Fixed Equipment	\$1,060,000
Moveable Equipment	25,000
Construction/Renovation	15,239
Total Capital Expenditure	\$1,100,239
Fair Market Value of Space	\$7,000
Total Capital Cost	\$1,107,239

31. The Applicant proposes to fund the entire project through Applicant's Equity; \$607,239 will be funded through operations and the remaining \$500,000 will be funded through member physician contributions. *(March 22, 2002 CON Application, Question 10)*
32. The Applicant did not provide audited or reviewed financial statements. *(May 24, 2002, Completeness Responses Question 8)*
33. The Applicant provided a letter from Gary Clayton, CPA, which states "...this acquisition by Advanced Radiology Consultants, LLC is financially feasible." The letter was not on company letterhead. *(May 24, 2002, Completeness Responses Question 8 & Exhibit F)*
34. The Applicant projects a loss in revenues incremental to the project of (\$24,000) and (\$11,000) in the first two years of operation. However, the Applicant projects excess revenues incremental to the project of \$51,000 in the third year of operation. *(May 24, 2002, Completeness Responses)*
35. If volume projections are achieved, the Applicant's rates are sufficient to cover the proposed capital cost and operating costs. *(May 24, 2002, Completeness Responses Question 8 & Exhibit G)*
36. The Applicant currently has a payer mix of approximately 30% Medicare and 54% commercial insurers. The projected payer mix with the project is 30% Medicare and 54% commercial insurers. *(March 22, 2002 CON Application, Question 11)*

Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines

The following findings are made pursuant to principles and guidelines set forth in Section 19a-637, C.G.S.:

37. There is no State Health Plan in existence at this time. *(March 22, 2002 CON Application, Question 2)*
38. The Applicant has adduced evidence that this proposal is consistent with the Applicant's long-range plan. *(March 22, 2002 CON Application, Question 3)*
39. The Applicant's teaching and research responsibilities will not be affected by this proposal. *(March 22, 2002 CON Application, Question 7(a))*
40. There are distinguishing characteristics of the patient/physician mix related to this proposal because the Applicant has subspecialty-trained radiologists to whom they can transmit appropriate examinations for more expert interpretation. *(March 22, 2002 CON Application, Question 7(b))*
41. The Applicant through energy conservation, reengineering, group purchasing and application of technology has improved productivity and contained costs during the past year. *(March 22, 2002 CON Application, Question 6)*
42. The Applicant has sufficient technical, financial and managerial competence to provide efficient and adequate service to the public. *(March 22, 2002 CON Application, Question 5(b) and Exhibit A)*

Rationale

Advanced Radiology Consultants, LLC (“Applicant”) is a physician-owned radiology group which provides diagnostic radiology services, including CT scanning services, at Bridgeport Hospital and private offices throughout Southern Connecticut. The Applicant proposes to acquire a multi-slice CT scanner at its Stamford office, which would replace its current single-slice CT scanner. The current CT scanner commenced operation in January 2002 without CON approval. According to the Applicant, the proposed multi-slice CT scanner has numerous advantages over the single-slice CT scanner including decreased length of time for scans, better quality imaging, higher resolution imaging with lower contrast doses and improved technology.

OHCA has numerous concerns with the Applicant’s evaluation of need. The Applicant’s needs assessment was non-supportive and lacking in documentation. The Applicant considered the following five factors in evaluating the need for the proposal: current and projected CT utilization in the primary service area due to aging of the population and technology advances; the provision of CT services by an alternative, full service-imaging provider allowing patient choice; long waiting times at The Stamford Hospital (“TSH”) for CT services; current referrals to existing Applicant offices for CT scanning services; and physician requests for additional CT services in the service area. However, much of the evidence provided to support these factors is conflicting or unsubstantiated. For example, the Applicant originally reported performing four to nine CT scans per day at the Stamford office and subsequently reported performing five scans per day. Additionally, the Applicant projects a 30% increase in volume during the first two years of operation and a 15% increase during the third year. The Applicant did not provide the basis for these increases. At the public hearing the Applicant summarized comments from a presentation given by Dr. Orrison and submitted a letter from GE Medical Systems regarding current and projected utilization; however, since neither Dr. Orrison nor a representative of GE Medical Systems was available to provide any calculations or evidence to support their statements, OHCA was unable to judge the validity of these assertions.

The Applicant also claims that residents in the Stamford area do not have a choice of providers who offer CT services. The Applicant has identified the primary service area for the proposal as consisting of Stamford and surrounding towns of Darien and New Canaan. According to the Applicant, The Stamford Hospital (“TSH”) is the one provider of CT scanning services in the service area. The Stamford Hospital is located less than a mile from the Applicant’s Stamford office. Although Greenwich Hospital provides a full range diagnostic imaging services to residents in the Applicant’s primary service area, it was not identified as a provider of CT scanning services. TSH testified that there are alternative providers of CT services who serve the Stamford area such as Norwalk and Greenwich hospitals and the two freestanding facilities in Norwalk. Also, Rye Radiology, Westchester Medical Center, Northern Westchester Hospital and White Plains Hospital are other providers of CT services across the state line.

With respect to the Applicant's claim that TSH is experiencing scheduling delays, no supporting documentation was provided by the Applicant. TSH refuted this claim. TSH testified that no scheduling backlogs currently exist at TSH. Further, TSH's multi-slice CT scanner is currently underutilized and has a total annual excess capacity of 4,160 CT scans. The Applicant states that it is presently referring their Stamford area-based patients to its office in Fairfield; however, the Applicant referred only 56 patients in calendar year 2001 and 18 patients in the first quarter of 2002.

Similarly, the Applicant provided email correspondence transmitted to the Applicant by unidentified physicians as part of its needs assessment. These emails did not indicate how many CT studies the unidentified physicians would refer to the Applicant's proposed multi-slice CT scanner or how long the patients currently wait on average for a CT study. The Applicant also did not identify the physicians who submitted the emails in the market survey. Therefore, OHCA could not determine the specialties represented, number of physicians who were surveyed, physicians' current experiences with multi-slice CT services, or the physicians' commitment to this proposal. Because of the absence of substantiated data and the existence of conflicting evidence, OHCA is unable to evaluate the need for the proposed multi-slice CT scanner.

Finally, OHCA questions the financial viability of the proposal. The Applicant's proposal has a total capital cost of \$1,107,239 to be funded through Applicant's equity. However, OHCA is concerned that the Applicant did not provide reviewed or audited financial statements as requested. The Applicant only provided a letter from Gary Clayton, CPA that stated that the proposal is financially feasible. This concern is further compounded by the Applicant's financial projections that indicate a loss in revenues incremental to the project for the first two years of operation. Although the Applicant is projecting a gain in revenues for the third year of operation, the gain is based on the Applicant obtaining its volume projections for the proposal. Since the volume projections are questionable, the financial projections are also rendered questionable. The dearth of verified financial information that was provided makes it impossible for OHCA to render any conclusion regarding the financial feasibility of the proposal. Additionally, OHCA cannot conclude that the implementation of the Applicant's proposal is in the best interests of all payers and patients of CT scanning services.

Based on the foregoing Findings and Rationale, the Certificate of Need Application of Advanced Radiology Consultants, LLC to acquire through the purchase of a Multi-Slice CT Scanning unit to be located at 1315 Washington Boulevard, Stamford, Connecticut, at a total capital cost of \$1,107,239, is hereby DENIED.

Order

The proposal of Advanced Radiology Consultants, LLC for the acquisition of a Multi-Slice CT scanner to be located at 1315 Washington Boulevard, Stamford, at a total capital cost of \$1,107,239, is hereby denied.

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

Date signed:
June 27, 2002

Signed by:
Raymond J. Gorman
Commissioner