



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Neurology Associates, LLC

Docket Number: 06-30674-CON

Project Title: Acquisition of a 1.5 Tesla MRI Scanner

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

Filing Date: May 30, 2006

Hearing Date: July 20, 2006

Presiding Officer: Cristine A. Vogel
Commissioner

Intervenor: William W. Backus Hospital

Decision Date: August 28, 2006

Default Date: August 29, 2006

Staff Assigned: Steven W. Lazarus

Project Description: Neurology Associates, LLC (“Applicant”) proposes the acquisition of a 1.5T magnetic resonance imaging (“MRI”) scanner for its Norwich office, at a total capital expenditure of \$1,457,678.

Nature of Proceedings: On May 30, 2006, the Office of Health Care Access (“OHCA”) received the Applicant’s proposal to acquire a 1.5 Tesla MRI scanner for its Norwich office, at a total capital expenditure of \$1,457,678.

On February 1, 2006, a notice to the public regarding OHCA's receipt of the Applicant's Letter of Intent to file its CON application was published in *The Norwich Bulletin* pursuant to Section 19a-639, C.G.S. On June 9, 2006, OHCA received a letter from The William W. Backus Hospital ("Hospital") requesting that a hearing be held on the Applicant's CON application.

Pursuant to Section 19a-639, C.G.S., a public hearing regarding the CON application was held on July 20, 2006. On June 21, 2006, the Applicant was notified of the date, time and place of the hearing. On June 22, 2006, a notice to the public was published in *The Norwich Bulletin*. 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.

By petition dated July 12, 2006, the Hospital requested Intervenor status regarding the Applicant's CON application. The Presiding Officer granted the Hospital Intervenor status with full-rights of cross-examination.

The Presiding Officer heard testimony from the Applicant's and the Intervenor's 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. Neurology Associates, LLC ("Applicant or Practice") is a private physician neurology practice located in Norwich, Connecticut. (*January 24, 2006, Letter of Intent*)
2. According to the Applicant, the Practice was recently designated as the only Connecticut private physician comprehensive multiple sclerosis practice recognized by the National Multiple Sclerosis Society and the Consortium of Multiple Sclerosis Centers and MS Society of Connecticut. The Practice maintains a trade name of Multiple Sclerosis ("MS") Care of Connecticut. (*May 31, 2006, CON Application page 3 and July 14, 2006, Prefile Testimony of Dr. Shiling*)

3. The Applicant stated that the Practice is comprised of six (6) full-time neurologists, all of whom are in clinical practice of neurology, and one (1) on-site radiologist. The Practice is accredited by the American College of Radiology. *(January 24, 2006, Letter of Intent and July 14, 2006, Prefile Testimony of Dr. David Shiling)*
4. On May 23, 2003, the Applicant received a CON Determination, Report No.: 02-G1, from OHCA, which stated that CON authorization was not required for the acquisition of its existing 1.0 Tesla MRI scanner. *(May 23, 2002, CON Determination, Report No.: 02-G1)*
5. The Applicant proposes to acquire a 1.5 Tesla MRI scanner to replace its existing 1.0 Tesla MRI scanner located at its office at One Towne Park Plaza in Norwich Connecticut. *(January 24, 2006, Letter of Intent)*
6. The Applicant's service area for the current and proposed MRI service includes the following towns:

Table 1: Primary and Secondary Service Area

Norwich	Canterbury
Plainfield	Preston
Sprague	Ledyard
Lisbon	Salem
Colchester	Montville

Note: The MS Care of Connecticut at Neurology Associates provides services for not only the Practice's primary and secondary service area but also to patients from all over Connecticut.

(January 24, 2006, Letter of Intent and May 31, 2006, CON Application page 16)

7. The Applicant based the need for the proposed 1.5 Tesla MRI scanner on the following:
 - Age of the existing MRI scanner;
 - Technology limitations of the existing MRI scanner; and
 - Growth in patient and MRI volume.*(May 31, 2006, CON Application pages 5-10)*
8. The existing MRI scanner is 14 years old. The manufacturer Siemens discontinued developing the 1.0 Impact Expert model in 1997. The existing MRI scanner can no longer be upgraded to keep up with technology advancements. *(May 30, 2006, CON Application page 2)*
9. The existing scanner is limited as to the types of sequences that have become standard practice in the field of neurology such as diffusion weighted imaging used in the diagnosis of stroke. *(May 30, 2006, CON Application page 2)*

10. The Applicant testified at the public hearing that in FY 2005, it referred 32 patients from its practice to William W. Backus Hospital for diffusion weighted imaging. The Applicant expects this number to steadily increase in the coming years with advances in techniques within the field of neurology imaging. (*July 20, 2006, Applicant Testimony at the Public Hearing*)

11. The Applicant's historical patient encounters and MRI scans is as follows:

Table 2: Applicant's Historical Patient and MRI Volume

	FY 2003	FY 2004	FY 2005
Patient Encounters	8,596	9,133	9,521
MRI Scans	3,139	3,515	3,760
MRI Scans Growth rate		12%	7%

OHCA can not verify this data.
(*May 30, 2006, CON Application page 30*)

12. Between FY 2003 and 2005, the types of MRI scans performed by the Applicant were as follows: brain scans (37%), lumbar spine scans (22%), cervical spine scans (16%) and other scans such as orbits, inner ear, and brachial plexus (25%). (*July 14, 2006, Prefile Testimony of Dr. David J. Shiling*)

13. The Applicant is projecting the following patient encounters and MRI scans for the first three years of the proposed MRI scanner:

Table 3: Applicant's Projected Patient and MRI Volume

	FY 2006	FY 2007	FY 2008
Patient Encounters	11,792	12,737	13,759
MRI Scans	4,559	4,924	5,318
MRI Scans Growth rate	21.3%*	8%	8%

Note: The Applicant based the projected volumes on historical growth and increased capability of the proposed MRI scanner.
*An additional physician Dr. Derek Smith, a national and international expert in MS, joined the Practice resulting in an increase of referrals of MS patients
OHCA can not verify this data.
(*May 30, 2006, CON Application page 30 and July 14, 2006, Prefile Testimony of Dr. David J. Shiling, page 8*)

14. The Applicant stated that the proposed MRI scanner will provide for the following:

- Improved quality by reducing the number of multiple scans;
 - Increased performance in types of scans;
 - Improved access to more advanced scanning sequences; and
 - Increased through-put and speed allowing for simultaneous studies (i.e. of the brain and cervical spine).
- (*May 31, 2006, Certificate of Need Application, pages 2, 4 & 5*)

15. The Applicant provided a table indicating the types of scans currently performed and the scans that can be performed on the proposed MRI scanner as follows:

Table 3: Scanning Capabilities of the Existing and the Proposed MRI scanner

Scans that can be performed and are <i>currently</i> performed (existing MRI scanner)	Scans that <i>can be</i> performed on the proposed scanner	All scans listed in column 2 will be performed on the proposed MRI scanner <i>except</i> the following:
Brain, Pituitary, Internal Auditory Canals (IAC's), Orbits, MRA Head, MRA Neck, Cervical Spine, Thoracic Spine, Lumbar Spine, Brachial Plexus, Lumbar Plexus, Shoulder, Elbow, Wrist/Hand, Hips, Knee, Foot/Ankle and Pelvis.	Brain, Pituitary, Internal Auditory Canals (IAC's), Orbits, MRA Head, MRA Neck, Cervical Spine, Thoracic Spine, Lumbar Spine, Brachial Plexus, Lumbar Plexus, Shoulder, Elbow, Wrist/Hand, Hips, Knee, Foot/Ankle and Pelvis, MRA Renal Arteries, Abdomen, MRCP, Cardiac Femoral Run-off Angiography, TMJ's, Breast, Total Spine Imaging, CNS Studies (Brain and Spine combined)	Breast Cardiac MRCP

(May 31, 2006, CON Completeness Responses Exhibit B)

16. The Applicant stated that the Practice would not be performing breast, cardiac or MRCP (“Magnetic Resonance Cholangiopancreatography”) scanning for the following reasons:

- These specialty type scans are not routinely required in order to service its patients; and
- The Practice is not purchasing the software or the coils to perform these types of exams.

(July 14, 2006, Prefile Testimony of Dr. Derek Smith and July 20, 2006, Applicant Public Hearing Testimony)

17. According to the Applicant, the proposed MRI scanner will provide the Applicant with the ability to perform the following types of sequences:

- Diffusion Imaging (evaluation of stroke);
- Perfusion Imaging;
- Spectroscopy¹;
- Blade Imaging (used for motion reduction i.e.-tremor/uncooperative patients, also used for improved visualization of M.S. lesions); and
- TIM (total imaging matrix) allows for combination of multi-channel coil capability with improved signal/noise for faster through-put, increased image quality and ability to perform combined studies.

(May 31, 2006, CON Completeness Responses Exhibit B)

¹¹ Spectroscopy is a imaging technique which helps in detection of multiple sclerosis.

18. The Applicant identified the following existing providers of MRI services in the service area:

Table 4: Existing Providers of Imaging Services in the Applicant's Service Area

Provider Name and Location	Type of MRI
The William W. Backus Hospital (Norwich)	(2) 1.5 Tesla Closed Mobiles
Lawrence & Memorial Hospital (New London)	1.5 Tesla Fixed Closed
Norwich Radiology Group, P.C. (Norwich)	.03 Tesla Fixed Open

(May 31, 2006, CON Application, page 8)

19. The Applicant stated that there will be no or minimal impact on other existing providers as the proposed MRI scanner is for the Applicant's existing patient population. *(May 31, 2006, CON Application, page 8)*
20. The Applicant stated that the proposed MRI scanner will not be used for MRI scans for patients outside the Practice. *(May 31, 2006, Responses to Completeness)*
21. The Applicant testified to the following:
- The Applicant is limited to the types of neurology imaging it can currently perform on the existing MRI scanner (i.e. diffusion weighted imaging, spectroscopy, etc.);
 - Up to 20% of the Applicant's Practice consists of patients with multiple sclerosis;
 - The Applicant will be the first physician office in New England to offer spectroscopy in its office;
 - The nearest states to offer spectroscopy in a physician office setting are Pennsylvania and Virginia;
 - The Practice is currently involved in research on multiple sclerosis within the field of neurology, and the proposed MRI will aid the Practice in its various research studies; and
 - There will be no charge to the patient for research only the normal charge for the MRI scan.
(July 20, 2006, Applicant Testimony at the Public Hearing)
22. The proposed MRI will interface with the Practice's Picture Archiving and Communication System, which will allow for off-site viewing by hospitals and other specialists and enables practitioners to review the same information simultaneously. *(May 31, 2006, CON Application page 5 and July 14, 2006, page 5 of Pre-File Testimony of Dr. Smith)*
23. The proposed MRI scanner will operate during the Practice's hours of operation which are Monday through Friday 7:30 am to 6:30 pm. Service hours and days may be expanded to accommodate the patient demand, depending upon technologist and radiologist availability. *(May 31, 2006, CON Application, pages 8&10)*

**Financial Feasibility of the Proposal and its Impact on the Hospital's Rates and
Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care Services
and Payers for Such Services
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines**

24. The proposal has a proposed capital expenditure of \$1,889,660, which consists of:

Table 5: Total Capital Expenditure for the Proposal

Project Component	Cost
Medical Equipment (Purchase)	\$1,382,678
Construction/Renovation	75,000
Total Capital Expenditure	\$1,457,678
Capitalized Financing Costs (for information purposes only)	441,982
Total Capital Cost including Capitalized Financing Costs	\$1,899,660

(May 31, 2006, CON Application, page 18)

25. The Applicant is acquiring the proposed MRI scanner through a lease and will have the option to buy the MRI scanner at the end of the lease for \$1.00. *(July 20, 2006, Applicant Testimony at the Public Hearing)*
26. The Applicant plans to fund the proposal through an equity loan of \$75,000. The remaining cost will be lease financed through Siemens. The Applicant provided OHCA with a copy of the lease agreement between the Applicant and Siemens Medical Solutions USA, Inc. outlining the financing terms. *(May 31, 2006, CON Application, pages 18-21 and 115)*
27. The Applicant testified at the public hearing that the Practice handles all the billing and there is only a global charge for the services versus a separate professional and a technical charge. *(July 20, 2006, Applicant Testimony at the Public Hearing)*
28. The Applicant projects incremental gains from operations of the proposed MRI scanner of \$83,236, \$236,284 and \$422,613 for FYs 2006 through 2008. *(May 31, 2006, CON Application, page 119)*

29. The projected Payer Mix for the proposal is as follows:

Table 6: Proposed Payer Mix

	Year 1	Year 2	Year 3
Medicare	30.9%	30.9%	30.9%
Medicaid	4.3%	4.3%	4.3%
CHAMPUS and TriCare	0.0%	0.0%	0.0%
Total Government	35.2%	35.2%	35.2%
Commercial Insurers	56.2%	56.2%	56.2%
Uninsured	4.4%	4.4%	4.4%
Worker's Compensation	4.3%	4.3%	4.3%
Total Non-Government Payers	64.9%	64.9%	64.9%
Total Payer Mix	100.0%	100.0%	100.0%

(March 22, 2006, Response to OHCA's Completeness Letter, page 14)

30. The Applicant's rates are sufficient to cover the proposed capital expenditure and operating costs. *(May 31, 2006, CON Application, page 119)*

31. There is no State Health Plan in existence at this time. *(May 31, 2006, CON Application, page 3)*

32. The Applicant has adduced evidence that this proposal is consistent with its long-range plan. *(May 31, 2006, CON Application, page 3)*

33. There are distinguishing or unique characteristics of the Practice's patient/physician mix related to the proposal: 20% of the Practice's patients have multiple sclerosis, and the Practice is the only private physician practice in Connecticut to be recognized by the National Multiple Sclerosis Society. *(May 31, 2006, CON Application, page 16 and July 20, 2006, Applicant Testimony at the Public Hearing)*

34. The Applicant has undertaken energy conservation, group purchasing and the application of technology programs in an effort to improve productivity and contain costs. *(May 31, 2006, CON Application, page 15)*

35. The proposal will result in changes to the Applicant's teaching and research responsibilities as some of the Practice's physicians are adjunct faculty at various universities. *(May 31, 2006, CON Application, page 16)*

36. The Applicant has sufficient technical, financial and managerial competence to provide efficient and adequate services to the public. *(May 31, 2006, CON Application, page 14 and Exhibit H)*

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 an existing service, the specific type of service proposed to be offered, the current utilization of the service and the financial feasibility of the proposal.

Neurology Associates, LLC (“Applicant or Practice”) is a private physician neurology practice located in Norwich, Connecticut. The Practice is the only Connecticut private physician comprehensive Multiple Sclerosis (“MS”) practice recognized by the National Multiple Sclerosis Society and the Consortium of Multiple Sclerosis Centers and MS Society of Connecticut. The Practice maintains a trade name as Multiple Sclerosis (“MS”) Care of Connecticut; approximately 20% of the Practice’s patient have MS. The Applicant proposes to acquire a 1.5 Tesla MRI scanner to replace its existing 1.0 Tesla MRI scanner located at its office at One Towne Park Plaza in Norwich Connecticut.

The Applicant reported the historical volume for its existing MRI scanner as 3,139, 3,515 and 3,760 scans for FYs 2003, 2004 and 2005, respectively. The Practice experienced a 21.3% growth in MRI utilization from FY 2005-2006 due to the increase in referrals of MS patients with the additional physician. The proposed MRI unit will have the capability to perform more advanced scanning sequences and simultaneous studies (i.e. of the brain and cervical spine). The proposed MRI scanner will increase patient access to additional types of scans that can be performed such as diffusion imaging, perfusion imaging and spectroscopy and will improve quality by reducing the number of multiple scans performed. The Applicant’s proposal for the acquisition of the 1.5 Tesla MRI scanner will improve both the accessibility and quality of MRI services for the patients of the Practice.

The total capital expenditure associated with the proposed project is \$1,457,678. The Applicant will fund the proposal through an equity loan of \$75,000 and the remaining will be funded through a lease (\$1.00 buy out at the end of the lease) through the vendor Siemens. The Applicant projects an incremental gain from operations for the first three years of operation as a result of implementation of the proposal of \$83,236, \$236,284 and \$422,613. Although OHCA can not draw any conclusions, the volumes and financial projections appear to be reasonable and achievable. Therefore, OHCA finds that the CON proposal is financially feasible and cost effective.

In summary, the Applicant will be the first physician office in New England to offer spectroscopy in its office and the Applicant also stated that the proposed MRI scanner will not be used for MRI scans for patients outside the Practice.

Based on the foregoing Findings and Rationale, the Certificate of Need application of Neurology Associates, LLC to acquire a 1.5 Tesla MRI scanner for its Norwich office at a total capital expenditure of \$1,457,678, is hereby GRANTED.

Order

Neurology Associates, LLC (“Applicant”) is hereby authorized to acquire a 1.5 Tesla MRI scanner for its Norwich office at a total capital expenditure of \$1,457,678, subject to the following conditions:

1. This authorization shall expire on December 31, 2007. Should the Applicant be unable to begin operation of the authorized MRI scanner 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 expenditure of \$1,457,678. In the event that the Applicant learns of potential cost increases or expects that the final project costs will exceed those approved, the Applicant shall file with OHCA a request for approval of the revised CON budget.
3. The Applicant will notify OHCA in writing of the commencement of the proposed MRI scanner within 30 days of the operation of the proposed MRI scanner and/or no later than December 31, 2007.
4. As stated in the proposal, the Applicant shall use the proposed MRI scanner for its Practice and its Practice patients, specifically for the use of neurological conditions.

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

August 28, 2006

Signed by Cristine A. Vogel
Commissioner

CAV:swl