

M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL
COMMISSIONER

July 1, 2009

IN THE MATTER OF:

An Application for a Certificate
of Need filed pursuant to
Section 19-639, C.G.S. by:

Notice of Final Decision
Office of Health Care Access
Docket Number: 08-31278-CON

**Jeffrey T. Kozlowski, D.D.S. d/b/a
Kozlowski Orthodontics, P.C.**

Acquisition of 3D Dental CT Imaging Unit

To: Jeffrey T. Kozlowski, D.D.S.
President/Owner
Kozlowski Orthodontics, P.C.
190 Hempstead Street
New London, CT 06320

Dear Dr. Kozlowski:

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-639, C.G.S. On July 1, 2009, 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.

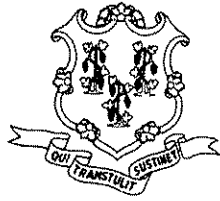
By Order of the
Office of Health Care Access



Cristine A. Vogel
Commissioner

Enclosure

CAV: agf



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Jeffrey T. Kozlowski, D.D.S. d/b/a
Kozlowski Orthodontics, P.C.

Docket Number: 08-31278-CON

Project Title: Acquisition of 3D Dental CT Imaging Unit

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

Filing Date: April 9, 2009

Decision Date: July 1, 2009

Default Date: July 8, 2009

Staff: Alexis G. Fedorjaczenko

Project Description: Jeffrey T. Kozlowski, D.D.S. d/b/a Kozlowski Orthodontics, P.C. (“Applicant”) is proposing to acquire a dental CT imaging unit in New London in order to offer three-dimensional (“3D”) localized field of view (3.8 cm x 5 cm) capabilities, with an associated capital expenditure of \$40,055.

Nature of Proceedings: On April 9, 2009, the Office of Health Care Access (“OHCA”) received a Certificate of Need (“CON”) application from Jeffrey T. Kozlowski, D.D.S. d/b/a Kozlowski Orthodontics, P.C. (“Applicant”) proposing to acquire a dental CT imaging unit in New London in order to offer three-dimensional (“3D”) localized field of view (3.8 cm x 5 cm) capabilities, with an associated capital expenditure of \$40,055.

A notice to the public concerning OHCA’s receipt of the Applicant’s Letter of Intent was published on December 12, 2008, in *The Day* of New London. OHCA received no

response from the public concerning the Applicant's proposal. Pursuant to Section 19a-639 of the Connecticut General Statutes ("C.G.S.") three individuals or an individual representing an entity with five or more people had until April 30, 2009, 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.

OHCA's authority to review, approve, modify, or deny this proposal 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. It is found that Jeffrey T. Kozlowski, D.D.S. d/b/a Kozlowski Orthodontics, P.C. ("Applicant") is a dental office located at 190 Hempstead Street in New London. *(February 18, 2009, Initial CON Application, page 2)*
2. It is found that Jeffrey T. Kozlowski, D.D.S. is the sole orthodontist in the practice. The practice is supported by three administrative employees and two clinical assistants. *(April 9, 2009, Completeness Response, page 27)*
3. It is found that the Applicant currently offers two-dimensional ("2D") digital radiography utilizing a Kodak 9000 digital panoramic/cephalometric dental x-ray machine. *(February 18, 2009, Initial CON Application, page 2)*
4. The Applicant proposes to acquire a dental CT imaging unit in order to offer a three-dimensional ("3D") localized field of view using cone-beam CT technology. *(February 18, 2009, Initial CON Application, page 2)*
5. The Applicant contends that certain dental issues could be better diagnosed and treatment-planned with 3D radiography compared to 2D radiography. *(February 18, 2009, Initial CON Application, pages 2-3)*
6. The Applicant contends that the 3D radiographic evaluation would be provided only after a traditional 2D radiographic evaluation revealed a potential tooth, root, or bone positioning issue that would benefit from further diagnostic information to determine treatment mechanics. *(February 18, 2009, Initial CON Application, page 5)*

7. The Applicant contends that it will not receive referrals for the proposed service, and that the proposed service will only be utilized to gain additional diagnostic information for patients of record at Kozlowski Orthodontics, P.C, seeking orthodontic treatment. *(February 18, 2009, Initial CON Application, pages 2-3)*
8. It is found that the Applicant will utilize the proposed equipment for the patients of the Applicant and will not receive referrals for this service from physicians outside of the practice.
9. It is found that the Applicant began accepting patients on September 15, 2008. Through March 2009, the Applicant has taken approximately 100 panoramic x-rays and 75 cephalometric x-rays (all patients who have a cephalometric x-ray have already had a panoramic x-ray). *(February 18, 2009, Initial CON Application, page 4)*
10. For the seven months since inception of the practice, the Applicant provided a monthly breakdown of new patients added to its records, new patient exams conducted, and number of patients for whom orthodontic treatment has been initiated. The Applicant stated that many of the patients receiving new patient exams who have not yet begun treatment are children who were not ready for orthodontics at the time of their new patient exam, but who are in the system for regular evaluations to determine the appropriate timing of treatment.

Table 1: Monthly New Patient Volume at the Applicant's Practice

	New Patients Added	New Patient Exams	Treatment Started
September 2008	36	35	7
October 2008	40	39	14
November 2008	28	26	10
December 2008	32	29	16
January 2009	51	17	15
February 2009	50	59	17
March 2009	49	38	21
Total	286	243	100

(April 9, 2009, Completeness Response, page 27)

11. The Applicant contends that a medical chart review of the digital charts of every patient that has presented for a new patient exam from September 15, 2008 through March, 2009, showed the following likely candidates for 3D imaging:
 - 18 indications – impaction of teeth;
 - 12 indications – determination of tooth and root positioning;
 - 10 indications – miniscrew placement;
 - 4 indications – measurement of size of unerupted teeth;
 - 3 indications – localization of molars superimposed on 2D x-rays; and
 - 2 indications – localization of supernumerary teeth.*(April 9, 2009, Completeness Response, pages 29-30)*

12. The Applicant contends that the units of service will be determined solely by the individual requirements of patients seeking orthodontic treatment at Kozlowski Orthodontics, P.C. The Applicant provided projections as follows:

Table 2: Projected Volume with the Proposal

	Year 1	Year 2	Year 3
Annual number of patients per year	250	250	250
20% receive 3D imaging	50	50	50
60% require additional follow-up	30	30	30
Additional images for documentation	20	20	20
Total	100	100	100

(February 18, 2009, Initial CON Application, pages 4-6)

13. It is found that there are no known existing providers of localized, dental 3D imaging in the service area. *(February 18, 2009, Initial CON Application, page 5)*
14. The Applicant asserts that in the absence of existing providers, patients are receiving diagnostic and treatment planning services through the use of traditional 2D radiographic techniques as well as digital intra- and extra-oral photography and digital orthodontic study models. *(April 9, 2009, Completeness Response, page 28)*
15. The Applicant contends that Dr. Kozlowski is certified for panoramic scans through his D.D.S. degree and that everyone on the team who takes panoramic images is Dental Assisting National Board certified. *(April 9, 2009, Completeness Response, page 30)*
16. The Applicant stated that there are no specific training requirements for operation of the proposed equipment and that with the 3D upgrade, images will be taken in the same manner as for panoramic scans. *(April 9, 2009, Completeness Response, page 30)*
17. The Applicant stated that upon purchase and implementation of the proposed equipment, they will contract for a certified trainer for 2-3 days of training on appropriate operation of the equipment. *(April 9, 2009, Completeness Response, page 30)*

**Financial Feasibility of the Proposal and its Impact on the Applicant's Rates and
Financial Condition
Rates Sufficient to Cover Proposed Capital and Operating Costs
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**

18. The Applicant contends that the proposed total capital expenditure of \$40,055 is for the purchase of equipment. The equipment will be financed through operating funds. *(February 18, 2009, Initial CON Application, page 11)*
19. The Applicant provided the following to verify availability of funds:
- Letter from Dime Bank;
 - U.S. Income Tax Return for an S Corporation, 2008; and
 - March 2009 financial daysheet (unaudited).
- (April 9, 2009, Completeness Response, pages 38, 40, & 41)*
20. The Applicant contends that there will be no change in revenues or expenses incremental to the CON proposal, as patients will not be charged for the proposed service. *(February 18, 2009, Initial CON Application, pages 13 & 19-20)*
21. The Applicant asserted that the proposed service will be provided inclusive of the patient's comprehensive orthodontic treatment fee, as is currently done for 2D images at the Applicant's practice. *(April 9, 2009, Completeness Response, pages 29 and 31)*
22. The Applicant stated that it contacted four insurance companies utilized by the Applicant's patients, and none of them reimburse for the proposed 3D scans. *(April 9, 2009, Completeness Response, page 32)*
23. The current and projected payer mix for the Applicant, based on Gross Patient Revenue, is as follows:

Table 3: Current & Three-Year Projected Payer Mix for the Applicant

	Current	Year 1	Year 2	Year 3
Medicare*	0%	0%	0%	0%
Medicaid*	0%	0%	0%	0%
Champus and TriCare	0%	0%	0%	0%
Total Government	0%	0%	0%	0%
Commercial Insurers*	25%	25%	25%	25%
Uninsured/Private Pay	75%	75%	75%	75%
Workers Compensation	0%	0%	0%	0%
Total Non-Government	100%	100%	100%	100%
Total Payer Mix	100%	100%	100%	100%

* Includes managed care activity.

(February 18, 2009, Initial CON Application, pages 12-13)

24. There is no State Health Plan in existence at this time. *(February 18, 2009, Initial CON Application, page 2)*
25. The Applicant has adduced evidence that the proposal is consistent with its long-range plans to provide its patients with the most appropriate available dental services. *(February 18, 2009, Initial CON Application, page 2)*
26. There are no distinguishing characteristics of the Applicant's patient/physician mix that make the proposal unique. *(February 18, 2009, Initial CON Application, page 2)*
27. Based on the Applicant's experience in private practice as well as teaching and research experience, the Applicant has sufficient technical and managerial competence to provide efficient and adequate services to the public. *(February 18, 2009, Initial CON Application, pages 8 & 22 and April 9, 2009, Completeness Response, page 28)*

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.

Jeffrey T. Kozlowski, D.D.S. d/b/a Kozlowski Orthodontics, P.C. (“Applicant”) is a dental office located at 190 Hempstead Street in New London. Jeffrey T. Kozlowski, D.D.S. is the sole orthodontist in the practice. The Applicant currently offers two-dimensional (“2D”) digital radiography utilizing a Kodak 9000 digital panoramic/cephalometric dental x-ray machine. The Applicant proposes to acquire a dental CT imaging unit in order to offer three-dimensional (“3D”) localized field of view (3.8 cm x 5 cm) capabilities using cone-beam CT technology.

The proposed dental CT imaging unit is relatively new technology entering into the Connecticut market. It is found that there are no known existing providers of localized, dental 3D imaging in the service area and that in the absence of the proposed service, patients are receiving diagnostic and treatment planning services through the use of traditional 2D radiographic techniques as well as digital intra- and extra-oral photography and digital orthodontic study models. The Applicant proposes only to serve patients of record at Kozlowski Orthodontics, P.C. in order to gain additional diagnostic information and will not receive referrals for this service from physicians outside of the practice. Accordingly, OHCA finds that the proposal to upgrade the digital radiography equipment to offer 3D localized field-of-view capabilities using cone-beam CT technology will improve access and quality of care for the Applicant’s patients.

The CON proposal’s total capital expenditure is \$40,055. The Applicant provided evidence to verify the availability of funds for the proposal. The Applicant contends that there will be no change in revenues or expenses incremental to the CON proposal, as patients will not be charged for the proposed service. The Applicant asserted that the proposed service will be provided inclusive of the patient’s comprehensive orthodontic treatment fee, as is currently done for 2D images at the Applicant’s practice. OHCA finds that the CON proposal is financially feasible.

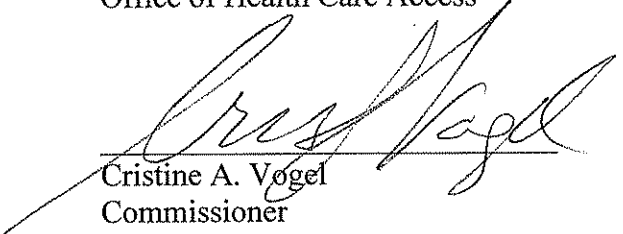
Order

Based on the foregoing Findings and Rationale, the Certificate of Need application of Jeffrey T. Kozlowski, D.D.S. d/b/a Kozlowski Orthodontics, P.C. ("Applicant") to acquire a dental CT imaging unit in New London in order to offer three-dimensional ("3D") localized field of view (3.8 cm x 5 cm) capabilities, with an associated capital expenditure of \$40,055, is hereby GRANTED, subject to the following conditions:

1. This authorization shall expire on July 1, 2010. 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 \$3 million in capital expenditures for the proposed equipment. In the event that the Applicant learns of potential cost increases or expects that final project costs will exceed those approved, the Applicant shall notify OHCA in writing.
3. The Applicant shall notify OHCA in writing of the following information by no later than one month after the new dental imaging equipment becomes operational:
 - a. The name of the manufacturer;
 - b. The model name and description of the equipment; and
 - c. The initial date of the operation of the equipment.
4. The Applicant shall utilize the 3D Dental CT Imaging equipment exclusively to gain additional diagnostic information for patients of record at Kozlowski Orthodontics, P.C.

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


Cristine A. Vogel
Commissioner

7-1-09
Date

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