

M. JODI RELL  
GOVERNOR

STATE OF CONNECTICUT  
OFFICE OF HEALTH CARE ACCESS

CRISTINE A. VOGEL  
COMMISSIONER

September 17, 2009

**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: 09-31453-WVR

**Mandell and Blau, M.D.'s P.C. d/b/a  
Open MRI of Middletown**

**Request to Waive CON Requirements for  
the Replacement of an Existing Closed  
1.5 Tesla-Strength MRI Scanner with an  
Open 0.7 Tesla-Strength MRI Scanner in  
Middletown**

To: Jeffrey Blau, M.D.  
CEO  
Mandell and Blau, M.D.'s P.C. d/b/a Open MRI of Middletown  
40 Hart Street  
New Britain, CT 06052

Dear Dr. Blau:

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 September 17, 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

CAV: jah



## Office of Health Care Access Certificate of Need Application

### Final Decision

**Applicant:** Mandell and Blau, M.D.'s P.C. d/b/a  
Open MRI of Middletown

**Docket Number:** 09-31453-WVR

**Project Title:** Request to Waive CON Requirements for the  
Replacement of an Existing Closed 1.5 Tesla-  
Strength MRI Scanner with an Open 0.7 Tesla-  
Strength MRI Scanner in Middletown

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

**Filing Date:** September 4, 2009

**Decision Date:** September 17, 2009

**Staff:** Jack A. Huber

**Project Description:** Mandell and Blau, M.D.'s, P.C. d/b/a Open MRI of Middletown requests a waiver of Certificate of Need requirements for the purpose of replacing its existing closed 1.5 tesla-strength MRI scanner with an open Hitachi Altaire, 0.7 tesla-strength MRI scanner at its office located at 140 Main Street in Middletown, Connecticut. The total capital cost for the replacement equipment project is \$772,000.

**Nature of Proceedings:** On September 4, 2009, the Office of Health Care Access ("OHCA") received the completed waiver of Certificate of Need ("CON") request for replacement equipment from Mandell and Blau, M.D.'s, P.C. d/b/a Open MRI of Middletown ("Applicant"). The Applicant proposes to replace its existing closed 1.5 tesla-strength MRI scanner with an open Hitachi Altaire, 0.7 tesla-strength MRI scanner at its office located at 140 Main Street in Middletown, Connecticut. The total capital cost for the replacement equipment project is \$772,000.

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 September 28, 2005, Mandell and Blau, M.D.'s, P.C. d/b/a Open MRI of Middletown ("Applicant") received a Certificate of Need ("CON") determination from the Office of Health Care Access ("OHCA") under Report Number: 05-30536-DTR. The Applicant was informed that it was not required to obtain CON authorization for the leasing of its closed Picker Eclipse, 1.5 tesla-strength MRI scanner, because the Applicant leased this equipment prior to the implementation of Public Act: 05-93, and the Applicant had provided to OHCA satisfactory evidence that it leased the MRI equipment for under \$400,000 prior to July 1, 2005. *(September 4, 2009, CON Waiver Form 2040, page 2 and Appendix 2, page 2)*
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 \$772,000 and consists of \$647,000, which represents the fair market value of the replacement open 0.7 tesla-strength MRI scanner and \$125,000 for building work to install the open MRI scanner. *(September 4, 2009, CON Waiver Form 2040, page 3)*
4. The replacement equipment expenditure 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

Mandell and Blau, M.D.'s, P.C. d/b/a Open MRI of Middletown ("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 closed 1.5 tesla-strength MRI scanner with an open 0.7 tesla-strength MRI scanner at its office located at 140 Main Street in Middletown, Connecticut.

On September 28, 2005, the Applicant received a CON determination from the Office of Health Care Access under Report Number: 05-30536-DTR that indicated the Applicant was not required to obtain CON authorization for the leasing of its closed 1.5 tesla-strength MRI scanner, because the Applicant leased this equipment prior to the implementation of Public Act: 05-93, and the Applicant had previously provided to OHCA satisfactory evidence that it leased the MRI equipment for under \$400,000 prior to July 1, 2005.

The replacement equipment cost for the proposed open 0.70 tesla-strength MRI scanner is \$647,000, 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

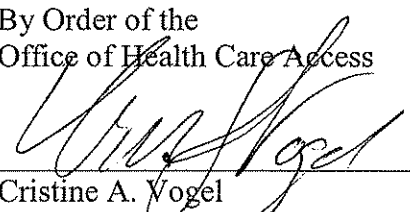
Based on the foregoing Findings and Rationale, the Office of Health Care Access ("OHCA") has determined that the request of Mandell and Blau, M.D.'s, P.C. d/b/a Open MRI of Middletown ("Applicant") for a waiver of Certificate of Need ("CON") requirements in order to replace its existing closed 1.5 tesla-strength MRI scanner with an open 0.7 tesla-strength MRI scanner at its office located at 140 Main Street in Middletown, Connecticut, at a replacement equipment cost of \$647,000, 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 conditions.

1. The Applicant shall not exceed \$3 million in the replacement equipment expenditure or value for the proposed replacement equipment. In the event that the Applicant learns of potential cost increases or expects the replacement equipment expenditure or value will exceed \$3 million, the Applicant shall notify OHCA in writing.
2. The Applicant shall notify OHCA regarding the initial date of the operation of the open 0.7 tesla-strength MRI scanner.
3. This authorization requires the removal of the Applicant's existing closed 1.5 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 open 0.70 tesla-strength 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.

9-17-09  
Date

By Order of the  
Office of Health Care Access

  
Cristine A. Vogel  
Commissioner