

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: 09-31455-WVR

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

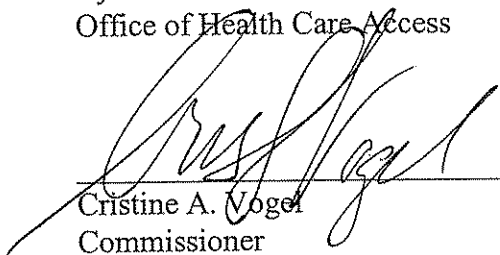
**Request to Waive CON Requirements for
the Replacement of an Existing Open
0.23 Tesla-Strength MRI Scanner with an
Open 0.70 Tesla-Strength MRI Scanner
and to Relocate the Replacement Scanner
within Glastonbury**

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

Dear Dr. Blau:

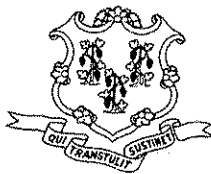
This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter as provided by Section 19a-639c, C.G.S. as amended by P.A. 09-232, Section 96. On September 17, 2009, the Final Decision was rendered as the finding and order of the Office of Health Care Access. 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 Glastonbury

Docket Number: 09-31455-WVR

Project Title: Requests to Waive CON Requirements for the
Replacement of an Existing Open 0.23 Tesla-
Strength MRI Scanner with an Open 0.70 Tesla-
Strength MRI Scanner and to Relocate the
Replacement Scanner within Glastonbury

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: Mandel and Blau, M.D.'s, P.C. d/b/a Open MRI of Glastonbury ("Applicant") requests a waiver of Certificate of Need requirements for the purpose of replacing its existing open 0.23 tesla-strength MRI scanner with an open Hitachi Altaire, 0.70 tesla-strength MRI scanner. The request also seeks to relocate the Applicant's MRI service from 2450 Main Street in Glastonbury to a new office located at 124 Hebron Avenue in Glastonbury, which is approximately 500 yards away from the current office location. When the replacement MRI scanner becomes operational at the Hebron Avenue office, the Applicant will close the existing Main Street office and remove the existing MRI scanner for certain disposition. The total capital cost for the replacement equipment and relocation project is \$952,000.

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 Mandel and Blau, M.D.'s, P.C. d/b/a Open MRI of Glastonbury ("Applicant"). The Applicant proposes to replace its existing open 0.23 tesla-strength MRI scanner with an open Hitachi Altaire, 0.70 tesla-strength MRI scanner. The

request also seeks to relocate the Applicant's MRI service from 2450 Main Street in Glastonbury to a new office located at 124 Hebron Avenue in Glastonbury. The total capital cost for the replacement equipment and relocation project is \$952,000.

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 13, 2000, Mandel and Blau, M.D.'s, P.C. d/b/a Open MRI of Glastonbury ("Applicant") received a Certificate of Need ("CON") determination from the Office of Health Care Access ("OHCA") under Report Number: 00-G3. The Applicant was informed that it was not required to obtain CON authorization for the leasing of its open Picker Outlook, 0.23 tesla-strength MRI scanner pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes (C.G.S."). *(September 4, 2009, CON Waiver Form 2040, page 2 and Appendix 2, page 2)*
2. Pursuant to Section 19a-639c, 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 and relocation proposal is \$952,000 and consists of \$627,000, which represents the fair market value of the replacement open 0.7 tesla-strength MRI scanner and \$325,000 for building work to install the open MRI scanner. *(September 4, 2009, CON Waiver Form 2040, pages 3 and 4)*
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

Mandel and Blau, M.D.'s, P.C. d/b/a Open MRI of Glastonbury ("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 open, 0.23 tesla-strength MRI scanner with an open 0.70 tesla-strength MRI scanner. The Applicant is also seeking to relocate its MRI service from 2450 Main Street in Glastonbury to a new office located at 124 Hebron Avenue in Glastonbury.

On September 13, 2000, the Applicant received a CON determination from the Office of Health Care Access under Report Number: 00-G3 that indicated the Applicant was not required to obtain CON authorization for the leasing of its open 0.23 tesla-strength MRI scanner pursuant to Sections 19a-638 and 19a-639, C.G.S.

The replacement equipment cost for the proposed open 0.70 tesla-strength MRI scanner is \$627,000, 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

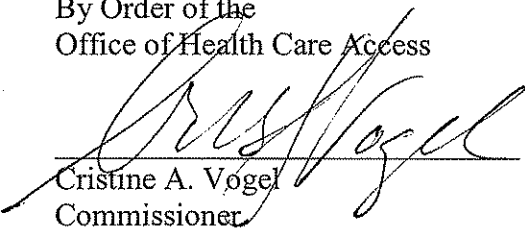
Based on the foregoing Findings and Rationale, the Office of Health Care Access ("OHCA") has determined that the request of Mandel and Blau, M.D.'s, P.C. d/b/a Open MRI of Glastonbury ("Applicant") for a waiver of Certificate of Need ("CON") requirements in order to replace its existing open 0.23 tesla-strength MRI scanner with an open 0.70 tesla-strength MRI scanner at its office to be located at 124 Hebron Avenue in Glastonbury, at a replacement equipment cost of \$627,000, 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 that the request of the Applicant to relocate its MRI service from 2450 Main Street in Glastonbury to a new office located at 124 Hebron Avenue in Glastonbury, 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 open 0.23 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

CAV:jah