



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF COMMISSIONER

October 28, 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: 09-31460-WVR

Diagnostic Imaging of Southbury, LLC

Request to Waive CON Requirements for the Replacement of an Existing 1.5 Tesla-Strength MRI Scanner with a 1.5 Tesla-Strength MRI Scanner in Southbury

To: Paul Masotto
Administrative Director
Diagnostic Imaging of Southbury, LLC
385 Main Street South
Union Square Building #2
Southbury, CT 06488

Dear Mr. Masotto:

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 October 28, 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.

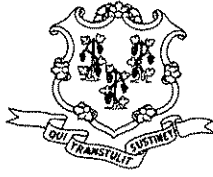
By Order of the Division of
Office of Health Care Access
Department of Public Health



Cristine A. Vogel
Deputy Commissioner

CAV: jah





**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Final Decision

Applicant: Diagnostic Imaging of Southbury, LLC

Docket Number: 09-31460-WVR

Project Title: Request to Waive CON Requirements for the Replacement of an Existing 1.5 Tesla-Strength MRI Scanner with a 1.5 Tesla-Strength MRI Scanner in Southbury

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

Filing Date: September 22, 2009

Decision Date: October 28, 2009

Staff: Jack A. Huber

Project Description: Diagnostic Imaging of Southbury, LLC, requests a waiver of Certificate of Need requirements for replacement equipment for the purpose of replacing its existing 1.5 tesla-strength MRI scanner with a new Toshiba Excelart Vantage Atlas X, 1.5 tesla-strength MRI scanner at its office located at 385 Main Street South in Southbury, Connecticut. The total capital cost of the replacement equipment project is \$1,831,842.

Nature of Proceedings: On September 22, 2009, the Office of Health Care Access ("OHCA") received the completed waiver of Certificate of Need ("CON") request for replacement equipment from Diagnostic Imaging of Southbury, LLC, ("Applicant"). The Applicant proposes to replace its existing 1.5 tesla-strength MRI scanner with a new Toshiba Excelart Vantage Atlas X, 1.5 tesla-strength MRI scanner at its office located at 385 Main Street South in Southbury, Connecticut. The total capital cost of the replacement equipment project is \$1,831,842.

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 June 5, 1998, in a Final Decision rendered under Docket Number: 97-572, Diagnostic Imaging of Southbury, LLC, (“Applicant”) received Certificate of Need (“CON”) authorization from the Office of Health Care Access (“OHCA”) to acquire and operate a Picker Outlook, 0.23 tesla-strength MRI scanner. *(September 22, 2009, CON Waiver Form 2040, Exhibit A)*
2. On June 21, 2002, in a Final Decision rendered under Docket Number: 02-519, the Applicant received CON authorization from the OHCA to replace its existing Picker Outlook, 0.23 tesla-strength MRI scanner with a Phillips Infinion, 1.5 tesla-strength MRI scanner. The replacement 1.5 tesla-strength MRI scanner met the requirements for waiver of CON requirements pursuant to Section 19a-639c of the Connecticut General Statutes (“C.G.S.”). *(September 22, 2009, CON Waiver Form 2040, page 2 and Exhibit A)*
3. 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 previously received a CON for the equipment to be replaced 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)*
4. The total capital cost for the replacement equipment proposal is \$1,831,842 and consists of \$1,581,842 for the acquisition of the replacement 1.5 tesla-strength MRI scanner and \$250,000 for renovation work to install the new MRI scanner. *(September 22, 2009, CON Waiver Form 2040, page 2 and Exhibit B)*
5. 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

Diagnostic Imaging of Southbury, LLC, (“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 Phillips Infinion, 1.5 tesla-strength MRI scanner with a Toshiba Excelart Vantage Atlas X, 1.5 tesla-strength MRI scanner at its office located at 385 Main Street South in Southbury, Connecticut.

On June 21, 2002, in a Final Decision rendered under Docket Number: 02-519, the Applicant received CON authorization from the Office of Health Care Access to replace its existing Picker Outlook, 0.23 tesla-strength MRI scanner with a new Phillips Infinion, 1.5

tesla-strength MRI scanner. The replacement 1.5 tesla-strength MRI scanner met the requirements for waiver of CON requirements pursuant to Section 19a-639c, C.G.S. The replacement equipment cost for the proposed 1.5 tesla-strength MRI scanner is \$1,581,842, 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 Diagnostic Imaging of Southbury, LLC, (“Applicant”) for a waiver of Certificate of Need (“CON”) requirements in order to replace its existing 1.5 tesla-strength MRI scanner with a new 1.5 tesla-strength MRI scanner at its office located at 385 Main Street South in Southbury, Connecticut, at a replacement equipment cost of \$1,581,842, meets the requirements for 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 new 1.5 tesla-strength MRI scanner.
3. This authorization requires the removal of the Applicants’ existing 1.5 tesla-strength MRI scanner for certain disposition, such as sale or salvage, outside of and unrelated to the Applicants’ Connecticut service locations by no later than six months after the replacement 1.5 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.

By Order of the Division of
Office of Health Care Access
Department of Public Health


Cristine A. Vogel
Deputy Commissioner

10-28-09
Date

CAV:jah