



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

Housatonic Valley Radiological Associates, P.C.

Notice of Final Decision
Office of Health Care Access
Docket Number: 09-31462-WVR

Request to Waive CON Requirements for the Replacement of an Existing Mobile-Based, 1.0 Tesla-Strength MRI Scanner with a Fixed-Based, 1.5 Tesla-Strength MRI Scanner in Southbury

To: Conrad Ehrlich, M.D.
President
Housatonic Valley Radiological Associates, P.C.
67 Sand Pit Road
Danbury, CT 06810

Dear Dr. Ehrlich:

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: Housatonic Valley Radiological Associates, P.C.

Docket Number: 09-31462-WVR

Project Title: Request to Waive CON Requirements for the Replacement of an Existing Mobile-Based, 1.0 Tesla-Strength MRI Scanner with a Fixed-Based, 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 23, 2009

Decision Date: October 28, 2009

Staff: Jack A. Huber

Project Description: Housatonic Valley Radiological Associates, P.C., requests a waiver of Certificate of Need requirements for the purpose of replacing its existing mobile-based, 1.0 tesla-strength MRI scanner with a fixed-based Siemens Symphony, 1.5 tesla-strength MRI scanner at its office located at 800 Main Street in Southbury, Connecticut. The total capital cost for the replacement equipment project is \$935,000.

Nature of Proceedings: On September 23, 2009, the Office of Health Care Access (“OHCA”) received the completed waiver of Certificate of Need (“CON”) request for replacement equipment from Housatonic Valley Radiological Associates, P.C. (“Applicant”). The Applicant proposes to replace its existing mobile-based, 1.0 tesla-strength MRI scanner with a fixed-based Siemens Symphony, 1.5 tesla-strength MRI scanner at its office located at 800 Main Street in Southbury, Connecticut. The total capital cost for the replacement equipment project is \$935,000.

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 22, 2009, Housatonic Valley Radiological Associates, P.C. (“Applicant”) received a Certificate of Need (“CON”) determination from the Office of Health Care Access (“OHCA”) under Report Number: 09-31443-DTR. The determination report indicated that the Applicant was not required to obtain CON authorization to acquire a mobile-based, Siemens Impact 1.0 tesla-strength MRI scanner, because the Applicant acquired this equipment prior to the implementation of Public Act: 05-93, and the equipment was in operation prior to July 1, 2006. *(September 23, 2009, CON Waiver Form 2040, page 2 of the Waiver Request and Exhibit A, pages 3 and 4)*
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 \$935,000 and consists of \$585,000 for the acquisition of the replacement fixed-based, 1.5 tesla-strength MRI scanner and \$350,000 for renovation work to install the new MRI scanner. *(September 23, 2009, CON Waiver Form 2040, page 2)*
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

Housatonic Valley Radiological Associates, P.C. (“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 mobile-based Siemens Impact, 1.0 tesla-strength MRI scanner with a fixed-based Siemens Symphony, 1.5 tesla-strength MRI scanner at its office located at 800 Main Street in Southbury, Connecticut.

On September 22, 2009, the Applicant received a CON determination from the Office of Health Care Access under Report Number: 09-31443-DTR that indicated the Applicant was not required to obtain CON authorization to acquire its existing mobile-based Siemens Impact, 1.0 tesla-strength MRI scanner, because the Applicant acquired this equipment prior to the implementation of Public Act: 05-93, and the equipment was in operation prior to July 1, 2006.

The replacement equipment cost for the proposed fixed-based, 1.5 tesla-strength MRI scanner is \$585,000, 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 Housatonic Valley Radiological Associates, P.C. (“Applicant”) for a waiver of Certificate of Need (“CON”) requirements in order to replace its existing mobile-based, 1.0 tesla-strength MRI scanner with a fixed-based, 1.5 tesla-strength MRI scanner at its office located at 800 Main Street in Southbury, Connecticut, at a replacement equipment cost of \$585,000, 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 fixed-based, 1.5 tesla-strength MRI scanner.
3. This authorization requires the removal of the Applicant’s existing mobile-based, 1.0 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 fixed-based, 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