

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF COMMISSIONER

June 16, 2010

IN THE MATTER OF:

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

Notice of Final Decision
Office of Health Care Access
Docket Number: 09-31481-CON

**Gregory A. Toback, DMD, d/b/a
Shoreline Periodontics, P.C.**

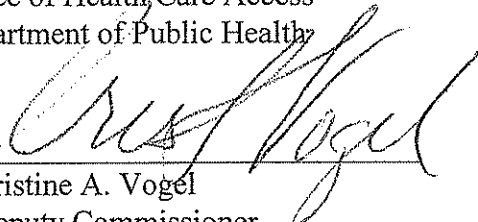
**Acquisition of a 3-D Cone Beam Computed
Tomography ("CT") Scanner in New
London**

Gregory A. Toback, DMD
Periodontist and Owner
Gregory A. Toback d/b/a Shoreline Periodontics, P.C.
190 Hempstead Street
New London, CT 06320

Dear Dr. Toback:

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 June 16, 2010, 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.

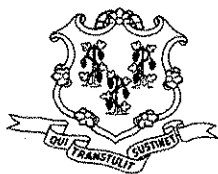
By Order of the
Office of Health Care Access
Department of Public Health



Cristine A. Vogel
Deputy Commissioner

CAV: swl: cgc
Enclosure





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

Final Decision

Applicant: Gregory A. Toback, DMD, d/b/a Shoreline Periodontics, P.C.

Docket Number: 09-31481-CON

Project Title: Acquisition of a 3-D Cone Beam Computed Tomography ("CT") Scanner in New London

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

Filing Date: March 24, 2010

Decision Date: June 16, 2010

Default Date: June 22, 2010

Staff: Carmen Cotto
Steven Lazarus

Project Description: Gregory A. Toback, d/b/a Shoreline Periodontics, P.C. ("Applicant") is proposing to acquire a 3-D Cone Beam Computed Tomography ("CT") Scanner in New London, at a total capital cost of \$110,000.

Nature of Proceedings: On March 24, 2010, the Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application from Gregory A. Toback, D.M.D. d/b/a Shoreline Periodontics, P.C. ("Applicant") proposing to acquire a 3-D Cone Beam CT Scanner in New London, at a total capital cost of \$110,000.

A notice to the public regarding OHCA's receipt of the Applicant's Letter of Intent to file its CON Application was published in *The Day* on October 29, 2009. OHCA received no responses from the public concerning the Applicant's proposal. Pursuant to Section 19a-639, C.G.S., three individuals, or an individual representing an entity with five or more people, had until April 14, 2010, 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 and 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 on the Applicant's Current Utilization Statistics Contribution of the Proposal to the Accessibility and Quality of Health Care Delivery in the Region

1. It is found that Gregory A. Toback, DMD, d/b/a Shoreline Periodontics, P.C. ("Applicant" or "Practice") is a dental practice located at 190 Hempstead Street in New London. *(February 11, 2010, Initial CON Application, page 1)*
2. It is found that Gregory A. Toback, DMD is a Periodontist licensed by the State of Connecticut and the owner and President of Shoreline Periodontics, P.C. with one location in New London. *(February 11, 2010, Initial CON Application, pages 1-4, and Attachment D, page 37)*
3. The Applicant indicates that the Cone Beam CT will be installed in the Applicant's current location in New London. *(February 11, 2010, Initial CON Application, page 2)*
4. The Applicant claims that the proposal's target population is the Applicant's patients who require diagnostic analysis of bone prior to implant placement, the evaluation of impacted teeth prior to surgical intervention, and the evaluation of oral pathology. *(February 11, 2010, Initial CON Application, page 5)*
5. The Applicant indicates that it currently offers traditional 2-D radiography at its current location using a leased Gendex orthopantomograph, which is a panoramic scanner ("PANO"). *(February 11, 2010, Initial CON Application, pages 2 and 4)*
6. The Applicant further indicates that its existing 2-D radiographic scanner will be replaced by the proposed Cone Beam CT, which has the dual capability of digital PANO and 3-D imaging. *(February 11, 2010, Initial CON Application, page 4)*
7. The Applicant provided literature to support that the Cone Beam CT can enhance diagnosis of vital structures making implant surgery safer and provides the ability for digital planning that allows more accurate implant placement which is of critical benefit to the patient. *(February 11, 2010, Initial CON Application, Attachment B, page 14)*
8. The Applicant asserts that in the absence of a Cone Beam CT, patients are receiving diagnostic and treatment planning through the use of traditional 2-D radiographic techniques as well as digital intra and extra oral x-ray both of which provide less comprehensive diagnostic information on the region of interest. *(February 11, 2010, Initial CON Application, page 8)*

9. The Applicant indicates that the technologies available for use in conjunction with the Cone Beam CT and the benefits of this technology include:

Table# Cone Beam technologies and benefits by diagnosis

| Diagnoses | Benefits |
|----------------------------------|---|
| Implant diagnosis | Identification of important anatomic landmarks such as nerve, sinus and tooth root locations prior to dental implant placement. |
| Dental implant – computer guided | Computer guided placement of dental implants which allows minimally invasive surgery and expedited treatment approaches. |
| Root position diagnosis | Allows for tooth and root positioning for periodontal surgery minimizing the risk of morbidity to adjacent teeth and bone. |

(February 11, 2010, Initial CON Application, pages 2 and 7)

10. The Applicant contends that in contrast to the medical CT, the Cone Beam is a “limited field” scanner that will allow him to limit the imaging to a specific dental area of interest and lower radiation exposure to the patients. *(February 11, 2010, Initial CON Application, pages 5- 6)*
11. Based upon the articles included in the CON application and the Applicant’s personal experience, the Applicant contends that although traditional 2-D radiography and medical CT are available to the Applicant’s patients, the 2-D radiography provides less comprehensive diagnostic information, and the medical CT does not provide “limited field” scanning and exposes patients to higher radiation than the Cone Beam. *(February 11, 2010, Initial CON Application, page 14)*
12. OHCA finds that Cone Beam CT provides many benefits as compared to traditional medical CT. Specifically, Cone Beam CT exposes the patient to less radiation and allows for computer guided placement of dental implants.
13. The Applicant indicates that the only provider of dental cone beam imaging that he is aware of is Kozlowski Orthodontics, P.C. at 190 Hempstead Street in New London. *(February 11, 2010, Initial CON Application, page 6)*

14. The Applicant reported its historical practice utilization for all patients served as follows:

Table #: Historical Total Practice Volume

| | FY 2007 | FY 2008 | FY 2009 |
|--------------------|--------------------|--------------------|--------------------|
| Total | 2,596 | 2,996 | 1,926 |
| Growth Rate | | 15% | -36% |

*Note: FY is from January 1st-December 31st.
(May 6, 2010, Supplemental Responses, page 57)*

15. The Applicant claims that the decrease in volume in FY 2009 was attributable to a dissolved partnership between him and two other practitioners, and to the start of his solo practice in mid-2008. *(May 6, 2010, Supplemental Responses, page 57)*
16. OHCA finds that the decrease in overall volume in FY 2009 was attributable to the dissolution of the Applicant's partnership with two other practitioners and that the Applicant was nonetheless able to retain approximately 64% of the volume compared to FY 2008.
17. The Applicant contends that the projected total practice volume for all patients served was based on its historical experience and industry average goal of 7% growth for total practice volume.

Table #: The Current and Projected Total Practice Volume

| | CFY* 2010 | FY 2011 | FY 2012 | FY 2013 |
|--------------------|----------------------|--------------------|--------------------|--------------------|
| Total | 2,061 | 2,205 | 2,360 | 2,525 |
| Growth Rate | 7% | 7% | 7% | 7% |

*Note: FY is from January 1st-December 31st.
*FY 2010 figures were calculated by taking volume from January 1 to April 30 and extrapolating the remaining eight months after comparing the first four month of FY 2009.
(May 6, 2010, Supplemental Responses, page 57)*

18. The following table demonstrates that the number of referrals have consistently increased even after the applicant started its solo practice:

Table #: Historical Number of Total Practice & Referrals

| | FY 2007 | FY 2008 | FY 2009 |
|----------------------------|--------------------|--------------------|--------------------|
| Practice volume | 2,596 | 2,996 | 1,926 |
| Number of Referrals | 36 | 51 | 59 |

*Note: FY is from January 1st-December 31st.
(May 6, 2010, Supplemental Responses, page 57)*

19. The Applicant contends that it has seen growth over the past three years in its need and referral for 3-D imaging which parallels the growth of its implant based practice.

Table #: Historical and Current Referrals by Applicant for 3-D imaging, by diagnosis

| Diagnosis | FY 2007 | FY 2008 | FY 2009 | CFY* 2010 |
|---------------------------------|--------------------|--------------------|--------------------|----------------------|
| Implant diagnosis | 26 | 25 | 42 | 45 (11/34) |
| Dental implant –computer guided | 8 | 21 | 14 | 19 (5/14) |
| Root position diagnosis | 2 | 5 | 3 | 5 (1/4) |
| Total | 36 | 51 | 59 | 69 (17/52) |
| %Growth Rate** | | 29% | 14% | 15% |

Note: FY is from January 1st-December 31st.

**Current Fiscal Year- annualized by the Applicant; in parenthesis: the first number represents scans to date diagnosis, and the second represents estimated scans for the remainder.*

***Calculated by OHCA Staff.*

(February 11, 2010, Initial CON Application, pages 2 and 7, and March 24, 2010, Completeness Responses, page 54)

20. According to the historical and current volume totals for referrals by the Applicant, it experienced an overall increase in referral for 3-D imaging that resulted in a 29%, 14% and 15% total growth rate in FY 2008, FY 2009 and CFY 2010, respectively.
21. The Applicant indicates that, when needed, the Applicant’s patients receive 3-D imaging through a full head and neck Medical Computed Tomography (“medical CT”). *(February 11, 2010, Initial CON Application, page 5)*
22. The Applicant claims that offsite locations at which his patients received medical CT in the past include: Ocean Radiology (through Facial Imaging Services) in Waterford and Madison Radiology in Madison. However, over the past two years he has referred exclusively to Ocean Radiology. *(February 11, 2010, Initial CON Application, page 5, and March 24, 2010, Completeness Responses, page 55)*
23. The Applicant indicates that he refers approximately three to six cases per month to Ocean Radiology. *(February 11, 2010, Initial CON Application, page 6)*
24. The Applicant further contends that all of the 59 cases seen in FY 2009 were referred to Ocean Radiology in Waterford for CT Scans. *(March 24, 2010, Completeness Responses, page 56)*

25. The Applicant claims that the majority of the patients referred to Ocean Radiology in FY 2009 were from Mystic and Groton, Connecticut.

Table #: Applicant's referral to Ocean Radiology by Town, FY 2009

| Town | FY 2009 | % from total volume FY 2009 |
|------------------|----------------|------------------------------------|
| Mystic, CT | 17 | 29% |
| Groton, CT | 15 | 25% |
| East Lyme, CT | 9 | 15% |
| Pawcatuck, CT | 3 | 5% |
| Old Saybrook, CT | 2 | 3% |
| Hartford, CT | 1 | 2% |
| Fort Myers, FL | 1 | 2% |
| Westerly, RI | 6 | 10% |
| Total | 59 | 100% |

(February 11, 2010, Initial CON Application, page 7)

26. The Applicant asserts that based on its historical experience, it is projecting moderate growth in the projected volume by diagnosis.

Table #: Projected volume breakdown by diagnoses with the proposal

| Diagnosis | CFY* 2010 | FY** 2011 | FY** 2012 | FY** 2013 |
|---------------------------------|------------------|------------------|------------------|------------------|
| Implant diagnosis | 45 | 50 | 55 | 60 |
| Dental implant –computed guided | 19 | 20 | 21 | 22 |
| Root position diagnosis | 5 | 7 | 9 | 11 |
| Total | 69 | 77 | 85 | 93 |
| %Growth Rate*** | | 11% | 10% | 9% |

*Current Fiscal Year- annualized by the Applicant

**The Applicant operates on a Calendar Year from January 1st-December 31st.

***Calculated by OHCA Staff.

(February 11, 2010, Initial CON Application, page 7, and March 24, 2010, Completeness Responses, page 54)

27. OHCA finds that the projected volume by diagnosis that is being projected to increase over the first three years of the proposal appears to be reasonable, based on the Applicant's historical utilization.

28. OHCA finds that the Applicant provided reasonable projections based on current utilization.

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

29. The Applicant indicates that the proposed total capital expenditure of \$110,000 will be financed by VATECH EWOO Technologies USA, Inc. *(February 11, 2010, Initial CON Application, page 10)*
30. The Applicant projects gains from incremental to the proposal of \$7,500, \$19,250 and \$21,250, for FYs 2010, 2011 and 2012, respectively. *(February 11, 2010, Initial CON Application, page 45)*
31. The Applicant claims that the financing fees over a three year period will be approximately \$3,000 per month or \$36,000 per year. *(February 11, 2010, Initial CON Application, page 11)*
32. The Applicant projects the following gain from net income for the overall Practice for the first three projected years of the proposal of \$669, \$724,597 and \$771,668, for FYs 2010, 2011 and 2012, respectively. *(February 11, 2010, Initial CON Application, page 45)*
33. The following table illustrates the Applicant's projected total Practice net income from the proposal, less the financing cost of the proposed Cone Beam CT for the first three years of the proposal:

Table #: Projected Total Practice Net Income with the Proposal

| | 2010 | 2011 | 2012 |
|---|-------------------|-------------------|-------------------|
| Revenue from Proposal | \$7,500 | \$19,250 | \$21,250 |
| Financing Cost | \$(36,000) | \$(36,000) | \$(36,000) |
| Net Income Incremental to the Project | \$(28,500) | \$(16,750) | \$(14,750) |
| Total Practice Net Income (w/o Project) | \$661,891 | \$705,347 | \$750,408 |
| Total Practice Net Income | \$633,391 | \$688,597 | \$735,658 |

(February 11, 2010, Initial CON Application, pages 11-12, and 45)

34. OHCA finds that in order to pay of the proposed Cone Beam CT in the first 3 years, the Applicant will experience initial losses incremental to the proposal but these losses can be absorbed by the Applicant's overall Practice revenues.
35. The Applicant contends that it is not aware of any insurance companies that provide reimbursement for scans performed with the Cone Beam CT and therefore has no intentions of billing insurance for the scans. *(February 11, 2010, Initial CON Application, pages 9-and 11)*
36. The Applicant indicates that the charge to the patients for the scan and the formatting at Ocean Radiology in Waterford is \$400. This fee is charged to the patient through Facial Imaging, Inc. and is not billed to insurance. *(March 24, Completeness Responses, page 55)*
37. The Applicant contends that prior to its current arrangement with Ocean Radiology/Facial Imaging, Inc., its patients were charged \$1,000 per medical CT scan at Lawrence & Memorial Hospital. *(March 24, Completeness Responses, page 55)*
38. The Applicant indicates patients will be charged for scans at a fee-for-service rate of \$250 for the scans performed with a Cone Beam CT, based on current market pricing. *(February 11, 2010, Initial CON Application, page 11)*
39. OHCA finds that the Applicant's proposal is cost-effective for the consumer.
40. The current and projected payer mix for the Applicant, based on Patient Population, is as follows:

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

| | CFY 2010 | FY 2011 | FY 2012 | FY 2013 |
|-----------------------------|-------------|-------------|-------------|-------------|
| 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* | 0% | 0% | 0% | 0% |
| Uninsured/Private Pay | 100% | 100% | 100% | 100% |
| 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 11, 2010, Initial CON Application, page 10)

41. 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 11, 2009, Initial CON Application, page 12)*
42. The Applicant contends that there are no distinguishing characteristics of the Applicant's patient/physician mix that make the proposal unique. *(February 11, 2010, Initial CON Application, page 12)*

43. 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 11, 2010, Initial CON Application, page 11*)

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.

Gregory A. Toback, DMD d/b/a Shoreline Peridontics, P.C. (“Applicant” or “Practice” or “Dr. Toback”) is a dental office located at 190 Hempstead Street in New London, Connecticut. Dr. Toback is the sole periodontist in the practice. The Applicant currently offers two-dimensional (“2D”) digital radiography utilizing a leased Gendex orthopantomography, which is a panoramic scanner. The Applicant proposes to acquire a 3-D Cone Beam Computed Tomography Scanner (“Cone Beam CT”).

The proposed Cone Beam CT will benefit the Applicant’s patients who require diagnostic analysis of bone prior to implant placement or evaluation of impacted teeth prior to surgical intervention and/or with the evaluation of oral pathology. During FY 2009, the Applicant referred 59 patients requiring 3-D imaging to a full head and neck Medial Computed Tomography (“Medical CT”) scanner. In contrast to a Medical CT, the Cone Beam CT will offer the Applicant’s patients a “limited field” scanner that will limit the imaging to a specific dental area of interest and lower radiation exposure. (Findings of Fact 11-13) Additionally, the Applicant will be able to utilize the Cone Beam CT for computer guided placement of implants, which allows for minimally invasive surgery and more expedited treatment. (Findings of Fact 10 & 13) Moreover, the charge for a Cone Beam CT scan is less than a Medical CT scan, which ranges from \$400 to \$1,000 depending upon the provider of the service. (Findings of Fact 33-38) Accordingly, OHCA finds that this proposal will improve the quality, accessibility and cost-effectiveness of health care delivery in the region.

Although the Applicant’s overall volume decreased due to the departure of two other practitioners, the Applicant’s referrals for medical CT continued to increase in FY2009. (Finding of Fact 20) OHCA finds that the Applicant has consistently experienced slight increases in referrals for 3-D imaging scans. With respect to the projected volumes, OHCA finds that even without this proposal, the number of projected referrals from the Applicants 3-D imaging will increase from 59 cases in 2009 to 93 cases in 2013. Moreover, in light of the Applicant’s consistent increases in referrals between FY2007 and FY2009, the Applicant’s volume projections appear to be reasonable.

The CON proposal’s total capital expenditure is \$110,000. The Applicant will finance the proposal through VATECH EWOO Technologies, USA, Inc. The Applicant contends that the proposed service will be 100% self-pay. In order to pay for the proposed Cone Beam CT in the first 3 years, the Applicant will experience initial losses incremental to the proposal but these losses can be absorbed by the Applicant’s overall Practice revenues (Finding of Fact 34). OHCA finds that the Applicant’s volume and financial projections upon which they are based appear to be reasonable and achievable and therefore, the proposal is financially feasible.

Order

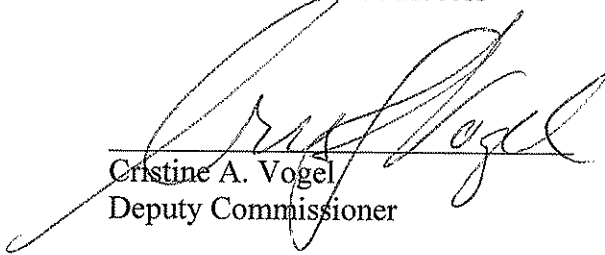
Based on the foregoing Findings and Rationale, the Certificate of Need application of Gregory A. Toback, DMD d/b/a Shoreline Peridontics, P.C. ("Applicant") to acquire a Cone Beam Computed Tomography ("Cone Beam CT") Scanner in New London with an associated capital expenditure of \$110,000, is hereby GRANTED, subject to the following conditions:

1. This authorization shall expire on July 1, 2012. 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 notify OHCA in writing of the following information by no later than one month after the new Cone Beam Computed Scanner 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.

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

6-16-10
Date


Cristine A. Vogel
Deputy Commissioner