



STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

M. JODI RELL
GOVERNOR

CRISTINE A. VOGEL
COMMISSIONER

August 21, 2007

Michelle M. Volpe
Attorney
Bershtein, Volpe & McKeon P.C.
105 Court Street, 3rd Floor
New Haven, CT 06511

RE: Certificate of Need Determination; Report Number 07-31001-DTR
Neurology Associates, LLC
Requesting authorization to perform all MRI imaging modalities on the OHCA approved MRI scanner not limited to neurology related scans as stipulated under Docket No.: 06-30674-CON

Dear Attorney Volpe:

On July 3, 2007, the Office of Health Care Access (“OHCA”) received your Certificate of Need (“CON”) Determination request on behalf of Neurology Associates, LLC (“Practice”) for requesting authorization to perform all MRI related imaging modalities on the OHCA approved MRI scanner and not be limited to neurology related scans as stipulated under Docket No.: 06-30764-CON. Please be advised that OHCA has reviewed your request and makes the following findings:

1. The Practice is a private physician group specializing in neurology and radiology.
2. The Practice is comprised of six full-time neurologists and one on-site full-time radiologist.
3. According to the original CON application under Docket No.: 06-30764-CON, the Practice handles all the billing and there is only a global charge for the services versus a separate professional and a technical charge.

An Equal Opportunity Employer
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4. On August 28, 2006, OHCA rendered a final decision approving the Practice's CON proposal for the acquisition of a 1.5 Tesla MRI scanner for its Norwich office, at a total capital expenditure of \$1,457,678.
5. The Practice is requesting OHCA to allow the Practice to use the MRI scanner authorized under CON final decision Docket No.: 06-30764-CON, to perform all imaging modalities and not limit the use of the MRI scanner to patients with neurological conditions.
6. There is no capital expenditure associated with the proposed request.
7. Under CON final decision Docket No.: 06-30674-CON, OHCA made the following findings:

- “1. Neurology Associates, LLC (“Applicant or Practice”) is a private physician neurology practice located in Norwich, Connecticut. *(January 24, 2006, Letter of Intent)*
2. According to the Applicant, the Practice was recently designated as the only Connecticut private physician comprehensive multiple sclerosis practice recognized by the National Multiple Sclerosis Society and the Consortium of Multiple Sclerosis Centers and MS Society of Connecticut. The Practice maintains a trade name of Multiple Sclerosis (“MS”) Care of Connecticut. *(May 31, 2006, CON Application page 3 and July 14, 2006, Prefile Testimony of Dr. Shiling)*
3. The Applicant stated that the Practice is comprised of six (6) full-time neurologists, all of whom are in clinical practice of neurology, and one (1) on-site radiologist. The Practice is accredited by the American College of Radiology. *(January 24, 2006, Letter of Intent and July 14, 2006, Prefile Testimony of Dr. David Shiling)*

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9. The existing scanner is limited as to the types of sequences that have become standard practice in the field of neurology such as diffusion weighted imaging used in the diagnosis of stroke. *(May 30, 2006, CON Application page 2)*
10. The Applicant testified at the public hearing that in FY 2005, it referred 32 patients from its practice to William W. Backus Hospital for diffusion weighted imaging. The Applicant expects this number to steadily increase in the coming years with advances in techniques within the field of neurology imaging. *(July 20, 2006, Applicant Testimony at the Public Hearing)*

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17. According to the Applicant, the proposed MRI scanner will provide the Applicant with the ability to perform the following types of sequences:

- Diffusion Imaging (evaluation of stroke);
- Perfusion Imaging;
- Spectroscopy¹;
- Blade Imaging (used for motion reduction i.e.-tremor/uncooperative patients, also used for improved visualization of M.S. lesions); and
- TIM (total imaging matrix) allows for combination of multi-channel coil capability with improved signal/noise for faster through-put, increased image quality and ability to perform combined studies.

(May 31, 2006, CON Completeness Responses Exhibit B)

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21. The Applicant testified to the following:

- a. The Applicant is limited to the types of neurology imaging it can currently perform on the existing MRI scanner (i.e. diffusion weighted imaging, spectroscopy, etc.);
- b. Up to 20% of the Applicant's Practice consists of patients with multiple sclerosis;
- c. The Applicant will be the first physician office in New England to offer spectroscopy in its office;
- d. The nearest states to offer spectroscopy in a physician office setting are Pennsylvania and Virginia;
- e. The Practice is currently involved in research on multiple sclerosis within the field of neurology, and the proposed MRI will aid the Practice in its various research studies; and
- f. There will be no charge to the patient for research only the normal charge for the MRI scan. *(July 20, 2006, Applicant Testimony at the Public Hearing)*

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33. There are distinguishing or unique characteristics of the Practice's patient/physician mix related to the proposal: 20% of the Practice's patients have multiple sclerosis, and the Practice is the only private physician practice in Connecticut to be recognized by the National Multiple Sclerosis Society. *(May 31, 2006, CON Application, page 16 and July 20, 2006, Applicant Testimony at the Public Hearing)..."*

8. Under CON final decision, Docket No.: 06-30674-CON, OHCA stated the following in the Rationale for the decision:

¹ Spectroscopy is an imaging technique which helps in detection of multiple sclerosis.

“In summary, the Applicant will be the first physician office in New England to offer spectroscopy in its office and ***the Applicant also stated that the proposed MRI scanner will not be used for MRI scans for patients outside the Practice.***” (Emphasis added.)

9. Under CON final decision Docket No.: 06-30674-CON, condition number 4 of the Order states the following:

“4. As stated in the proposal, the Applicant shall use the proposed MRI scanner for its Practice and its Practice patients, ***specifically for the use of neurological conditions.***” (Emphasis added.)

Pursuant to Section 4-181a (b) of the Connecticut General Statutes, OHCA may modify a final decision on a showing of changed conditions. OHCA has reviewed the above request and the final decision rendered under CON Docket No.: 06-30674 and concludes that the Practice’s request to offer MRI imaging scanning services to all patients beyond the stipulated use for neurological conditions requires a CON Modification of the final decision under Docket No.: 06-30674-CON, specifically stipulation number 4 in the Order.

Therefore, CON authorization from OHCA is required in this matter. Neurology Associates, LLC shall not use the MRI scanner authorized under OHCA final decision Docket No.: 06-30674-CON to provide imaging services to patients without neurological conditions. If Neurology Associates, LLC proposes to use the aforementioned MRI scanner to provide imaging services to all patients regarding of neurological conditions, it will be required to file a CON Modification request to modify OHCA final decision rendered under Docket No.: 06-30674-CON, prior to such use.

If you have any questions concerning this letter, please contact Steven W. Lazarus, Associate Health Care Analyst, at (860) 418-7012.

Sincerely,

Signed by Commissioner Vogel on August 21, 2007

Cristine A. Vogel
Commissioner

CAV:swl

Copy: Rose McLellan License and Applications Supervisor, DPH, DHSR