



STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

M. JODI RELL
GOVERNOR

CRISTINE A. VOGEL
COMMISSIONER

March 29 2006

Carlos M. Badiola, M.D.
Radiologic Associates, P.C.
985 Farmington Avenue
Bristol, CT 06010

Re: Certificate of Need Determination, Report Number 05-30497-DTR
Radiologic Associates, P.C. and Bristol Radiology Center, MSO
Acquisition of a replacement CT scanner

Dear Dr. Badiola:

On May 4, 2005, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") Determination request from Radiologic Associates, P.C. d/b/a Bristol Radiology Center, MSO (together referred to as "Applicant") for the acquisition of a replacement CT Scanner for its Bristol Radiology Center location at 25 Collins Road in Bristol. Additional information was submitted on May 4, 2005 and October 18, 2005 and on January 26, 2006. Radiologic Associates, P.C. and Bristol MSO, LLC, as separate legal entities, are together referred to as the "Applicants".

Please be advised that OHCA has reviewed your request and makes the following findings:

- 1) Radiologic Associates, P.C. ("RAPC" or "Practice") is a private practice radiology group of eight Bristol-based, board certified radiologists. RAPC has been providing radiology services to Bristol Hospital for thirty years.
- 2) RAPC is proposing to replace a single-slice GE ProSpeed CT scanner with a 4-slice Toshiba Asteion 4 CT scanner at the Bristol Radiology Center. The CT scanner to be replaced was purchased in 1998 and CT scanning services began in 1999.
- 3) On June 5, 1998, under CON Determination Report Number 98-F2, OHCA determined that The Bristol Radiology Center's acquisition of the Helical CT scanning equipment will not require Certificate of Need approval from OHCA pursuant to Sections 19a-638 or 19a-639 of the Connecticut General Statutes.
- 4) In March 1999, RAPC and Bristol Hospital together opened the Bristol Radiology Center at 25 Collins Road in Bristol. Bristol Radiology Center provides full-service women's and diagnostic

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imaging services, including mammography with Computer-Aided Detection (CAD), bone densitometry (DEXA), ultrasound, CT scanning, Open MRI and general x-ray services.

- 5) The Applicants took possession of the new CT scanning unit under consideration under CON Determination Report Number 05-30497-DTR in May of 2005.
- 6) The Bristol MSO, LLC (“MSO”) was formed as a separate legal entity in 1997 for the purpose of leasing equipment and services to diagnostic imaging centers. Bristol Hospital and RAPC are Managing Members of the LLC. The legal entity that paid for the new CT scanning unit is Bristol MSO, LLC.
- 7) The Applicants have provided the June 25, 1997 service agreement and the March 1, 1998 Equipment Lease between Radiologic Associates P.C. and Bristol MSO, LLC. Below are certain of the provisions of those agreements:
 - a) Bristol MSO, LLC provides space, equipment, supplies, non-physician staffing and business management services to private office imaging practices to Radiologic Associates, P.C.
 - b) The MSO subleases space in the office building at 25 Collins Road in Bristol to Radiologic Associates, P.C.
 - c) The MSO shall sublease imaging equipment to Radiologic Associates, P.C. The parties may replace or add items by mutual agreement.
 - d) The MSO shall lease to the Practice the technical and nontechnical nonphysician personnel (except for billing personnel) required by the Practice to staff its private office imaging practice. The Practice exercises “control over the actions of the technical nonphysician personnel with respect to the rendering of medical services to the same extent as the Practice would exercise such control if the leased technical nonphysician personnel were directly employed by the Practice.”
 - e) The MSO shall provide to the Practice business management services, including credentialing support services, utilization, cost and quality management services, managed care contracting assistance and financing facilitation. The Practice shall continue to perform the billing and collection functions of its practice.
 - f) The Practice will bill in its own name and under its own provider numbers for all services rendered at the Practice.
 - g) The Practice shall employ all physicians and billing personnel involved in the Practice.
 - h) The Practice must maintain general liability insurance and professional liability insurance covering the Practice and its employees.
- 8) The total project related capital costs are \$383,474, broken down by the following components:

Acquisition of new CT scanner	\$355,000
Delivery and Installation	<u>\$ 28,474</u>
Total Capital Expenditure	\$383,474
- 9) The Applicants provided a Quotation Order Summary for the Toshiba Asteion Super 4 Whole Body CT Scanner with a unit cost of \$355,000 which is dated 4/8/2005 and accepted, agreed and ordered by Radiology Associates on April 11, 2005.

10) The Applicants have provided three cancelled checks paid to Toshiba America Medical Systems related to the acquisition:

10% down payment of \$35,500 on April 12, 2005
70% payment of \$248,500 on June 7, 2005
20% final payment of \$71,000 on June 28, 2005

11) The Applicants provided to OHCA an Equipment Acceptance Form signed by Toshiba America Medical Systems, Inc. on June 17, 2005. The Applicants are in possession of the unit.

12) No sales tax has been paid on the acquisition of the equipment. Bristol MSO, LLC leases the CT scanner as well as other imaging equipment to Radiologic Associates, P.C. Bristol MSO LLC does not capitalize the sales tax collected from Radiologic Associates, P.C.

13) Bristol MSO, LLC is a corporate affiliate of Bristol Hospital, a health care facility or institution. Bristol MSO, LLC is owned 50% by Bristol Hospital, Inc. and Bristol MSO, LLC and is therefore a health care facility or institution pursuant to Sections 19a-630 and 19a-630a of the Connecticut General Statutes, revised pursuant to Public Act 05-75 effective October 1, 2005.

Based on the above findings, OHCA has determined that the Applicants are not required to file a Certificate of Need request for the acquisition of the replacement CT scanner pursuant to Section 19a-639, C.G.S., as certain binding commitments were made related to the acquisition of this unit prior to the implementation of Public Act 05-93. The Applicants have provided to OHCA satisfactory evidence that it acquired the replacement CT scanner for under \$400,000 prior to July 1, 2005 and further OHCA authorization is not required.

Radiologic Associates, P.C., a private medical practice, is not structured as a health care facility or institution. However, based upon the above findings, OHCA finds that the Bristol MSO, LLC, the owner of the imaging equipment, is structured as both a Central Service Facility and is an affiliate of Bristol Hospital, a health care facility or institution. Therefore, Bristol MSO, LLC is itself a health care facility or institution and will be subject to Certificate of Need review for any future applicable projects under Sections 19a-638 and/or 19a-639 of the Connecticut General Statutes. However, as the project reviewed by OHCA under CON Determination Report Number 05-30497-DTR is not for a new or additional function or service, a Certificate of Need review under Section 19a-638 is not required for the acquisition of the replacement CT scanner.

If you have any questions concerning this letter, please contact Karen Roberts, Compliance Officer, at (860) 418-7001.

Sincerely,

Signed by Commissioner Vogel on March 29, 2006

Cristine A. Vogel
Commissioner

Carlos Badiola, M.D.
Radiologic Associates, P.C.
Report Number 05-30497-DTR

March 29, 2006
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