



STATE OF CONNECTICUT
OFFICE OF HEALTH CARE ACCESS

M. JODI RELL
GOVERNOR

CRISTINE A. VOGEL
COMMISSIONER

March 21, 2007

Mr. Glenn Elia
Chief Executive Officer
Connecticut Orthopaedic Specialists, P.C.
2408 Whitney Avenue
Hamden, CT 06518

Re: Certificate of Need Determination, Report Number 06-30881-DTR
Connecticut Orthopaedic Specialists, P.C.
Acquisition of MRI unit for orthopedic practice setting

Dear Mr. Elia:

On December 11, 2006, the Office of Health Care Access ("OHCA") initiated a Certificate of Need ("CON") Determination process regarding Connecticut Orthopaedic Specialists, P.C.'s acquisition and operation of an MRI unit. Information was received by OHCA from Connecticut Orthopaedic Specialists, P.C. ("COS") on January 8, 2007 and on February 2, 2007. The CON determination process is being reviewed by OHCA under Report Number 06-30881-DTR. Please be advised that OHCA has reviewed this matter and makes the following findings:

1. COS is a Connecticut Professional Corporation. COS describes itself as a multi-specialty physician practice that specializes in the care and treatment of musculo-skeletal disease.
2. COS is operating an MRI unit at its Branford location. COS indicates that this unit was installed in May 2006 and in operation since June 30, 2006.
3. According to the COS website (www.ct-ortho.com), COS operates the following locations:

<u>Orthopedic services</u>	<u>Office Based Orthopedic Surgery</u>	<u>MRI services</u>
2408 Whitney Avenue in Hamden 84 North Main Street in Branford 450 Boston Post Road in Guilford 258 Broad Street in Milford 330 Orchard Street in New Haven 330 Boston Post Road in Orange 1000 Yale Avenue in Wallingford	2200 Whitney Avenue Hamden	84 North Main Street Branford 2416 Whitney Avenue Hamden

4. COS currently employs 20 full time physicians, 17 orthopedic surgeons, 2 podiatrists and 1 physiatrist.
5. COS provides MRI services exclusively for patients who are being seen and treated by COS physicians. COS does not accept referrals for MRI services from physicians outside of the practice.
6. In June 2006, COS entered into an agreement with Dr. Joseph Gagliardi to provide on-site readings for the Branford MRI unit and to manage their Quality Assurance Program. According to the June 2006 agreement between COS and Dr. Gagliardi:
 - a. Dr. Gagliardi will professionally read and provide appropriate information and reports for MRI images taken at the Branford location.
 - b. COS will pay \$75.00 for reading and reporting on each MRI image and COS will reimburse Dr. Gagliardi a fixed amount for the transcription of any report.
 - c. Dr. Gagliardi is an independent contractor and not an employee of COS.
7. A quotation for lease financing from GE Healthcare Financial Services to COS was dated February 8, 2005 and accepted by COS on March 29, 2005. A purchase agreement for the Branford MRI unit was signed on March 29, 2005 and a deposit was made to GE Health Financial Services on March 29, 2005¹.
8. According to the March 2005 purchase agreement for the MRI unit:
 - a. The unit is a "Gold Xtend 1.0T Preowned MR/OCate MR System"
 - b. The purchase price was \$349,000
 - c. The agreement became a binding purchase by COS on March 29, 2005.²
9. COS provided a copy of a cancelled check for the down payment on this unit in the amount of \$5,825 and dated April 7, 2005.
10. COS purchased a turn key building at 84 North Main Street in Branford for a total sum of \$5,671,049 in May 2006. The MRI suite is operated by COS within this new building at this location.
11. COS provided a letter from Jester Development Company to COS dated January 26, 2005, which provided a cost breakdown of the construction/fit out project for the Branford location. This letter indicates that the fit out costs for the MRI room are \$47,870.

¹ COS subsequently entered into a lease agreement with Popular Leasing USA, Inc. for this unit.

² The binding purchase was made prior to the July 1, 2005, the effective date of Public Act 05-93.

12. COS provided a letter from Jester Development Company to COS dated December 29, 2006 which breaks down the specific component costs included within the \$47,870 cost for fitting out the MRI space. Included within these costs is \$33,000 for “RF Room”. The \$33,000 includes the cost of delivery and installation of the shielding necessary for the MRI unit.
13. Based on the material filed with OHCA by COS, the total capital costs incurred by COS specific to the acquisition and initial operation of the MRI unit are as follows:

MRI unit:	\$349,000*
Fit out of MRI space:	<u>\$ 47,870</u>
Total Capitalized Project Costs	\$396,870

*includes delivery, rigging and installation of the unit as well as training costs.

14. COS pays \$447.99 of sales tax monthly to Popular Leasing. The sales tax is treated as an operating cost to COS pursuant to generally accepted accounting principals.
15. COS indicates that the first patient was scanned on this unit in Branford on June 30, 2006.³ An imaging report from Dr. Gagliardi on that exam was provided as evidence of this date.
16. There was an extensive delay in project start for the MRI services (purchase agreement signed in March 2005, first patient scanned on June 30, 2006). COS indicates that, at the time that COS entered into the purchase agreement for the MRI, COS had already begun construction of the new medical office building in Branford, but that due to weather and other construction delays, the building was not ready until the spring of 2006. A certificate of occupancy was issued for the medical office building in April 2006.
17. COS further indicates that when the building was ready, GE was unable to immediately send the installation team out, as GE was occupied at another location in Connecticut. Installation finally began in early June 2006.
18. COS filed with OHCA a letter from GE HealthCare dated January 23, 2007, which verifies that the check for \$5,825 was used exclusively for the down payment and commitment for the MRI unit. This letter also verifies that the “unit was shipped to Connecticut Orthopaedic Specialists, P.C. on December 31, 2005 and was stored at that site until installation was completed in June 2006.

³ The first patient was scanned on the new MRI unit prior to July 1, 2006.

Based on the above findings, OHCA has determined that Connecticut Orthopaedic Specialists, P.C., which owns the MRI unit but is not the employer of the radiologist reading the scans, is a central service facility pursuant to Section 19a-630 of the Connecticut General Statutes and 19a-643-12 of OHCA's Regulations and therefore, is a health care facility or institution pursuant to Section 19a-638 of the Connecticut General Statutes ("C.G.S."). Therefore, the acquisition and operation of the MRI unit represents a new service for a health care facility or institution pursuant to Section 19a-638, CGS. Accordingly, OHCA has determined that COS is required to file a Certificate of Need application pursuant to Section 19a-638, C.G.S. The CON application will not be reviewed pursuant to Section 19a-639, C.G.S.

OHCA considers the submission of information received on February 2, 2007 as the completed Letter of Intent for this matter; therefore the Applicant may file a CON application with OHCA between April 2, 2007 and June 2, 2007. The CON application forms will be mailed to your attention separately.

Please contact Karen Roberts, Compliance Officer at (860) 418-7041 or Susan Cole, Director of Certification, Financial Analysis and Forecasting at (860) 418-7038 with any questions regarding this Certificate of Need Determination. Please contact Kimberly Martone, Supervisor of the Certificate of Need process at (860) 418-7029 with any questions regarding the Certificate of Need application process.

Sincerely,

Signed by Cristine A. Vogel
Commissioner

CAV:kr

Copy: Rose McLellan License and Applications Supervisor, DPH, DHSR
Stephen Cowherd, Esquire, Jeffers & Ireland (by fax)