



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Invision Medical Imaging, LLC

Docket Number: 06-30894-CON

Project Title: Acquisition of an Open Magnetic Resonance Imaging Scanner

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

Filing Date: May 18, 2007

Hearing Date: July 31, 2007

Intervenor: Jefferson Radiology, P.C.

Decision Date: September 20, 2007

Default Date: September 30, 2007 (with a 45 Day Time Extension)

Staff Assigned: Steven W. Lazarus

Project Description: Invision Medical Imaging, LLC ("Applicant" or "Invision") proposes the acquisition of an open magnetic resonance imaging ("MRI") scanner, at an associated capital expenditure of \$934,100.

Nature of Proceedings: On May 18, 2007, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from the Applicant for the acquisition of an open MRI scanner, at an associated capital expenditure of \$934,100. Invision Medical Imaging, LLC is a health care facility or institution as defined by Section 19a-630 of the Connecticut General Statutes ("C.G.S.").

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published on February 4, 2007, in *The Hartford Courant* (Hartford). Pursuant to 19a-639 (C)(3), three individuals or an individual representing an entity with five or more people had until June 8, 2007, 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. On June 8, 2007, OHCA received a request from Jefferson Radiology, P.C. to hold a public hearing in this matter.

Pursuant to Section 19a-639, C.G.S., a public hearing regarding the CON application was held on July 31, 2007. On June 14, 2007, the Applicant was notified of the date, time and place of the hearing. On June 17, 2007, a notice to the public was published in *The Hartford Courant*.

On June 13, 2007, the Applicant requested a 15 days extension of the default date of the 90 day review period of the CON pursuant to Section 19a-639, C.G.S. On June 14, 2007 OHCA extended the default date by 15 days, from August 16, 2007 to August 31, 2007. On August 8, 2007, pursuant to Section 19a-639 C.G.S., OHCA extended the default date of the CON application review period for an additional 30 days, from August 31, 2007 to September 30, 2007.

By petition received by OHCA on July 26, 2007, Jefferson Radiology, P.C. requested Intervenor status in the public hearing to be held under this docket on July 31, 2007. On July 30, 2007, OHCA designated Jefferson Radiology, P.C. as an Intervenor with full rights of cross-examination.

Commissioner Cristine A. Vogel served as Presiding Officer. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Section 19a-639, C.G.S. The Presiding Officer heard testimony from the Applicant, the Intervenor and their witnesses, in rendering this decision and considered the entire record of the proceeding.

OHCA's authority to review and approve, modify or deny the CON application 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 of the Proposal on the Applicant's Current Utilization Statistics Proposal's Contribution to the Quality of Health Care Delivery in the Region Proposal's Contribution to the Accessibility of Health Care Delivery in the Region

1. Invision Medical Imaging, LLC ("Applicant" or "Invision"), located at 21 Arch Road, Avon, Connecticut, is a private radiology practice of Abner Gershon, M.D. *(December 19, 2006, Letter of Intent)*
2. Dr. Abner S. Gerhon, M.D.:
 - a. Is a solo practitioner;
 - b. Is a radiologist, specializing in interventional neurology;
 - c. Has admitting and radiology privileges at St. Francis Hospital and Medical Center, John Dempsey Hospital ("JDH") and The Hospital of Central Connecticut (New Britain Campus);
 - d. Provides interventional radiology services at JDH and at The Hospital of Central Connecticut (New Britain Campus);
 - e. Provides radiology services at JDH one day per week or 20% of his work time; and
 - f. Also provided interpretation services for Dr. Marc d'Avignon, P.C. and Westwood Imaging until they were acquired by Jefferson Radiology, P.C. *(May 18, 2007, CON Application, pages 21 and 32-33 and July 31, 2007, Dr. Gershon's Testimony at the Public Hearing)*
3. The Applicant currently does not own or operate a magnetic resonance imaging ("MRI") scanner at its office located as 21 Arch Road, Avon, CT. *(December 19, 2006, Letter of Intent and May 18, 2007, CON Application, pages 1-9)*
4. According to the Applicant, Invision's main service offered at 21 Arch Road, Avon is the interpretation of MRI studies performed by other medical practices. *(December 19, 2006, Letter of Intent)*
5. The Applicant is requesting acquisition of a 0.3 Tesla Airis II fixed Open MRI scanner to be located at 21 Arch Road in Avon. *(December 19, 2007, Letter of Intent and May 18, 2007, CON Application, page 1)*
6. The proposed Open MRI scanner would be utilized for patients whose problems include lumbar spine, brain aneurysms (neurological), varicose veins and other spine and/or vascular problems. *(December 19, 2007, Letter of Intent)*

7. The Applicant stated that it includes the following towns in its proposed service area:

Table 1: Proposed Service Area Towns

Primary Service Area (“PSA”)	Avon, Canton, Farmington and Simsbury
Secondary Service Area (“SSA”)	Bloomfield, Plainville, Torrington, West Hartford, Bristol, New Britain, Hartford and Winsted

(May 18, 2007, CON Application, page 3)

8. Based on a telephone survey, the Applicant claims that the proposed open MRI scanner will remedy issues such as lack of access to imaging technology resulting in scheduling back-logs for Open MRI services in central Connecticut.
(July 26, 2007, Dr. Gershon’s Prefiled Testimony, pages 1&2)
9. The Applicant testified that it did not provide supporting documentation regarding:
- Lack of accessible MRI services in proposed service area;
 - Patients who require Open MRI services; and
 - Scheduling backlogs for MRI services within the proposed service area.
- (July 31, 2007, Applicant’s Public Hearing Testimony)*
10. The Applicant provided OHCA with a copy of a study conducted by Thomson Medstat on behalf of Invision and Hitachi indicating that there are currently a total of 34 MRI scanner and 3 Open MRI scanners within a 12-mile radius of Avon, CT. *(May 18, 2007, CON Application, pages 11-19)*
11. The Applicant is projecting the following MRI scan volume for fiscal years (“FYs”) 2007-2009:

Table 2: Projected MRI Scans

Fiscal Year	MRI Scans per day	MRI Scans per week	MRI Scans per year
2007	3	18	900
2008	3.6	21.6	1,080
2009	4.32	25.920	1,296

(May 18, 2007, CON Application, page 5)

12. According to the Applicant, the projected MRI scans are based on the following:
- A survey the Applicant conducted in which the Applicant asked physicians already referring patients to the practice for other procedures about their expected MRI referrals if the Applicant was to purchase a MRI scanner; and
 - A 20% annual volume growth based on predictions by sources including the American College of Radiology and the Radiological Society of North America.
- (May 18, 2007, CON Application, page 5)*
13. The Applicant failed to provide documentation and/or sufficient evidence to support the projected annual 20% growth in MRI imaging.

14. The Applicant testified that it did not provide to OHCA the:
- Result of the telephone survey;
 - Number and names of referring physicians;
 - Break-down of the actual percentage or number of patients that need high field MRI scans for emergent conditions such as acute stroke or brain aneurysms; and
 - Break-down of the projected scans by type.
- (July 31, 2007, Public Hearing, Dr. Abner S. Gershon)*
15. Dr. Gershon testified to the following:
- The proposed 0.3 Tesla MRI is adequate to serve the Applicant's patients;
 - He has privileges to refer patients to JDH;
 - JDH offers services such as high field MRI scanner, emergency department, CT scanning and surgical support not available at the Applicant's Avon office;
 - Patients requiring MRI scanning for brain aneurysms and vascular problems can be scanned on a high field MRI scanner such as a 1.5 Tesla; and
 - He currently refers one (1) perhaps two (2) MRI scans per week to JDH or The Hospital of Central Connecticut.
- (July 31, 2007, Public Hearing, Dr. Abner S. Gershon)*

**Financial Feasibility and Cost Effectiveness of the Proposal and its Impact on the
Applicant's Rates and Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care Services and the
Payers for Such Services
Consideration of Other Section 19a-637, C.G.S., Principles and Guidelines**

16. The proposed total capital expenditure associated with this proposal is as follows:

Table 3: Proposed Total Capital Expenditure

Major Medical Equipment (Purchase)	\$594,100
Construction/Renovation	\$340,000
Total Capital Expenditure	\$934,100

(May 18, 2007, CON Application, page 36)

17. The Applicant proposes to finance this proposal from its equity, specifically \$134,100 through operating funds and \$800,000 from contributions.
- (May 18, 2007, CON Application, page 41)*

18. The Applicant's current and projected payer mix based on Net Patient Revenue is as follows:

Table 4: Applicant's Current & Projected Payer Mix

Payer	Current Payer Mix	Year 1 Projected Payer Mix	Year 2 Projected Payer Mix	Year 3 Projected Payer Mix
Medicare	29.84%	29.84%	29.84%	29.84%
Medicaid	3.48%	3.48%	3.48%	3.48%
CHAMPUS & TriCare				
Total Govnt. Payers	33.32%	33.32%	33.32%	33.32%
Commercial Insurers	59.53%	59.53%	59.53%	59.53%
Uninsured	1.61%	1.61%	1.61%	1.61%
Workers Compensation	5.54%	5.54%	5.54%	5.54%
Total Non-Govnt. Payers	66.68%	66.68%	66.68%	66.68%
Payer Mix	100%	100%	100%	100%

(May 18, 2007, CON Application, page 42)

19. The Applicant reported projected net income incremental to the project of \$162,540, \$130,560 and \$186,360, for FYs 2007, 2008 and 2009, respectively. (August 6, 2007, Applicant Late File)
20. The Applicant testified that it did not provide to OHCA a source or a written commitment regarding the "Contributions" from the equity for the \$800,000 of the proposed capital expenditure. (July 31, 2007, Public Hearing Testimony of Dr. Abner S. Gershon)
21. The Applicant was inconsistent in the following:
- The projected Incremental Revenue for FY 2008 of \$182,000 based on 364 scans, on an average reimbursement of \$500 per scan;
 - Later the projected Incremental Revenue for FY 2008 was increased to \$405,000, based on 900 scans and on an average reimbursement of \$450 per scan;
 - Initially the projected Expenses Incremental to the Proposal for FY 2008 were reported as \$207,000; and
 - Later the projected Expenses Incremental to the Proposal FY 2008 were increased to \$934,100.
- (August 6, 2007, Applicant's Late File and August 9, 2007, Intervenor's Response to Applicant's Late File)
22. The Applicant did not file any assumptions with their revised financials as requested by OHCA. (August 6, 2007, Applicant's Late File)
23. There is no State Health Plan in existence at this time. (May 18, 2007, CON Application, page 2)

24. The proposal is consistent with the Applicant's long-range plan. *(May 18, 2007, CON Application, page 2)*
25. The Applicant's proposal will not change the Applicant's teaching or research responsibilities. *(May 18, 2007, CON Application, page 32)*
26. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(May 18, 2007, CON Application, page 32)*
27. Invision has improved productivity and cost containment through application of technology and reengineering of operations. *(May 18, 2007, CON Application, page 32)*
28. The Applicant has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(May 18, 2007, CON Application, pages 21-25)*

Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for the proposed service on a case by case basis. Certificate of Need (“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 proposed services.

Invision Medical Imaging, LLC (“Applicant” or “Invision”), is a private radiology practice of Abner Gershon, M.D., an interventional neuroradiologist, located at 21 Arch Road, Avon Connecticut. Invision is requesting authorization for the acquisition of a 0.3 Tesla open magnetic resonance imaging (“MRI”) scanner. Invision currently does not own or operate an MRI scanner. The primary service offered at the Applicant’s Avon office is interpretation of MRI studies performed by other medical practices. Dr. Gershon specializes in interventional neuroradiology and focuses on vascular problems in the brain and spine.

Due to lack of supporting documentation and insufficient evidence OHCA questions the Applicant’s basis for the need for this proposal. The Applicant claims that the proposed acquisition of a 0.3 Tesla open MRI scanner will increase access to imaging technology in the proposed service area and reduce scheduled backlogs for Open MRI services in central Connecticut. The Applicant based these claims on a telephone survey of its referring physicians. However, the Applicant failed to provide evidence in support of its claims by not providing OHCA with a copy of the telephone survey and its results. The Applicant also did not provide sufficient documentation of the volume of physician referrals for MRI services or scheduled backlogs in the proposed service area. Further, the Applicant contradicts itself through its own market share analysis of existing MRI providers in the proposed service area. There are currently 34 MRI scanners, including 3 Open MRI scanners within a 12-mile radius of the town of Avon. Based upon insufficient evidence, OHCA can not conclude definitively that there is a need for an open MRI scanner at this time.

Finally, due to the lack of substantial need for the proposal, OHCA is unable to evaluate the financial viability of the proposal.

Order

Based upon the foregoing Findings and Rationale, the Certificate of Need application of Invision Medical Imaging, LLC for the acquisition of a an open magnetic resonance imaging scanner at a total capital expenditure of \$934,100, is hereby **Denied**.

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

Signed by Commissioner Cristine A. Vogel on September 20, 2007

Date

Cristine A. Vogel
Commissioner

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