



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Mandell & Blau, M.D.'s P.C.

Docket Number: 07-30929-CON

Project Title: Acquisition of a 1.5 Tesla Magnetic Resonance Imaging Scanner and a 16-Slice CT Scanner to be Located at a New Radiology Office in Blue Back Square in West Hartford

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

Filing Date: July 17, 2007

Hearing Date: September 19, 2007

Intervenor: Jefferson Radiology, P.C.

Decision Date: October 5, 2007

Default Date: October 15, 2007

Staff Assigned: Steven W. Lazarus

Project Description: Mandell & Blau, M.D.'s, P.C. ("Applicant" or "Practice") proposes the acquisition of a 1.5 Tesla magnetic resonance imaging ("MRI") scanner and a 16-slice Computed Tomography ("CT") scanner to be located at a new radiology office in Blue Back Square in West Hartford, at an associated capital cost of \$1,932,000.

Nature of Proceedings: On July 17, 2007, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from the Applicant for the acquisition of a 1.5 Tesla MRI scanner and a 16-Slice CT scanner to be located at a new

radiology office in Blue Back Square in West Hartford, at an associated capital cost of \$1,932,000.

A notice to the public concerning OHCA's receipt of the Applicant's Letter of Intent was published on February 28, 2007, in *The Hartford Courant* (Hartford). Pursuant to Section 19a-639 (C)(3), three individuals or an individual representing an entity with five or more people had until August 7, 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 August 3, 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 September 19, 2007. On August 14, 2007, the Applicant was notified of the date, time, and place of the hearing. On August 17, 2007, a notice to the public announcing the hearing was published in *The Hartford Courant*.

By petition dated September 14, 2007, Jefferson Radiology, P.C. requested Intervenor status regarding the Applicant's CON application. The Presiding Officer granted Intervenor status with full rights.

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. Mandell & Blau, M.D.'s P.C. ("Applicant" or "Practice"), is a radiology practice with offices located in the towns of New Britain, Middletown, Manchester, Glastonbury, Enfield and West Hartford. The Practice's main office is located at 40 Hart Street, New Britain, Connecticut. *(February 22, 2007, Letter of Intent and June 18, 2007, Initial CON Application)*
2. The Practice currently operates two (2) offices in town of West Hartford:
 - a. The office located at 901 Farmington Avenue currently offers magnetic resonance imaging ("MRI") services utilizing a 0.23 Tesla Open MRI scanner; and
 - b. The second office located at 1216 Farmington Avenue offered computed tomography ("CT") services until FY 2004.
(September 14, 2007, Dr. Blau's Prefile and September 19, 2007, Applicant's Public Hearing Testimony)
3. The Applicant's proposal involves the following:
 - a. Consolidate and relocate its current West Hartford radiology offices from 901 and 1216 Farmington Avenue in West Hartford to the new Blue Black Square ("BBS") development in West Hartford;
 - b. Acquire a 1.5 Tesla MRI scanner; and
 - c. Acquire a 16-Slice CT scanner.
(February 22, 2007, Letter of Intent & September 14, 2007, Dr. Blau's Prefile Testimony)
4. The Applicant's service area towns for this proposal are as follows:

Table 1: Service Area

Primary Service Area ("PSA")	West Hartford
Secondary Service Area ("SSA")	New Britain, Newington, Farmington, Avon, Bloomfield and Windsor

Note: The Applicant based the service area towns on the fact that 28% of its total FY 2006 MRI scans were from West Hartford, the PSA, and the remaining MRI scans were from the SSA towns.
(June 18, 2007, Initial CON Application, page 3)

5. The Applicant determined the need for this proposal based upon the following:
- To provide imaging services to the recently OHCA approved ambulatory surgery center ("ASC"); and
 - The proposed space in BBS is better configured to accommodate the projected [increasing] MRI volume and for the introduction of a CT scanner.
(June 18, 2007, Initial CON Application page 2)
6. The Applicant stated the following:
- Multiple discussions were held between the Practice and the representative from the ASC;
 - The Practice met with Hartford Hospital's Vice President regarding the space, interconnectivity and establishing clinical relationships with the ASC;
 - Discussions were held between the Practice and the Medical Director of the ASC to understand the services required (i.e. CT scanning, MRI, Breast MR, etc.); and
 - Further, the Practice met with physician(s) regarding patients imaging needs.
(July 17, 2007, Responses to OHCA's Completeness Letter, page 1)
7. The Applicant testified that it did not provide written documentation/agreements as evidence of:
- What was discussed between the Applicant and the ASC and/or its physicians;
 - Discussions between the Applicant and Hartford Hospital regarding the proposed space, the interconnectivity and establishment of clinical relationship with the ASC;
 - Types of imaging services required by the ASC and its patients.
(September 19, 2007, Applicant's Public Hearing Testimony)
8. The Practice reported its historical MRI and CT volume for its West Hartford office locations as follows:

Table 2: Historical MRI & CT Scanner Utilization

Type of Scan	FY 2004	FY 2005	FY 2006	FY 2007
MRI (901 Farmington Ave.)	1,577	1,257	948	(YTD) 435 Annualized 870
CT* (1216 Farmington Ave.)	1,500	-0-	-0-	-0-

Note: The Applicant attributes the decreasing MRI volumes to the diminishing demand for low field "open" MRI scans, as a number of specialists are looking for specific types of exam sequences not available on a low field MRI.

*The Applicant stopped providing CT scanning services in West Hartford in FY 2004. (June 18, 2007, Initial CON Application, pages 3&6, and July 17, 2007, Responses to OHCA's Completeness Letter, page 4)

9. The total capacity for the Applicant's existing MRI scanner is illustrated in the table below:

Table 3: Existing MRI Capacity

<i>Existing</i> MRI Scanner			
Hours of Operations*	Scans per Day	Scans per Week	Scans per Year
Monday, Wednesday & Friday (8 am-5pm)	7 scans	7 Scans/day = 21	21 scans/52 weeks = 1,092
Tuesday & Thursday (8 am- 8 pm)	10 Scans	10 scan/day = 20	20 scan/52 weeks = 1,040
Totals capacity for the existing MRI scanner	Daily Capacity between 7-10	Weekly Capacity = 41	Annual Capacity = 2,132

*The annual capacity if based on the existing hours of operations.
(July 17, 2007, Responses to OHCA's Completeness Letter, page 2)

10. The projected utilization for the proposed MRI and CT scanner is as follows:

Table 4: Projected MRI & CT Scanner Utilization

	FY 2008	FY 2009	FY 2010
MRI scanner	2,600	2,860	3,120
CT scanner	1,560	1,820	2,080

(July 17, 2007, Responses to OHCA's Completeness Letter, pages 4-5)

11. The projected volumes, according to the Practice were calculated as follows:

- **MRI:** The highest year 2004, during which the Practice performed 1,589 scans or 6.1 per day. The Practice then increased the average scans per day to 9.15 scans per day, a 50% increase for the additional days and then rounded to 10 scans per day and multiplied by 260 scans days per year for a total of 2,600 for year one and then added 10% growth rate per year.
- **CT:** The Practice is estimating 6 scans per day multiplied by 260 days for a total of 1,560 scans for year one. Based on past experience the Practice assumes the growth of one new CT scan per day. Year two is calculated at 7 scans per day times 260 days and year three is calculated at 8 scans per day.
(July 17, 2007, Responses to OHCA's Completeness Letter, pages 4-5)

12. The Applicant failed to provide documentation and/or sufficient evidence to support their basis for the calculations utilized to project the utilization of the MRI or the CT scanner.

13. The Applicant did not provide OHCA with the following at the public hearing:

- Names or agreements with any referring physicians;
- Witnesses from Hartford Hospital or the ASC;
- Documentation regarding the importance of the presence of imaging equipment immediately next to the ASC; and
- The basis for the increase in scans per day for the projected utilization of the MRI or the CT scanner.

(September 14, 2007, Applicant's Testimony at the Public Hearing)

14. Jefferson Radiology, P.C. ("JR"), as the Intervenor testified to the following:

- JR's West Hartford office at 941 Farmington Avenue is within a few hundred yards of the BBS development;
- JR currently operates a 64-slice CT scanner at this location;
- The 64-slice CT scanner was installed and became operational at the end of December 2006;
- The annualized January through December 2007 volume is 4,392 scans;
- The 64-slice CT scanner's full capacity is approximately 16,970 annual scans based on the current hours of operation.

(September 14, 2007, Intervenor's Testimony at the Public Hearing)

**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**

15. The proposed total capital cost associated with this proposal is as follows:

Table 5: Proposed Total Capital Cost

Type	Cost
Major Medical Equipment (Lease, FMV)	\$1,507,000
Non-Medical Equipment	\$50,000
Construction/Renovation	\$375,000
Total Capital Cost	\$1,932,000

(June 18, 2007, Initial CON Application, pages 12-13)

16. The Applicant proposes to finance the proposed \$1,932,000 through lease and lease financing. *(June 18, 2007, Initial CON Application, pages 14-15)*

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

Table 6: Practice'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	23%	23%	23%	23%
Medicaid	7%	7%	7%	7%
CHAMPUS & TriCare				
Total Govnt. Payers	30%	30%	30%	30%
Commercial Insurers	60%	60%	60%	60%
Uninsured	6%	6%	6%	6%
Workers Compensation	4%	4%	4%	4%
Total Non-Govnt. Payers	70%	70%	70%	70%
Payer Mix	100%	100%	100%	100%

(June 18, 2007, Initial CON Application, page 16)

18. The Applicant reported projected net income incremental to the project of \$375,374, \$247,592 and \$425,272, for FYs 2008, 2009 and 2010, respectively. *(June 18, 2007, Initial CON Application, page 108)*
19. There is no State Health Plan in existence at this time. *(June 18, 2007, Initial CON Application, page 2)*
20. The proposal is consistent with the Applicant's long-range plan. *(June 18, 2007, Initial CON Application, page 2)*
21. The Applicant's proposal will not change the Applicant's teaching or research responsibilities. *(June 18, 2007, Initial CON Application, page 11)*
22. There are no distinguishing characteristics of the patient/physician mix with regard to the proposal. *(June 18, 2007, Initial CON Application, page 11)*
23. The Practice has improved productivity and cost containment through application of technology and group purchasing. *(June 18, 2007, Initial CON Application, page 11)*
24. The Practice has sufficient technical and managerial competence to provide efficient and adequate service to the public. *(June 18, 2007, Initial CON Application, page 9,10& Attachment 4)*

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.

Mandell & Blau, M.D., P.C. (“Applicant” or “Practice”), is a private radiology practice with offices in six towns. The Practice has two office locations in West Hartford. One office is located at 901 Farmington Avenue, which currently offers open magnetic resonance imaging (“MRI”) service and the other office is located at 1216 Farmington Avenue and offers general radiological services. The Practice previously operated a computed tomography (“CT”) scanner at the 1216 Farmington Avenue location but ceased CT scanning service in year 2004 and transferred the CT scanner to its Buckland office (Manchester). The Applicant is requesting authorization to consolidate and relocate the services currently offered at the two West Hartford offices to a new radiology office to be located at the new development in West Hartford off of Farmington Avenue to be known as Blue Back Square (“BBS”). The Applicant further requests the acquisition of a 1.5 Tesla MRI scanner to replace its existing open MRI scanner and the acquisition of a 16-slice CT scanner to be located at the proposed BBS office. The Practice’s current open MRI scanner is projected to perform approximately 900 MRI scans (annualized) for FY 2007 and has a total capacity to perform at least 2,000 MRI scans based on its current hours of operation. The Practice currently does not own or operate a CT scanner in the town of West Hartford. The Practice’s primary service for this proposal is the town of West Hartford. An existing provider operates a 64-slice CT scanner a few hundred yards from the BBS development.

Due to the 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 imaging office to be located in the BBS development will support the physicians and patients of the ambulatory surgery center (“ASC”) owned by Hartford Hospital. The Applicant, however, failed to provide evidence in support of its claims by not providing OHCA with any written agreements between the Practice and the ASC and/or the physicians utilizing the ASC. The Applicant also did not provide sufficient documentation of the volume of physician referrals to the proposed MRI and CT services in the proposed service area. The Applicant asserted that it had discussions with Hartford Hospital management regarding this proposal and its support of the ASC. However, there was no evidence provided to OHCA through any written agreements or witnesses testifying in support of this proposal. Based upon insufficient evidence that the volume projections are reasonable, OHCA can not conclude definitively that there is a need for this proposal at this time.

Finally, Since OHCA cannot conclude definitively that there is a need for the proposed MRI and CT scanner based on the lack of substantial evidence in support of the volume projections, 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 Mandell & Blau, M.D.'s, P.C. for the acquisition of a 1.5 Tesla magnetic resonance imaging scanner and a 16-Slice Computed Tomography scanner to be located at new radiology office in Blue Back Square in West Hartford at a total capital cost of \$1,932,000, 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 Vogel on October 5, 2007

Date

Cristine A. Vogel
Commissioner

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