



514 Daniels Street # 182
Raleigh, North Carolina
27605

T (919) 559-3904
jht@jht-law.com

My name is Jenny McArthur Nathan and I am an attorney with the Law Office of Joy Heath Thomas. As counsel to Southeastern Orthopaedic Specialists, I am speaking today about the SOS Petition for an Adjusted Need Determination for a Fixed MRI Scanner for Guilford County.

At the outset, I would like to thank each of you for taking the time to attend this Public Hearing and for devoting yourself to the development of an appropriate State Medical Facilities Plan for the State of North Carolina.

Petitions for Adjustments to Need Determinations are appropriately filed when (and I quote):

“unique or special attributes of a particular geographic area or institution give rise to resource requirements that differ from those provided by application of the standard planning procedures and policies.”

DFS Health Planning
RECEIVED
JUL 30 2010
Medical Facilities
PLANNING SECTION

We believe the SOS Petition explains and statistically demonstrates that the attributes of both Guilford County and SOS in particular are unique and that those special attributes make the Adjusted Need most appropriate.

SOS is one of the largest orthopaedic specialty groups in the Greensboro area, offering an extensive scope of orthopaedic surgical services as well as a broad array of diagnostic and therapeutic services.

In their orthopaedic practice, the doctors of SOS rely heavily upon MRI scans for diagnosis. In a given year, SOS physicians will refer approximately 5,000 patients for MRI scans.

For years, SOS has used a Mobile MRI service. A trailer with an MRI sits outside the SOS offices at their Murphy Wainer location. Patients go from the SOS physician office to the parking lot where the trailer is located to access the Mobile MRI.

The Mobile MRI is furnished to SOS through a contractual arrangement with an out-of-state company, Alliance Imaging. In all candor, the contract with Alliance is very expensive for SOS.

The Fixed MRI is superior to the Mobile MRI arrangement because, obviously, it can be installed within the building. The Fixed MRI is a clear improvement over a Mobile MRI in terms of efficiency and patient service. In addition, by transitioning to ownership of a Fixed MRI, the provider can eliminate the need to continue a costly contractual arrangement for Mobile service.

The 2010 State Medical Facilities Plan provides:

A facility that offers MRI services on a full-time basis pursuant to a service agreement with an MRI provider is not precluded from applying for a need determination in the North Carolina 2010 State Medical Facilities Plan to replace the existing contracted service with a fixed MRI scanner under the applicant's ownership and control.

It is consistent with the purposes of the Certificate of Need law and the State Medical Facilities Plan for a facility to acquire and operate an MRI scanner to replace such a contracted service, if the acquisition and ownership of the facility's own MRI service will allow the facility to reduce the cost of providing the MRI service at that facility.

Acquisition and ownership of its own Fixed MRI will allow SOS to reduce the cost of providing MRI service; SOS will pass those savings on to its patients by reducing patient charges by 10% if it receives CON approval to acquire its own Fixed MRI.

Throughout the State, there are numerous examples of situations in which providers with active Mobile MRI services have applied to acquire their own Fixed MRI.

Unfortunately for SOS, it appears that SOS is now the only remaining Mobile host site in North Carolina that is performing a high volume of

procedures at a single location but still has not been awarded a CON to acquire its own Fixed MRI.

Application of the Standard Methodology in the Proposed 2011 State Plan shows that there will be no Need Determination for a new Fixed MRI Scanner for Guilford County.

Why is that? First, it should be noted that the Standard Methodology shows that MRI Scanners in Guilford County are averaging nearly 4,700 MRI procedures per Scanner (4,680).

If the County average was just over 4,800 MRI procedures (4,805), application of the Standard Methodology would show a Need.

So, it would be fair to characterize the situation in Guilford County as a "near miss."

Second, it is important to realize two dynamics that are at work in the Standard Methodology that result in a No-Need Determination for Guilford County.

To shorthand, the Standard Methodology totals all MRI procedures and then divides the total by the number of MRI scanners to determine the Average Procedures per MRI. If that Average number exceeds the applicable Threshold, a Need is shown.

Greensboro Orthopaedic Center ("GOC") applied in 2009 to acquire a Fixed MRI Scanner to replace its Mobile MRI service. The CON Section made a decision to approve GOC and GOC is expected to receive its CON in the near future.

When GOC implements its CON-approved Fixed Scanner, it will eliminate its Mobile service. But, as of now, GOC has not yet been able to take those steps.

As a result, the first dynamic at work in the Standard Methodology for Guilford County is that there are no MRI procedures listed for the new Fixed Scanner because that scanner has not yet been implemented. But, -- and this is the second dynamic -- the Standard Methodology nonetheless "counts" in

the Inventory of MRI machines both the new Fixed Scanner as well as the old GOC Mobile MRI unit that will be discontinued.

So the total procedures for the County are divided by 14.4 MRI Scanners (which includes both the old and the new machines at GOC) and the result is an Average Number of Procedures per MRI that falls just below the applicable Utilization Threshold.

In the “real world,” the inventory of MRI Scanners serving Guilford County is about to change – when GOC develops its Fixed Scanner, it will eliminate its Mobile Service. If the total procedures for Guilford County were divided by one less scanner, a Need would be shown.

The bottom line is that application of the Standard Methodology will not show a Need. For a Need for a Fixed Scanner to appear, the SOS Petition must be granted.

We believe strongly that the unique attributes of Guilford County and the special situation of SOS in particular justify a decision to grant the SOS Petition.

In the SOS Petition, you will read detailed statistical information about the high utilization of Mobile MRI scanners in Guilford County. You will also read about the high utilization of the Fixed MRI equipment in Guilford County.

Allow me to highlight a few of these statistics:

The Proposed 2009 State Plan showed that Mobile MRI providers in Guilford County were performing **just over 4,500** scans per Mobile MRI.

The Proposed 2011 State Plan shows that Mobile MRI providers for Guilford County are now performing **nearly 5,200** scans per Mobile MRI.

In the Proposed 2009 SMFP, Guilford County’s Fixed MRI Scanners were performing **4,880** Weighted Procedures per scanner.

Per the Proposed 2011 SMFP, Guilford County’s Fixed MRI Scanners are performing **4,973** Weighted Procedures per scanner.

Since both Mobile and Fixed MRI scanners within Guilford County are operating with high utilization, current statistics confirm the immediate need for another Fixed MRI scanner to address demand.

Guilford County's Fixed MRI scanners are more highly utilized on average than the Fixed MRI scanners in two of the three service areas where the Standard Methodology has identified a need.

Not only is Guilford County a unique geographic area, SOS as an institution, is unique.

- SOS is performing more scans on its Mobile service than the average number of scans performed on the Fixed MRI scanners in the County.
- SOS is performing nearly 30% more scans than the average number of scans performed on Fixed MRI scanners statewide.

These statistics are important evidence supporting the appropriateness of an Adjusted Need Determination for a Fixed MRI for Guilford County because each demonstrates that the historical utilization of the SOS Mobile MRI is more than sufficient to support a new Fixed MRI in Guilford County, even as judged against the highest planning Threshold of 4,805.

The SOS Petition also looks in detail at the volumes at SOS as compared to providers in other Counties that have four or more MRI scanners.

The reported scan volume for SOS is a full 30% higher than the average scan volume for the Fixed MRI Scanners operating in these 17 Counties.

Despite these compelling statistics, without an Adjusted Need Determination, SOS will have no opportunity to present its unique circumstances to the CON Section in an effort to secure CON Approval for the acquisition of its own Fixed MRI.

Without an Adjusted Need Determination, SOS will continue with the dubious distinction of being the only remaining Mobile host site in North Carolina with Adjusted scan volumes exceeding the Utilization Threshold that still must rely totally upon Contracted Mobile MRI services to serve its patients.

The requested adjustment is consistent with the Basic Principles of Safety and Quality, Access and Value which govern the development of the State Plan.

If the requested adjustment is made, SOS will be in a position to apply for CON Approval to convert its highly utilized Mobile MRI to a Fixed MRI which will enhance its ability to serve patients in a more convenient and cost-effective manner. An Adjusted Need Determination will allow SOS to propose a conversion which is consistent with enhancing safety and quality in service delivery.

The requested adjustment, if included within the 2011 State Plan, will allow SOS to propose the development of a Fixed MRI which will maximize healthcare value by allowing SOS to eliminate a costly vendor arrangement and pass the savings on to patients through a 10% reduction in its charges and an increase in charity care.

If the requested adjustment is made to the 2011 State Plan, the Adjusted Need Determination will allow SOS to file a CON Application and set forth a proposal consistent with the key Policy considerations of safety, quality, access and value.

The SOS Petition for an Adjusted Need Determination is supported by the SOS physicians and the community. Here in Wilmington, SOS is pleased to have support for its Petition from the Wilmington Orthopaedic Group. Also, SOS thanks GOC for its showing of support for the SOS Petition. The Executive Director at GOC, John Nosek, spoke at the Greensboro Public Hearing to voice GOC's support for the SOS Petition.

I have for each of you a binder with the SOS Petition, my remarks as well as a copy of the remarks offered by John Nosek of GOC, supporting the SOS Petition.

For the above-stated reasons, SOS respectfully urges each of you to vote in favor of an Adjusted Need Determination in the 2011 State Plan to identify a Need for one (1) new Fixed MRI for Guilford County. Thank you.