

Comments on Proposed Policy TE-4

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July 21, 2020 Public Hearing, State Medical Facilities Plan Webex

Thank you for taking time to listen to my comments on this important policy.

1. We appreciate the work of staff and Committees in developing this five-year old discussion into a policy suitable for public comment this year.
2. Today, I have some general remarks on behalf of Raleigh Radiology, LLC. We will follow with more specific suggestions at a subsequent hearing.
3. We believe that with minor clarification, TE-4 could be a natural extension of what the SHCC has already codified with TE-3.
4. We believe that the mobile portion of TE-4 should be eliminated and made part of later discussion in 2021.
5. We have listened to Alliance's attorneys many assertions that the language of TE4 cannot be altered. We consulted our own attorney who has extensive experience with CON. He has assured us that the opinion of the Alliance lawyers is wrong and the SHCC has the right to modify this policy as they please. His analysis of NC law as it relates to the actions of the SMFP and the SHCC includes the final comment "Because NC law is clear and the SHCC has exercised its authority to develop the SMFP for decades, the SHCC should not be distracted by Alliance's unfounded arguments". Our attorney's full analysis will be presented at a later date.
6. Let me be clear based on Raleigh Radiology's experience: there is only ONE mobile company in North Carolina that is organized and has the breadth and depth to serve new unrelated sites.
7. Though I do not know about other contracts, our contract with Alliance allows them to terminate the contract and remove the equipment. If this happened, we would be left with no MRI option and our patients left with no MRI service.
8. Three of the five Wake County grandfathered fixed scanners that operate under these unrelated entity contracts, operate above the Wake County service area threshold. All three have operated this way for several years.
9. In a previous public hearing, commenters for Alliance Medical suggested to the Committee that the problem in Wake resolved when the Agency Approved the 2019 CON application from Raleigh Radiology Cary. This is not true. That application was appealed and we do not know when or how that will be resolved.
10. Because the 2019 Plan limited the fixed MRI need for Wake County to one, Raleigh Radiology had to choose among three sites for that one opportunity. RR has two Grandfathered fixed MRI scanners contracted from an unrelated entity. In addition, RR had a new imaging center in an area with limited MRI availability. Yet, the state could award only one Fixed MRI Scanner. To be successful, a new imaging center must offer MRI services to the residents it serves. Therefore,

we submitted two applications in the same batch. Our new site was denied, therefore, we contracted with Alliance for mobile services. We have a good relationship with Alliance. They understand how to support us in new centers and they have tried to be very accommodating. However, we have been unable to get the MRI equipment type that we want and Alliance struggled to find us available days. We are expanding to serve the growing need for imaging services; MRI is now a standard imaging modality; and we plan to use Alliance mobiles for several more locations. There is no need for concern that Alliance will be short of customers under a TE-4 fixed MRI policy.

11. When a Declaratory ruling fixed MRI ends its contract, Alliance may remove it, put it back into their mobile MRI fleet and add to its capacity to service new sites. The replacement fixed scanner does not increase the fixed inventory. Our planned business expansion and that of others, relies on contracts with Alliance mobile to provide MRI services to new and growing markets. In a strange twist, we will ensure Alliance continues to get paid for the scanner they place back in their inventory. This is a win-win for all, not as Alliance would have you believe, a one-sided proposition.
12. As written, the Plan gives Wake County only one choice a year with regard to fixed scanners. Wake can convert an existing contract or grow by one fixed scanner a year. At this rate, in a best-case scenario, Wake County residents may wait at least three years, possibly five for the backlog of existing fixed contracts to clear before approval of new sites.
13. This creates an access problem for Wake County patients – one that the SHCC could easily solve with a few modifications to the proposed Policy that would:
 - a. Clarify language such as,
 - i. “Fixed MRI” by using 10A NCAC 14C .2701(7); and,
 - ii. Instead of “unrelated person” use “related party” as defined in 10A NCAC 14C .2701(16); and,
 - b. Make the policy wording consistent with the rest of the Plan.

We will provide more detailed suggestions for edits on July 29th.

14. COVID-19, while it has affected operations in 2020, it will be 2022 before any new CON approved MRIs associated with the 2021 are operational. Therefore, we cannot stop planning for the future because of one interruption.
15. We urge the Committee to stay the course with regard to the fixed MRI only.

We appreciate the time and energy that goes in to developing the Plan. We applaud Ms. Frisone and her team for being forward thinking.

I am happy to answer any questions.