



Nadine Pfeiffer
Rule Review Manager
Division of Health Service Regulation
North Carolina Department of Health and Human Services
809 Ruggles Drive
Raleigh, North Carolina 27603

Dear Ms. Pfeiffer,

Atrium Health (Atrium) appreciates the opportunity to provide comments on the proposed temporary Certificate of Need (CON) rules published on November 7, 2022. We offer the following comments and suggestions for your consideration.

Historically, the performance standards for MRI scanners in the CON rules matched need determination thresholds in the State Medical Facilities Plan (SMFP). That meant that by the end of year three an applicant for a new MRI scanner would be required to reasonably project to provide the number of scans to generate a need for an additional scanner in the area. In a service area with no scanners or one scanner that had a need determination it was often difficult for an applicant to reasonably project scan volumes to grow quickly enough to meet the threshold volumes. As a result, there were numerous petitions filed to remove MRI need from the SMFP.

Late last year there were two independent actions related to MRI thresholds and performance standards that address this issue. The first was the adoption of new performance standards in the CON rules for 2022 that lowered the required scan volume to 70 percent of the SMFP threshold. The second was the SHCC convening the MRI work group to review the methodology in the SMFP. The rule change resulted in a 30 percent decrease in the performance standard required scan volume. The table below shows the result the rule change had on required performance standard volume.

2022 SMFP Threshold and Performance Standard			2022 Rule Change	
Categories based on MRI in Service Area	Adjusted Scans	% of Capacity (6,864)	Perf. Std.	% of Threshold
4	4,805	70%	3,364	70%
3	4,462	65%	3,123	70%
2	4,118	60%	2,883	70%
1	3,755	55%	2,629	70%
0	1,716	25%	1,201	70%

The MRI workgroup recommended several key changes that were adopted by the SHCC for the 2023 SMFP. These changes included a lower scan capacity, a reduction in the number of tiers for need thresholds from five to three and an increase in the thresholds for each remaining tier. The subsequent

proposed rule change applied the same 70 percent factor to the new SMFP thresholds resulting in the performance standards listed below.

Categories based on MRI in Service Area	2023 SMFP Threshold		2023 Proposed Rule Change	
	Adjusted Scans	% of Capacity (6,240)	Perf. Std.	% of Threshold
2	4,992	80%	3,494	70%
1	4,368	70%	3,058	70%
0	1,872	30%	1,310	70%

However, the result of these changes was an increase over the 2022 performance standards ranging from 9 percent to over 21 percent for the service areas with 2 or more MRI scanners.

Categories based on MRI in Service Area	2022 Rule Perf. Std.	2023 Proposed Rule Perf. Std.	% Change 2022 vs. 2023 Rules
2	2,883	3,494	21.2%
1	2,629	3,058	16.3%
0	1,201	1,310	9.1%

Atrium is concerned this increase may result in the same problems experienced in prior years where applicants in service areas moving from one scanner to two scanners will again face difficulty in meeting the required scan volume using reasonable assumptions. Atrium would recommend the CON Section consider the modification shown in the table below which shows a performance standard of 60 percent of the SMFP threshold. This change will bring the required scan volume closer to the 2022 level and should be more achievable by CON applicants seeking to add MRI capacity in a service area.

Atrium Proposed Perf. Std.	% of Threshold	% Change 2022 vs. 2023
2,995	60%	3.9%
2,621	60%	-0.3%
1,123	60%	-6.5%

Atrium appreciates the opportunity to comment on these proposed rules.

Sincerely,



Greg Bass
 Director, Enterprise Strategy Partners