CERTIFICATE OF NEED SECTION

MRI SERVICES PUBLIC HEARING

Thursday, April 1, 2004
Lewis Cass Building
320 South Walnut
Lansing, Michigan

ORAL TESTIMONY

PANEL

Brenda Rogers, Special Assistant to the CON Commission, MDCH

GENERAL PUBLIC ATTENDANCE

Approximately 16 individuals were in attendance.

PUBLIC HEARING

(Proceedings scheduled to start at 10:00 a.m.; actual start time was 10:00 a.m.)

MS. ROGERS: Good morning. My name is Brenda Rogers. I am special assistant with the Certificate of Need Commission from the Department of Community Health, and Chairperson Renee Turner-Bailey has asked the Department to conduct today's hearing. We are here today to take testimony concerning proposed revisions to the Review Standards for the Magnetic Resonance Imaging otherwise known as MRI Services. The proposed Certificate of Need Review Standards for MRI are being reviewed and modified to provide additional access to fixed MRI services to patients in counties that do not currently provide fixed MRI services.

Please be sure that you have signed the sign-in log. Packets can be found on the table. In the folder is a card to be completed if you wish to provide testimony. Please hand your card to me if you wish to speak. Additionally, if you have written testimony, please provide a copy as well. As indicated, on the inside pocket of the packet, written testimony may be provided to the Department through April 8th, 2004, at 5:00 p.m. We will begin the hearing by taking testimony from those of you who wish to speak. The hearing will continue until all testimony has been given, at which time we will adjourn.

Today is Thursday, April 1, 2004, and we are now taking testimony. Mark Mailloux, U of M.

MR. MAILLOUX: Good morning. My name is Mark Mailloux, and I'm senior health system planner at the University of Michigan Health System. First of all, I'd like to thank the CON Commission for the opportunity to address our concerns to the proposed MRI Standards. We'd like to support the Commission's proposed changes allowing for a lower threshold for applicants proposing a fixed MRI in rural counties that do not currently provide fixed MRI services. As a provider, we are always sensitive to considerations of access, and that is ever a concern in rural areas.

However, we would like to ask the Commission to revisit the proposed editorial changes in the language that would substitute "MRI services" for "MRI unit." The Magnetic Resonance Imaging Standards offer the following definitions: MRI service means, quote, "The utilization of an authorized MRI unit or units at one site in the case of a fixed MRI service or in the case of a mobile MRI service, the utilization of an authorized mobile MRI unit at each host site," close quote.

An "MRI unit" means, quote, "The magnetic resonance system consisting of an integrated set of machines and related equipment necessary to produce the images and/or spectroscopic quantitative data from scans," close quote.

When the Department approves a new MRI application, it approves a new piece of equipment. Each individual piece of equipment or unit is required to demonstrate that it can address unmet need by meeting a volume requirement as provided by the CON Review Standards. By substituting the term "MRI service" for "MRI unit," it creates a situation wherein, as an entity adds an additional individual piece of equipment; i.e., a unit; the units no longer constitute distinct approvals, but rather, a global service. Furthermore, as this interpretation does not take into account the individual approval requirements, it creates a situation wherein existing CON-approved units would be affected by considerations directed to another distinct unit approved under a separate CON. The legal standing for this is at least questionable.

It further creates a discriminatory impact between applicants where an entity with only one clinical unit can relocate or sell that unit, but entities with more than one unit must sell or relocate all units constituting the entire service. In most instances, application of the proposed language would make relocation or acquisition impractical financially to applicants with multiple units.

We would therefore ask the Commission to preserve the prior language, allowing for the distinction of individual MRI units where the units are subject to individual treatment. This language can then be uniformly applied to all applicant entities. Thank you again for this opportunity to deliver our testimony.

MS. ROGERS: Thank you. Gerald Messana, UP Health Care Network.

MR. MESSANA: My name is Jerry Messana. I'm the executive director for the Upper Peninsula Health Care Network, and I'd like to thank the CON Commission for this opportunity to give testimony. This is short, but it really just wants to -- I just want to show our appreciation.

The Upper Peninsula Health Care Network is comprised of 14 hospitals, a tribal health clinic and a four-county behavioral health provider, all located in the Upper Peninsula of Michigan. Hospitals and doctors in the Upper Peninsula as well as the residents in these communities have long faced shortages of accessible MRI services.

The Board of Trustees of the Upper Peninsula Health Care Network consisting of the CEOs and administrators of the member organizations applaud the Certificate of Need Commission in recognizing this medical need and rapidly addressing the issue. The proposed changes to the MRI Review Standards will most certainly bring two fixed MRI scanners to Upper Peninsula within 12 months subsequent to the approved revised standards, one in the South Central and one in the Eastern Upper Peninsula. Although this will not completely meet the demand, it will provide tremendous relief to this high demand health care service in the Upper Peninsula. The UPHCN Board of Trustees fully supports the changes as recommended in Section 3 of the MRI Review Standards. Thank you.

MS. ROGERS: Thank you. Amy Barkholz, MHA.

MS. BARKHOLZ: Good morning. I'm Any Barkholz from the Michigan Health & Hospital Association. I would like to thank the Certificate of Need Commission for approving this proposed language at its last meeting, for holding this public hearing, and I would ask the Commission to take final action to approve the proposed language at its May 11th, 2004, meeting.

The proposed language is narrow and targeted to address the needs of patients in communities not currently served by fixed MRI machines, and it was prompted by concerns from smaller and rural hospitals that the current MRI Standards are not sufficient to meet patient needs in their communities and that mobile service providers are unable to offer them sufficient time to meet the demand.

I have submitted written comments, but in addition I would like to say that I hope that the CON Commission will take final action on May 11th on this issue. Thanks.

MS. ROGERS: Thank you. Prentis Edwards for Representative Virgil Smith, Monroe County.

MR. EDWARDS: Thank you for giving me the opportunity to speak. I am here on behalf of Representative Virgil Smith. The testimony I have is a little longer, but I should get through it rather quickly.

Just below the Michigan border with Ohio, there are numerous Ohio cities, such as Sylvania, Toledo and Oregon, that have an unusually large number of MRI machines. The City of Sylvania which has a population of under 19,000 people has nine MRI facilities. Monroe County has only one. Michigan patients are given the option of either waiting over 30 days to have a locally scheduled exam that might be in the late hours of the night or early hours of the morning or driving to Ohio to have the exam done on a timely basis during normal business hours. The majority of these exams come from Wayne, Oakland, Washtenaw Counties and from Ontario, Canada.

Patient care suffers for those Michigan residents who are forced to delay essential medical care. Quality control suffers for those Michigan patients who elect to be served in Ohio. Local physicians traditionally have a critical and trusting bond with the radiologist interpreting the MRI exam. Consequently, the patients -- consequently, they pay more for services rendered in Ohio than those same services in Michigan. In many instances, the individual from Michigan going to the Ohio facility is faced with a higher co-pay obligation than he would have faced if he would have gone to a Michigan facility.

This is a major health care problem for Southeastern Michigan. Correcting this problem is nearly impossible under the present regulations because the thousands of exams that are referred to Ohio are not reported to the State of Michigan for inclusion in its database of MRI exams. As you know, in order to get a Certificate of Need, the database much show enough exams to justify that need. Michigan requires the in-state MRI facility performing the exam to report volume to determine need, but this is not applied to Ohio facilities and totally ignores all the Michigan-originated exams performed in Ohio. The omission of these exams from the database ensures that Michigan cannot add capacity, while Ohio continues to thrive by preying on Michigan's inadequacies.

The lack of capacity of MRIs within the state also impacts the future of patient treatment. The existing units are so strained from capacity that new developments in technological capabilities are overshadowed by the need for patient output.

Recent advancements in cardiac and neurological applications are often not available to Michigan residents because the clinical community does not have access to enough of the newest technology. For example, many Michigan residents are traveling to Ohio to enjoy the open-style MRI facility available there as compared to the more antiquated closed-style MRI facilities primarily available presently in Michigan.

Michigan sacrifices financially for the benefit of Ohio. Based on the market research, as much as $100,000 a day is being spent in Ohio MRI facilities by Michigan residents. Using a conservative estimate of only five days a week of operation, over a year this amounts to 26 million dollars moving from Michigan residents to Ohio facilities. In addition, the State of Ohio, not the State of Michigan, is the major recipient of the dollars spent by these Michigan residents while they're in Ohio. Also Michigan does not collect any property taxes, nor does it collect any income taxes generated by the employers or employees in these facilities. Michigan gets none of the benefits of increased workforce and its subsequent spending of these dollars in Michigan communities. Likewise, Michigan gets none of the benefits of Ohio suppliers providing for Ohio operations. Michigan does not receive sales tax revenue, which is -- the total purchase price of the equipment in each of these facilities is upward of two million dollars. The truth is that the only explanation of this phenomenon of 20 to 25 MRI facilities in Northern Ohio at the Michigan border and thousands of MRI referrals from Michigan to these facilities is a substantial and verifiable need.

Therefore, it is recommended that the Certificate of Need Commission convene immediately to reevaluate the Certificate of Need database; that the database be revised to include Ohio referrals by Michigan physicians; that the amendment to Public Act 619 of 2002, specifically, MCL 333.22224(A)(1) waiver be amended to lower the population requirement from 160,000 to 140,000 to allow other rural Michigan counties access to MRI health care quality; that the Certificate of Need Commission determine a finding that the Department may waive otherwise applicable provisions of MCL 333.22235 and issue an emergency

Certificate of Need for a minimum of two fixed magnetic resonance imaging machines for Monroe Imaging Center and Monroe MRI Center; that this finding under provision 22235(1)(A) show specifically the necessity for immediate or temporary relief due to the unforeseen safety considerations for health, safety and welfare of Michigan residents as well as the serious adverse effect of delay, the lack of substantial change in facilities or services currently existing after necessary and appropriate review; and that the Attorney General's office be requested to take census, market, demographic and support data to determine population figures for application of provisions of the new waiver standard under MCL 333.22224(A)(1). Thank you.

MS. ROGERS: Thank you. Do we have any further testimony regarding these proposed MRI Standards? Sean Gehle, Ascension Health.

MR. GEHLE: Good morning. I'm Sean Gehle, Director of Public Policy with Ascension Health. I just wanted to take the opportunity to also thank the Commission for its actions and for holding this public hearing. We are supportive of the language and would urge adoption at the next -- or final action at the next Commission meeting. Thank you very much.

MS. ROGERS: Thank you. Any further testimony? Hearing none, this hearing is adjourned at 10:18 a.m. Thank you.

(Proceedings concluded at approximately 10:18 a.m.)