3.0 Tesla MRI at Belfair

18 Clarks Summit Drive • Bluffton, SC 29910
(843) 815-9700 • Fax (843) 815-9701

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Certificate of Need Ad-Hoc Committee
The Honorable G. Murrell Smith, Jr., Chairman
The Honorable William "Bill" Clyburn
The Honorable James H. Merrill
The Honorable William G. "Bill" Herbkersman
The Honorable Michael A. "Mike" Anthony

Dear Chairman Smith and members of the Committee:

Thank you for giving me the opportunity to present my testimony. I am a diagnostic radiologist with subspecialty training in magnetic resonance imaging. I began practicing medicine in South Carolina in 2000 and I have operated 3T MRI at Belfair in Bluffton, South Carolina for 12 years. Our facility serves as a national show site for GE's newest, top-of-the-line equipment (3T Discovery MR750w) and we have served in this capacity for over 10 years. For six consecutive years, we have been given the Certificate of Caring award from the local Volunteers in Medicine Clinic, for providing the highest dollar value of free care to the local indigent population. It is important that you should be aware that as a diagnostic radiologist, it is illegal for me to refer patients for imaging procedures. I cannot refer a patient for MRI at my facility or any other. I have to compete for referrals for my services on the basis of quality and cost. The same is not true of non-radiologist physicians, who often form group business entities that own and operate MRI and/or CT scanners. They are permitted by law to refer patients to the equipment they own, despite the obvious conflict of interest.

In 2009 I was selected by my peers to lead the development of the current, national, mandated (by Medicare) MRI accreditation program. As chairman of the Committee on MRI Accreditation for the American College of Radiology, I was responsible for the development of this program and its subsequent implementation in 2010. This program sets standards for the MRI equipment, image quality, supervising physician, technologist credentials and patient safety. Over 90% of MRI facilities nationwide are accredited by the American College of Radiology, including the vast majority of facilities in South Carolina.

I have extensive experience with the SC certificate of need program. I was awarded a certificate of need over Tenet Healthcare's (Hilton Head Medical Center) competing MRI project proposal in 2001. I have subsequently testified as an expert in the South Carolina administrative law courts. In addition, the Supreme Court of South Carolina granted me favorable 5-0 decisions in regulatory matters brought before it on behalf of my MRI facility. To say that I have experience with the certificate of need process, therefore, would be an understatement.

A. Joseph Borelli, Jr., MD
President & Medical Director

acr ACCREDITED FACILITY

Thomas Knight, MD

Has the South Carolina certificate of need program benefited our citizens? The answer is a resounding "Yes!" I'm not aware of any study that disproves the association between equipment availability and utilization. In other words, build it and they will come. This is obviously true in my field of practice. I've enclosed a table titled "MRI Machines per Capita" that shows a stark contrast between the number of machines per million population in Florida (unregulated) versus South Carolina, North Carolina, Georgia and Michigan. All of these latter states are regulated by certificate of need programs. As the chart shows, there are 37.1 MRI machines per million population in Florida versus 25.9 per million on average throughout the United States. South Carolina is a just below the national average at 22.2 scanners per million. North Carolina and Georgia have similar deployment of equipment at 21.5 and and 27.0 point zero scanners per million, respectively. Michigan, with a very strict CON program has 13 scanners per million population. For comparison, Canada, the United Kingdom and other developed countries have approximately 6 to 8 MRI scanners per million population. There can be no question that with 102 MRI scanners in South Carolina or 22.2 scanners per million, we have an adequate supply of equipment to meet the needs of the population, based on United States and developed nation standards. The only outlier in the table is Florida, which lacks certificate of need regulation. Florida has nearly 70% more scanners per capita than South Carolina. I have witnessed the disastrous consequences firsthand. In my role as chairman of the Committee on MRI accreditation for the American College of radiology, I participated in on-site scheduled and random facility surveys throughout the country. The difference between Florida and regulated states was stark. You could literally see multiple competing facilities on nearby street corners. Most of the facilities performed a very low volume of MRI scans on obsolete equipment in Florida and many failed to meet our accreditation standards.

While economics principles teach us that such a greater supply (e.g. the 70% oversupply of MRI machines in Florida) results in lower pricing, which is true, overall costs actually increase in the absence of CON, as the owners of the excess equipment must meet mortgage payments. This encourages them to perform excess, unnecessary testing (estimated at 30% overall in the U.S. for advanced diagnostic imaging). This would not be true if healthcare was a free market. Free market forces would normally eliminate the obsolete or low quality operators. However, patients usually follow the recommendations of their physician, often ignorant their physician's allegiance to a facility he owns or to a hospital. In other words, physicians will often refer patients for testing at a particular facility for reasons other than quality and price.

Study after study has shown that increased capacity results in increased utilization and overall increased costs. As demonstrated in David A. Squires' report titled *The U.S. Health System in Perspective: A Comparison of Twelve Industrialized Nations*, "…these studies suggest major reasons for higher spending [in the United States] include substantially higher prices and more fragmented care delivery that leads to duplication of resources and extensive use of poorly coordinated specialists." (Commonwealth Fund pub. 1532 Vol. 16, July 2011). The major charge of the certificate of need program is to prevent such unnecessary and costly duplication of expensive healthcare resources, such as MRI machines, CT machines, hospitals, etc. The data I have presented show that DHEC has been successful in achieving this goal.

Furthermore, private insurers take advantage of this oversupply and reduce pricing at obsolete, lower cost facilities that result without regulation or with a CON threshold that allows the introduction of low cost equipment. This results in a race to the bottom (from a reimbursement standpoint), to the point at which facilities can no longer afford state-of-the-art equipment. I have witnessed this firsthand at a hospital I surveyed In Florida. Prices were so low that they had to continue using a 15-year-old scanner. They simply could not afford the cost replacement equipment, as the capital expenditure could not be justified financially.

Bottom line: Without regulation, the "free" market for healthcare results in a gross over-supply of expensive imaging technology, reduced pricing per procedure (a race to the bottom), reduced overall quality (e.g., cheap, obsolete equipment owned by self-referring entities), increased utilization (build it and they will come…as directed by their conflicted physician beholden to his mortgage payment or allegiance to a hospital) and – paradoxically – overall increased healthcare spending.

Recommendations:

1. Adopt a certificate of need framework similar to the North Carolina model, whereby state regulators determine the need for healthcare projects annually, in advance (e.g., a need for three MRI scanners for the entire state of North Carolina in 2014), and subsequently allow healthcare entities to bid for the certificates. This greatly simplifies the process, as there can be no argument or contested cases regarding the department's determination of need (i.e. the number and locations of the projects). The only matter that can be contested in the administrative courts is the Department's determination of the winning proposal (i.e. the recipient of the CON).

2. Alternatively, the certificate of need threshold could be eliminated (currently $600,000.00 for MRI), such that all projects for designated services would require certificate of need review. This would eliminate the continued proliferation of low-cost, low quality projects utilizing obsolete equipment.

To eliminate the certificate of need process altogether would be disastrous. We only need to look at the state of healthcare in Florida (absent CON regulation), where there is nearly an MRI machine on every corner, many utilizing grossly obsolete equipment and at greater overall costs to the citizens.

Respectfully submitted,

Joe Borelli, MD

A. Joseph Borelli, Jr., M.D.