MEGAVOLTAGE RADIATION THERAPY
STANDARD ADVISORY COMMITTEE (MRTSAC) MEETING

Wednesday, June 15, 2005

Michigan Library & Historical Center
702 West Kalamazoo Street
Lake Ontario Room
Lansing, MI 48915

APPROVED MINUTES

I. Call to Order.

Chairperson Palmer called the meeting to order at 10:05 a.m.

a. Members Present and Organizations Represented:

Roland Palmer, Grand Valley Health Plan (Chairperson)
A. Soliman Behairy, MD, West Michigan Regional Cancer and Blood Center
Tewfik Bichay, PhD, Saint Mary's Health Care
Bridget R. Brambs, Detroit Medical Center (arrived at 10:13 a.m.)
Keith Crowell, Oaklawn Hospital
Praveen Dalmia, Mount Clemens General Hospital (Alternate) (arrived at 10:20 a.m.)
Harry Dalsey, J.D., M.P.H., Weyco, Inc. (left at 2:57 p.m.)
Peter Lai, MD, Lakeland Regional Health System (left at 1:40 p.m.)
Robert C. Marquardt, Memorial Medical Center of West Michigan
Walter M. Sahijdak, MD, Michigan Society of Therapeutic Radiologist and Oncologists
Joseph M. Spallina, FAAMA, FACHE, Arvina Group, LLC (left at 2:57 p.m.)

b. Members Absent and Organizations Represented:

Amr Aref, MD, St. John Hospital and Medical Center
Arthur J. Frazier, MD, Mount Clemens General Hospital
Bradley Gornick, AIA, ALA, Alliance for Health
Sal Jafar, MD, Saint Joseph Mercy Health System – Ann Arbor
Dawn Madison Williams, DaimlerChrysler Corporation

c. Staff Present:

Larry Horvath (arrived at 12:40 p.m.)
John Hubinger
Bruce Matkovich
Andrea Moore
Stan Nash
Brenda Rogers
Matt Weaver

d. General Public in Attendance:

There were approximately 25 people in attendance.

II. Review of Agenda.

Motion by Dr. Behairy, seconded by Dr. Bichay, to accept the agenda as presented. Motion Carried.

III. Declarations of Conflicts of Interest.

No new conflicts of interest were noted.

IV. Review of Draft Minutes of May 17, 2005.

Motion by Dr. Sahijdak, seconded by Mr. Dalsey, to accept the minutes as presented. Motion Carried.

V. Draft Language.

Chairperson Palmer proposed several ways to handle the meeting format for the day.

Motion by Mr. Spallina, seconded by Mr. Dalsey, to limit public comment to 5 minutes per person and that all public comment would be taken after the Committee discussion of the draft language. Motion Carried.

A. Discussion.

Ms. Rogers provided an overview of the changes in the draft language (Attachment A).

Motion by Dr. Sahijdak, seconded by Mr. Spallina, in Section 2(1)(j) insert "treatment device manufactured by Accuray that is" after the words "a means" in the first sentence. Motion Carried.

Motion by Dr. Sahijdak, seconded by Mr. Dalmia, in Section 2(1)(m) to accept as drafted. Motion Carried.

Motion by Dr. Bichay, seconded by Dr. Behairy, in Section 2(1)(w) to replace the 2nd sentence with "Two dimensional port films using patient anatomy for localization does not constitute IGRT". Motion Carried.

Motion by Dr. Sahijdak, seconded by Mr. Dalmia, to accept Section 2(1)(y) as drafted. Motion Carried.

Motion by Dr. Behairy, seconded by Mr. Dalsey, to retain Section 4(2)(e) but modify to read "An applicant shall demonstrate in writing plans to comply with:" and deletion of the 2nd sentence. Motion Carried.

Motion by Dr. Behairy, seconded by Dr. Bichay, to modify Section 4(2)(d) to state "The proposed MRT service is not a special purpose MRT unit". Motion Carried.

Motion by Ms. Brambs, seconded by Mr. Dalsey, to modify Section 4(3)(b) to add "board-certified", to modify (d) to add "registered or registry eligible with ARRT", to modify (e) to state "a board certified physician." Motion Carried.

Motion by Mr. Spallina, seconded by Mr. Crowell, to modify Section 6(6) to read "inoperable within 30 days of the replacement equipment becoming operational." Motion Carried.

Motion by Dr. Sahijdak, seconded by Mr. Dalsey, to modify Section 7(3) to read "inoperable within 30 days of the replacement equipment becoming operational." Motion Carried.

Motion by Mr. Spallina, seconded by Mr. Dalsey, in Section 8(2)(d) to add Section 4(1) to the applicable sections to be met and the addition that the parties must be unrelated as defined by Medicare definitions. Motion Carried.

Motion by Mr. Spallina, seconded by Mr. Dalsey, in Section 9(2)(g) to add Section 4(1) to the applicable sections to be met. Motion Carried.

Motion by Mr. Spallina, seconded by Mr. Dalsey, to modify Section 9(2)(e) to strike the remainder of the sentence starting at "or until the new." Motion Carried.

Lunch Break from 12:15 p.m. to 12:40 p.m.

Motion by Dr. Sahijdak, seconded by Dr. Bichay, in Section 11 to add a new (9) to establish a weight from IMRT of 2.5 and renumber (9) to (10). Motion Carried.

Motion by Dr. Sahijdak, seconded by Dr. Lai, to accept Dr. Aref's note into the record and not have any intra-operative definition in the language. Motion Carried.

Motion by Dr. Sahijdak, seconded by Mr. Spallina, in Section 12 (Table 1) to modify the IMRT from 2.5 to 2.0. Motion Carried.

Motion by Mr. Dalsey, seconded by Dr. Sahijdak, to accept Table 1 of Section 12 as modified. Motion Carried.

Motion by Mr. Spallina, seconded by Mr. Marquardt, to modify Section 15(1) by adding "for each geographic location where the applicant operates an MRT unit:" after approval." Motion Carried.

Break from 1:50 p.m. to 2:00 p.m.

Motion by Mr. Crowell, seconded by Dr. Behairy, to take public comment at this time. Motion Carried.

B. Public Comment.

Mr. Matthew Jordan, Kheder Davis Associates, addressed the Committee.
Mr. Joe Meadows, St. Mary's Health Care, addressed the Committee.
Ms. Melissa Cupp, Wiener & Associates, addressed the Committee.
Mr. Brian Kaser, Foster, Swift, Collins & Smith, addressed the Committee.
Mr. Lody Zwarensteyn, Alliance for Health, addressed the Committee.
Mr. David Waid, Hackly Hospital, addressed the Committee.
Mr. Mark Hutchinson, St. Mary's Health Care, addressed the Committee.
Ms. Lynn Bosscher, Spectrum Health, addressed the Committee.
Dr. Dan Hatton, Bay Regional Medical Center, addressed the Committee.

C. Discussion – continued.

Motion by Dr. Sahijdak, seconded by Dr. Bichay, to continue the meeting for an additional 30 minutes. Motion Carried.

Motion by Dr. Behairy, seconded by Dr. Bichay, to reconsider the previous Motion by Mr. Spallina, seconded by Mr. Dalsey, in Section 8(2)(d) to add Section 4(1) to the applicable sections to be met and the addition that the parties must be unrelated as defined by Medicare definitions. Motion Carried.

Reconsideration of the Motion by Mr. Spallina, seconded by Mr. Dalsey, in Section 8(2)(d) to add Section 4(1) to the applicable sections to be met and the addition that the parties must be unrelated as defined by Medicare definitions. Motion Failed.

Motion by Dr. Behairy, seconded by Dr. Sahijdak to accept Sections 8 and 9 as drafted with the correction of the reference to 4(2)(e) and 4(3) in Section 8(2)(d) and 9(2)(g). Motion Carried.

Motion by Dr. Sahijdak, seconded by Dr. Behairy, that in an acquisition the parties must be unrelated as defined by CMS. Motion Failed.

Motion by Mr. Dalmia, seconded by Dr. Bichay, to reconsider the previous Motion by Dr. Sahijdak, seconded by Mr. Spallina, in Section 12 (Table 1) to modify the IMRT from 2.5 to 2.0. Motion Carried.

Reconsideration of the Motion by Dr. Sahijdak, seconded by Mr. Spallina, in Section 12 (Table 1) to modify the IMRT from 2.5 to 2.0. Motion Failed.

Motion by Dr. Sahijdak, seconded by Mr. Dalmia, to strike Section 4(2)(e) and all references related to it. Motion Carried.

VI. Future Meeting Dates.

Wednesday, July 6, 2005

X. Public Comment.

Dr. Dan Hatton, Bay Regional Medical Center, addressed the Committee.

XI. Adjournment.

Motion by Dr. Sahijdak, seconded by Dr. Bichay, to adjourn the meeting at 3:25 p.m. Motion Carried.

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR MEGAVOLTAGE RADIATION THERAPY (MRT) SERVICES/UNITS

(By authority conferred on the ~~Certificate of Need~~CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and certificates of need issued under Part 222 of the Code that involve ~~megavoltage radiation therapy (~~MRT~~)~~ services/units.

(2) A ~~megavoltage radiation therapy~~MRT service/unit is a covered clinical service for purposes of Part 222 of the Code. A ~~megavoltage radiation therapy~~MRT service/unit previously approved pursuant to Section ~~8~~ 7 of these standards now seeking approval to operate pursuant to sections 4, 5, 6, 7, ~~9~~8, or ~~10~~ 9 shall be considered as a person requesting ~~certificate of need~~CON approval to begin or expand, as applicable, operation of an MRT service/unit. A ~~megavoltage radiation therapy~~MRT unit approved to operate as a special purpose MRT unit seeking approval to operate as a non-special MRT unit shall be considered as a person requesting ~~certificate of need~~CON approval to begin or expand, as applicable, operation of a non-special MRT service/unit.

(3) The Department shall use sections 4, 5, 6, ~~7~~8, 9, and 10, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section ~~15~~16, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

~~(5)(a) These standards shall apply to the review of all CON applications for megavoltage radiation therapy services for which the Director of the Department of Community Health has not made a final decision under Section 22231(9) of the Code, being Section 333.22231(9) of the Michigan Compiled Laws, as of the effective date of these standards.~~

~~(b) In the case of an application that has been deemed submitted but that has not received a final decision by the Director on the effective date of these standards, the applicant may request and the Department shall grant, an extension of up to 60 days to the Director's decision date established under Section 22231(9) of the Code, being Section 333.22231(9) of the Michigan Compiled Laws. This period shall be used for the submission and review of any information which may be necessary to show compliance with these standards. The Department shall consider this information before a final decision is made.~~

~~(c) If a final decision reverses a proposed decision approving the project, the administrative hearing provisions of Section 22231(8) of the Code, being Section 333.22231(8) of the Michigan Compiled Laws, shall apply. If the proposed decision was a denial and an administrative hearing has been held, the Director shall permit a rehearing or continuation of the hearing in order to consider information submitted under this subsection and shall consider the results of that hearing before a final decision is made.~~

Section 2. Definitions

Sec. 2. (1) As used in these standards:

(a) "Acquisition of a MRT service AND/OR unit(S)" means the acquisition (including purchase, lease, donation, or other comparable arrangement) of an EXISTING MRT service AND/OR unit(S) ~~listed on the Department Inventory of MRT Units~~.

(b) "Begin operation of an MRT service ~~/unit~~" means the establishment of a non-special MRT ~~service/~~unit at a geographic location where an MRT service~~/unit~~ is not currently provided ~~that will result in~~

an increase in the number of non-special MRT units listed on the Department Inventory of MRT Units. The relocation of an MRT unit, meeting the requirements of Section 10, to a geographic location within the same planning area shall not be considered as beginning operation of an MRT service/unit. THE TERM DOES NOT INCLUDE THE ACQUISITION OR RELOCATION OF AN EXISTING MRT SERVICE AND/OR UNIT(S) OR THE RENEWAL OF A LEASE.

(c) "Brachytherapy" means the administration of radiation therapy by applying a radioactive material inside or in close proximity to the patient. The material may be contained in various types of apparatus,; may be on the surface of plaques; or may be enclosed in tubes, needles, wire, seeds, or other small containers. Common materials that are or have been used for the administration of brachytherapy include but are not limited to radium, Cobalt-60, Cesium-137, Iodine-125, and Iridium-192.

(d) "Cancer treatment program" means a coordinated, multi-disciplinary approach to the treatment of patients with cancer or other neoplasms, which must provide on-site simulation capability, and, either on-site or through written agreements with other providers, all of the following services: (i) access to consultative services from all major disciplines needed to develop a comprehensive treatment plan, (ii) a computer-based treatment planning system, (iii) medical radiation physicist involvement, (iv) megavoltage radiation therapyMRT capability including electron beam capability, (v) treatment aid fabrication capability, (vi) brachytherapy, (vii) a multi-disciplinary cancer committee, (viii) a tumor registry, (ix) patient care evaluation studies, and (x) cancer prevention and education programs.

(e) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan compiled Laws.

(g) "Complex treatment visit" means a treatment visit involving three or more treatment sites, tangential fields with wedges, rotational or arc techniques or other special arrangements, or custom blocking.

(h) "Computer based treatment planning system" means a computer system capable of displaying radiation doses and dose distributions within a patient using anatomical data from that patient and using measured radiation output data from the specific unit used to treat the patient. The minimum software requirements for the treatment planning system are an external beam program, an irregular field routine, and a brachytherapy package.

(i) "Course of treatment" means the planned series of visits that compose a plan for treatment of one or more cancer sites for a single patient.

(j) "CYBERKNIFE®" MEANS A FRAMELESS SPECIAL STEREOTACTIC RADIOSURGERY UNIT THAT CONSISTS OF THREE KEY COMPONENTS: (I) AN ADVANCED, LIGHTWEIGHT LINEAR ACCELERATOR (LINAC) (THIS DEVICE IS USED TO PRODUCE A HIGH ENERGY (6MV) "KILLING BEAM" OF RADIATION), (II) A ROBOT WHICH CAN POINT THE LINEAR ACCELERATOR FROM A WIDE VARIETY OF ANGLES, AND (III) SEVERAL X-RAY CAMERAS (IMAGING DEVICES) THAT ARE COMBINED WITH POWERFUL SOFTWARE TO TRACK PATIENT POSITION. THE CAMERAS OBTAIN FREQUENT PICTURES OF THE PATIENT DURING TREATMENT AND USE THIS INFORMATION TO TARGET THE RADIATION BEAM EMITTED BY THE LINEAR ACCELERATOR.

(K) "Department" means the Michigan Department of Community Health (MDCH).

(k) "Department Inventory of Megavoltage Radiation Therapy Units" means the list maintained by the Department of (i) the licensed MRT units operating pursuant to a valid certificate of need issued under Part 222 or former Part 221; (ii) licensed, operating MRT units for which the operation of the unit did not require a certificate of need; and (iii) the MRT units that are not yet operational but have a valid certificate of need issued under Part 222 or former Part 221. The list will not include those units approved pursuant to Section 8 of these standards. The list will identify non-special and special purpose MRT units separately.

(l) "Dosimetrist" means a person who is familiar with the physical and geometric characteristics of the radiation equipment and radioactive sources commonly employed and who has the training and expertise necessary to measure and generate radiation dose distributions and calculations under the direction of a medical physicist and/or a radiation oncologist.

(m) "Driving miles" means the number of miles from the ADDRESS OFcity in which the proposed MRT unit will be locatedSERVICE to the closest ADDRESS OF THE city in which anCLOSEST existing MRT unit is located. Driving miles is the number of miles from center-of-cityADDRESS to center-of-

~~city~~ADDRESS ~~shown on the Michigan Department of Transportation map~~AS IDENTIFIED BY USE OF MAPPING SOFTWARE THAT IS VERIFIABLE BY THE DEPARTMENT.

(n) "Duplication factor" means the number derived by subtracting the duplication rate from 1.

(o) "Duplication rate" means the percent of new cancer cases in each planning area determined by the DEPARTMENT, VITAL RECORDS AND HEALTH DATA DEVELOPMENT SECTION, ~~Office of the State Registrar and Center for Health Statistics~~ that have been reported more than one time to the Michigan Cancer Surveillance Program.

(p) "Equivalent treatment visit" or "ETV" means a unit of measure, based on the type of treatment visit, that reflects the relative average length of time one patient spends in one treatment visit in an MRT unit. Section 12 sets forth how ETVs shall be calculated.

(q) "Existing ~~megavoltage radiation therapy~~MRT service" means ~~the~~ A CON APPROVED AND OPERATIONAL facility and equipment ~~at one geographic location~~ used to provide MRT services including but not limited to the simulator(s), block fabrication materials, and all EXISTING MRT units AT ~~that are listed on the Department Inventory of MRT Units~~A GEOGRAPHIC LOCATION(S).

(r) "Expand an existing MRT service" means increasing the number of MRT units (second, third, etc.) ~~at the same geographic location~~ of an existing MRT service.

(s) ~~"F.T.E." or~~ "Full time equivalent" OR "FTE" means an individual(s) with normally scheduled working hours of 40 hours per week.

(t) "Gamma knife" means a special stereotactic radiosurgery unit consisting of multiple cobalt sources all simultaneously focused to irradiate cancer or other neoplasms in the brain or cerebrovascular system abnormalities.

(u) "Geographic location" means either (i) the geographic location of a licensed health facility as defined in the ~~Certificate of Need~~CON Review Standards applicable to the type of health facility or (ii) if the location is not a health facility as defined in Part 222 of the Code, a distinct geographic location separate from another location.

(v) "Heavy particle accelerator" means a machine such as a cyclotron which produces beams of high energy particles such as protons, neutrons, pions, or heavy ions with masses greater than that of an electron.

(w) "IMAGE GUIDED RADIATION THERAPY" OR "IGRT" MEANS THE USE OF IN-ROOM IMAGING TO ALLOW PRECISE TARGET LOCALIZATION USING ULTRASOUND, IMPLANTED FIDUCIAL MARKERS OR IMAGE RECONSTRUCTION USING KV OR MEGAVOLTAGE BEAMS. PORT FILMS USING BONE ANATOMY FOR LOCALIZATION DO NOT CONSTITUE IGRT.

(X) "Immediately available" means continuous availability of direct communication with the MRT unit in person or by radio, telephone, or telecommunication.

(~~x~~Y) "INTENSITY MODULATED RADIATION THERAPY" OR "IMRT" MEANS A VISIT UTILIZING ONLY THE COMPUTER CONTROLLED MULTI-LEAF COLLIMATOR PART OF THE CMS DEFINITION FOR IMRT.

(Z) "Intermediate treatment visit" means a treatment visit involving two separate treatment sites, three or more fields to a single treatment site, or the use of special blocking.

(~~y~~AA) "Intraoperative treatment visit" means a treatment visit where a dose of megavoltage radiation is delivered to a surgically exposed neoplasm or cancerous organ/site.

(~~z~~BB) ~~"IRB" or "institutional~~ Institutional review board" OR "IRB" means an institutional review board, as defined by Public Law 93-348, that is regulated by Title 45 CFR 46.

(~~aa~~CC) "Licensed hospital site" means either: (i) in the case of a single site hospital, the location of the hospital authorized by license and listed on that licensee's certificate of licensure or (ii) in the case of a hospital with multiple sites, the location of each separate and distinct inpatient site as authorized by licensure.

(~~bb~~DD) "Licensed MRT unit" means an MRT unit that is licensed by the Nuclear Regulatory Commission (NRC) or REGISTERED BY the Michigan Department of ~~Consumer & Industry Services~~COMMUNITY HEALTH, Division of Health Facilities and Services, Radiation Safety Section.

(EE) "MEDICAID" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 1396R-6 AND1396R-8 TO 1396V.

(~~cc~~FF) "Medical radiation physicist" means an individual who is (i) board certified or board qualified by the American Board of Radiology in radiological physics or therapeutic radiological physics or (ii) board

certified or board qualified by the American Board of Medical Physics in medical physics with special competence in radiation oncology physics.

(~~dd~~GG) "Megavoltage radiation therapy" or "MRT" means a clinical modality in which patients with cancer, other neoplasms, or cerebrovascular system abnormalities are treated with radiation which is delivered by a ~~megavoltage radiation therapy~~MRT unit.

(~~ee~~HH) "~~Megavoltage radiation therapy~~MRT program" means one or more MRT services operated at one or more geographic locations under the same administrative unit.

(~~ff~~II) "~~Megavoltage radiation therapy~~MRT service" means providing ~~megavoltage radiation therapy~~MRT and/or the utilization of a ~~megavoltage radiation therapy~~MRT unit(s) at one geographic location.

(~~gg~~JJ) ~~"Megavoltage radiation therapy unit" or~~ "MRT unit" or "unit" means a linear accelerator; cobalt unit; or other piece of medical equipment operating at an energy level equal to or greater than 1.0 million electron volts (megavolts or MEV) for the purpose of delivering doses of radiation to patients with cancer, other neoplasms, or cerebrovascular system abnormalities.

(KK) "METROPOLITAN STATISTICAL AREA COUNTY" MEANS A COUNTY LOCATED IN A METROPOLITAN STATISTICAL AREA AS THAT TERM IS DEFINED UNDER THE "STANDARDS FOR DEFINING METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS" BY THE STATISTICAL POLICY OFFICE OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS OF THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET, 65 F.R. P. 82238 (DECEMBER 27, 2000) AND AS SHOWN IN APPENDIX C.

(~~hh~~LL) "Michigan Cancer Surveillance Program" means the program for the collection and analysis of information on cancer in Michigan operated by the ~~Michigan~~ Department~~, of Community Health, Division of the Registrar and Health Statistics,~~ VITAL RECORDS AND HEALTH DATA DEVELOPMENT SECTION, mandated by Act 82 of 1984, being Section 333.2619 of the Michigan Compiled Laws.

(MM) "MICROPOLITAN STATISTICAL AREA COUNTY" MEANS A COUNTY LOCATED IN A MICROPOLITAN STATISTICAL AREA AS THAT TERM IS DEFINED UNDER THE "STANDARDS FOR DEFINING METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS" BY THE STATISTICAL POLICY OFFICE OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS OF THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET, 65 F.R. P. 82238 (DECEMBER 27, 2000) AND AS SHOWN IN APPENDIX C.

(~~ii~~NN) "Multi-disciplinary cancer committee" means a standing committee that (i) includes representatives from the medical specialties or sub-specialties which refer patients to the MRT service; representatives from the specialties of diagnostic radiology, radiation oncology, and pathology; representatives from those who oversee the tumor registry; and representatives from administration, nursing, social services, pharmacy, and rehabilitation; (ii) meets at least on a quarterly basis; and (iii) is responsible for (a) establishing educational and problem oriented multi-disciplinary, facility-wide cancer conferences that include the major anatomic locations of cancer seen at the facility; (b) monitoring, evaluating, and reporting to the medical staff and governing body on the quality of care provided to patients with cancer; and (c) oversight of the applicant's tumor registry for quality control, staging, and abstracting.

(~~jj~~OO) "New cancer case," for purposes of these standards, means a person with any newly diagnosed cancer excluding basal, epithelial, papillary, and squamous cell carcinomas of the skin from other than a genital area.

(~~kk~~PP) ~~"Non-special megavoltage radiation therapy unit" or~~ "~~non~~Non-special MRT unit" or "non-special unit" means an MRT unit other than an MRT unit meeting the definition of a special purpose ~~megavoltage radiation therapy~~MRT unit.

(~~ll~~QQ) "Operating room based intraoperative MRT unit" or "OR-based IORT unit" means an MRT unit that is designed to emit only electrons, is located in an operating room in the surgical department of a licensed hospital, and is available for the treatment of a patient undergoing a surgical procedure with megavoltage radiation.

(~~mm~~RR) "Patient care evaluation studies" means a system of patient care evaluation, conducted at least twice annually, that documents the methods used to identify problems and the opportunities to improve patient care. Examples of patient care evaluation studies include nationwide patient care evaluation studies; hospital wide quality assurance activities; and ongoing monitoring, evaluating, and action planning.

(~~nn~~SS) "Planning area" means the groups of counties shown in Section 16.
(~~oo~~TT) "Relocation of an existing MRT service AND/OR unit(S)" means a change in the geographic location within the same planning area ~~of an MRT unit listed on the Department Inventory of MRT Units~~.
(~~pp~~UU) "Replace/upgrade AN EXISTING ~~megavoltage radiation therapy~~MRT unit" means an equipment change proposed by an applicant that results in the applicant operating the same number of non-special and the same number and type of special purpose ~~megavoltage radiation therapy~~MRT units before and after the equipment change.
(~~qq~~VV) "Rural county" means a county not located in a metropolitan STATISTICAL area OR MICROPOLITAN STATISTICAL AREAS as THOSE ~~that~~ termS ARE ~~is~~ defined UNDER ~~pursuant to~~ the "~~revised standards~~ Standards for ~~defining~~ Defining metropolitan AND MICROPOLITAN STATISTICAL areas ~~in the 1990's~~" by the statistical policy office of the office of information and regulatory affairs of the ~~united~~ United ~~states~~ States office of management and budget, ~~55~~ 65 F.R., p. 82238 ~~12154~~ (DECEMBER ~~March 30~~27, ~~1990~~2000) AND AS SHOWN IN APPENDIX C.
(~~rr~~WW) "Simple treatment visit" means a treatment visit involving a single treatment site, single treatment field, or parallel opposed fields with the use of no more than simple blocks.
(~~ss~~XX) "Simulation" means the precise mock-up of a patient treatment with an apparatus that uses a diagnostic x-ray tube and duplicates an MRT unit in terms of its geometrical, mechanical, and optical properties.
(~~tt~~YY) "Special purpose ~~megavoltage radiation therapy~~MRT unit" ~~or "special purpose MRT unit"~~ or "special purpose unit" or "special unit" means any of the following types of MRT units: (i) heavy particle accelerator, (ii) gamma knife, (iii) dedicated stereotactic radiosurgery unit, (iv) dedicated total body irradiator (TBI), ~~or~~ (v) an OR-based IORT unit, OR (VI) CYBERKNIFE®.
(~~uu~~ZZ) "Stereotactic treatment visit" means a visit involving the use of a stereotactic guiding device with radiotherapy for the destruction of a precisely defined intracranial tumor or lesion.
(~~vv~~AAA) "Total body irradiator" or "TBI" means a specially modified dedicated cobalt unit certified as a total body irradiator by the Nuclear Regulatory Commission (NRC) or a permanently modified dedicated linear accelerator that uses a very wide beam of gamma rays or x-rays to irradiate the entire body simultaneously.
(~~ww~~BBB) "Treatment site" means the anatomical location of the MRT treatment.
(~~xx~~CCC) "Treatment visit" means one patient encounter during which ~~megavoltage radiation therapy~~MRT is administered. One treatment visit may involve one or more treatment ports or fields. Each separate encounter by the same patient at different times of the same day shall be counted as a separate treatment visit.
(~~yy~~DDD) "Tumor registry," for the purposes of these standards, means a manual or computerized data base containing information about all malignancies and only those that are diagnosed and/or treated at the applicant's facility. The malignancies must be reportable to the Michigan Cancer Surveillance Program ~~As~~ As required pursuant to Public Act 82 of 1984, as amended.
(~~zz~~EEE) "Very complex treatment visit" means those visits listed in Section 12 which involve special techniques in the performance of the MRT.

(2) The definitions in Part 222 shall apply to these standards.

Section 3. Modification of the Appendices

Sec. 3. (1) The Commission may modify the Duplication Rates and the Duplication Factors set forth in Appendix A based on data obtained from the Michigan Cancer Surveillance Program presented to the Commission by the Department.

(2) The Commission may periodically modify the Distribution of MRT Courses by Treatment Visit Category set forth in Appendix B based on data provided by MRT providers as part of a Department survey presented to the Commission by the Department.

(3) The Commission shall establish the effective date of the modifications made pursuant to subsections (1) or (2).

(4) ~~The Department shall modify the Department Inventory of MRT Units set forth in Appendix C based on decisions made on certificates of need and certificate of need applications.~~

~~(5)~~ Modifications made by the Commission pursuant to subsections (1) or (2) shall not require ~~ad hoc~~STANDARD advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 4. ~~Department Inventory of Megavoltage Radiation Therapy (MRT) Units~~

~~Sec 4. Appendix C sets forth the MRT units included in the Department Inventory of MRT Units as of the effective date of these standards. Modification to Appendix C shall be made by the Department pursuant to Section 3.~~

~~Section 5.~~ Requirements for approval - applicants proposing to begin operation of a ~~megavoltage radiation therapy~~MRT ~~unit~~SERVICE

Sec. ~~5~~4. (1) An applicant proposing to begin operation of a ~~megavoltage radiation therapy~~**MRT** ~~unit(s)~~SERVICE shall demonstrate that:

(a) a minimum of 8,000 equivalent treatment visits (ETVs) for each proposed unit results from application of the methodology described in Section 11 and

(b) the proposed MRT unit is not a special purpose MRT unit.

(2) An applicant that demonstrates all of the following shall not be required to be in compliance with the requirement in subsection (1):

(a) The site of the proposed MRT ~~unit~~ SERVICE is located in a rural OR MICROPOLITAN STATISTICAL AREA county.

(b) ~~The site of the proposed MRT unit is a licensed hospital site that has 90 or more licensed hospital beds.~~

~~(c)~~ The site of the proposed MRT ~~unit~~ SERVICE is 60 driving miles or more from the nearest existing ~~megavoltage radiation therapy~~MRT service.

(~~d~~C) The proposed MRT ~~unit/~~service projects a minimum of 5,500 equivalent treatment visits (ETVs) for each proposed unit based on the application of the methodology described in Section 11.

(~~e~~D) The proposed MRT unit is not a special purpose MRT unit.

(E) AN APPLICANT SHALL SUBMIT, IN ITS APPLICATION, A WRITTEN CONSULTING AGREEMENT WITH AN EXISTING MRT SERVICE. THE AGREEMENT MUST SPECIFY THAT THE EXISTING SERVICE SHALL, FOR THE FIRST 3 YEARS OF OPERATION OF THE NEW SERVICE, PROVIDE THE FOLLOWING SERVICES TO THE APPLICANT FACILITY:

(I) RECEIVE AND MAKE RECOMMENDATIONS ON THE PROPOSED DESIGN THAT MAY BE REQUIRED;

(II) PROVIDE STAFF TRAINING RECOMMENDATIONS FOR ALL PERSONNEL ASSOCIATED WITH THE NEW PROPOSED SERVICE;

(III) PROVIDE RECOMMENDATIONS ON STAFFING NEEDS FOR THE PROPOSED SERVICE; AND

(IV) WORK WITH THE MEDICAL STAFF AND GOVERNING BODY TO DESIGN AND IMPLEMENT A PROCESS THAT WILL AT LEAST ANNUALLY MEASURE, EVALUATE, AND REPORT TO THE MEDICAL STAFF AND GOVERNING BODY, THE CLINICAL OUTCOMES OF THE NEW SERVICE, INCLUDING: (I) MORTALITY RATES, (II) COMPLICATION RATES, (III) SUCCESS RATES, AND (IV) INFECTION RATES.

(3) ALL APPLICANTS UNDER THIS SECTION SHALL DEMONSTRATE, AT THE TIME THE APPLICATION IS SUBMITTED TO THE DEPARTMENT, THAT THE FOLLOWING STAFF, AT A MINIMUM, WILL BE PROVIDED:

(A) 1 F.T.E. BOARD-CERTIFIED OR BOARD QUALIFIED PHYSICIAN TRAINED IN RADIATION ONCOLOGY,

(B) 1 RADIATION PHYSICIST,

(C) 1 DOSIMETRIST OR PHYSICS ASSISTANT,
(D) 2 RADIATION THERAPY TECHNOLOGISTS, AND
(E) 1 PROGRAM DIRECTOR WHO IS A PHYSICIAN TRAINED IN RADIATION ONCOLOGY WHO MAY ALSO BE THE PHYSICIAN REQUIRED UNDER SUBSECTION (3)(A).

Section ~~6~~5. Requirements for approval - applicants proposing to expand an existing ~~megavoltage radiation therapy~~MRT service

Sec. ~~6~~5. (1) An applicant proposing to expand an existing MRT service with an additional non-special MRT unit shall demonstrate:

(A) ~~that~~ an average of 10,000 ETVs was performed in the most recent 12-month period on each of the applicant's EXISTING non-special MRT units, AND

(B) ~~listed on the Department Inventory of MRT Units at~~ the ~~location where the~~ADDITIONAL unit ~~is to~~SHALL be ~~added~~LOCATED AT THE SAME SITE, UNLESS THE REQUIREMENTS OF SECTION 9(2) ALSO HAVE BEEN MET.

(2) An applicant proposing to expand an existing MRT ~~program~~ SERVICE with a special purpose MRT unit shall demonstrate each of the following, as applicable:

(a) An average of 8,000 ETVs was performed in the most recent 12-month period on each of the applicant's EXISTING non-special MRT units ~~listed on the Department Inventory of MRT Units~~ at the location where the special purpose unit is to be located. ~~If the special purpose unit will not be located at the same location as the existing MRT program, compliance with this subsection shall be determined based on the average number of ETVs performed on each of the non-special MRT units listed on the Department Inventory of MRT Units for the existing MRT program being expanded.~~

(b) An applicant proposing to ~~acquire~~ EXPAND BY ADDING a dedicated total body irradiator shall have either (i) a valid CON ~~issued under former Part 221 or Part 222~~ to operate a bone marrow transplantation program or (ii) a written agreement to provide total body irradiation services to a hospital that has a valid CON ~~issued under former Part 221 or Part 222~~ to operate a bone marrow transplantation program. Documentation of the written agreement shall be included in the application at the time it is submitted to the Department.

(c) An applicant proposing to ~~acquire~~ EXPAND BY ADDING a heavy particle accelerator shall have available, either on-site or through written agreement(s), 3-dimensional imaging and 3-dimensional treatment planning capabilities. Documentation of the written agreement shall be included in the application at the time it is submitted to the Department.

(d) An applicant proposing to ~~acquire~~ EXPAND BY ADDING and ~~operate~~ operatING a dedicated stereotactic radiosurgery unit (including a gamma knife AND CYBERKNIFE) shall demonstrate that (i) the applicant has, at the time the application is filed, a ~~formal~~ CONTRACTUAL relationship with a BOARD-ELIGIBLE OR BOARD-CERTIFIED neurosurgeon(s) trained in stereotactic radiosurgery and (ii) on-site 3-dimensional imaging and 3-dimensional treatment planning capabilities.

(e) An applicant proposing to ~~operate~~ EXPAND BY ADDING an operating room based intraoperative ~~megavoltage radiation therapy~~MRT unit shall demonstrate that (i) the hospital at which the OR-based IORT unit will be located meets the CON review standards for surgical facilities if the application involves the replacement of or an increase in the number of operating rooms and (ii) the OR-based IORT unit to be installed is a linear accelerator with only electron beam capabilities.

Section ~~7~~6. Requirements for approval - applicants proposing to replace/upgrade AN EXISTING ~~megavoltage radiation therapy~~MRT unit(s)

Sec. ~~7~~6. An applicant requesting to replace/upgrade aN EXISTING MRT unit(s) shall demonstrate each of the following, as applicable.

(1) An applicant requesting to replace/upgrade an existing non-special MRT unit which is the only unit at that geographic location, shall demonstrate each of the following:

(a) ~~The unit is listed on the current Department Inventory of MRT Units.~~

~~(b) The unit was listed on the Department Inventory of MRT Units as of the effective date of these standards.~~

~~(c)~~ The unit performed at least 5,500 ETVs in the most recent 12-month period.

(~~d~~B) The replacement unit will be located at the same geographic location as the unit to be replaced, unless the applicant demonstrates that the requirements of Section ~~10~~ 9 also have been met.

(2) An applicant requesting to replace/upgrade an existing non-special MRT unit at a MRT service which is the only MRT service in the planning area shall demonstrate each of the following:

(a) ~~The unit is listed on the current Department Inventory of MRT Units.~~

~~(b)~~ Each unit at the geographic location of the unit to be replaced operated at an average of at least 5,500 ETVs in the most recent 12-month period.

(~~e~~B) The replacement unit will be located at the same geographic location as the unit to be replaced.

(3) An applicant, other than an applicant meeting all of the applicable requirements of subsection (1) or (2), requesting to replace/upgrade a non-special MRT unit shall demonstrate each of the following:

(a) ~~The unit is listed on the current Department Inventory of MRT Units.~~

~~(b)~~ Each non-special unit at the geographic location of the unit to be replaced operated at a~~n average~~ TOTAL of at least ~~7~~13,000 ETVs FOR TWO UNITS AND AN ADDITIONAL 5,500 ETVS FOR EACH ADDITIONAL UNIT (I.E., 13,000 ETVS + 5,500 ETVS = 18,500 ETVS FOR THREE UNITS, 13,000 + 5,500 ETVS + 5,500 ETVS = 24,000 ETVS FOR FOUR UNITS, ETC.) in the most recent 12-month period.

(~~e~~B) The replacement unit will be located at the same geographic location as the unit to be replaced, unless the applicant demonstrates that the requirements of Section ~~10~~ 9 also have been met.

(4) An applicant requesting to replace/upgrade an existing special purpose unit shall demonstrate each of the following, as applicable:

(a) ~~The unit is listed on the current Department Inventory of MRT Units as a special purpose MRT unit.~~

~~(b)~~ The special purpose unit to be replaced operated at the following level of utilization during the most recent 12-month period, as applicable:

(i) an average of 7,000 ETVs for each heavy particle accelerator;

(ii) an average of 1,000 ETVs for each OR-based IORT unit, gamma knife, dedicated stereotactic radiosurgery unit, or dedicated total body irradiator.

(~~e~~B) The replacement special purpose unit will be located at the same geographic location as the special purpose unit to be replaced, unless the applicant demonstrates that the applicable requirements of sections ~~6~~ 5 and ~~10~~ 9 also have been met.

(~~d~~C) An applicant proposing to replace a dedicated total body irradiator shall have either (i) a valid CON to operate a bone marrow transplantation program or (ii) a written agreement to provide total body irradiation services to a hospital that has a valid CON ~~issued under former Part 221 or Part 222~~ to operate a bone marrow transplantation program.

(5) An applicant under this section shall demonstrate that the ~~megavoltage radiation therapy~~MRT unit proposed to be replaced/upgraded is fully depreciated according to generally accepted accounting principles; that the existing unit clearly poses a threat to the safety of the public; or that the proposed replacement unit offers technological improvements which enhance quality of care, increase efficiency, and/or reduce operating costs and patient charges.

(6) EQUIPMENT THAT IS REPLACED SHALL BE REMOVED FROM SERVICE AND DISPOSED OF OR RENDERED CONSIDERABLY INOPERABLE ON OR BEFORE THE DATE THAT THE REPLACEMENT EQUIPMENT BECOMES OPERATIONAL.

Section ~~8~~7. Requirements for approval - applicants proposing to use ~~megavoltage radiation therapy~~MRT units exclusively for research

Sec. ~~8~~7. (1) An applicant proposing a ~~megavoltage radiation therapy~~MRT unit to be used exclusively for research shall demonstrate each of the following:

(a) The applicant operates a therapeutic radiation residency program approved by the American Medical Association, the American Osteopathic Association, or an equivalent organization.

(b) The ~~megavoltage radiation therapy~~MRT unit shall operate under a protocol approved by the applicant's ~~institutional review board~~IRB.

(c) The applicant agrees to operate the unit in accordance with the terms of approval in Section 15(1)(c)(v), (viii), (xiii)~~, (xiv)~~; 15(2); 15(3); and 15(4).

(2) An applicant meeting the requirements of subsection (1) shall be exempt from meeting the requirements and terms of sections 4, 5; 6; ~~7;~~ and 15(1)(c)(i), (ii), (iii), (iv), (vi), (vii), (ix), (x), (xi), and (xii) of these standards.

(3) EQUIPMENT THAT IS REPLACED SHALL BE REMOVED FROM SERVICE AND DISPOSED OF OR RENDERED CONSIDERABLY INOPERABLE ON OR BEFORE THE DATE THAT THE REPLACEMENT EQUIPMENT BECOMES OPERATIONAL.

Section ~~9~~8. Requirements for approval - applicants proposing to acquire an existing MRT service~~/unit~~

Sec. ~~9~~8. (1) An applicant proposing to acquire an existing MRT service~~/~~ AND ITS unit(S) shall demonstrate that it meets all of the following:

(~~1~~A) The project is limited solely to the acquisition of an existing MRT service~~/~~ AND ITS unit(S).

(~~2~~B) The project will not change the number or type (special, non-special) of EXISTING MRT units ~~listed on the Department Inventory of MRT Units~~ at the geographic location of the MRT service being acquired unless the applicant demonstrates that the project is in compliance with the requirements of Section 4 OR 5 ~~or 6~~, as applicable.

(~~3~~C) The project will not result in the replacement/upgrade of the MRT unit(s) to be acquired unless the applicant demonstrates that the requirements of Section ~~7~~ 6, AS APPLICABLE, also have been met.

~~(4) All MRT units at the service to be acquired are currently listed on the Department Inventory of MRT Units.~~

~~(5) The applicant agrees to operate the MRT service in accord with all applicable project delivery requirements set forth in Section 15 of these standards.~~

(2) AN APPLICANT PROPOSING TO ACQUIRE A UNIT(S) OF AN EXISTING MRT SERVICE SHALL DEMONSTRATE THAT IT MEETS ALL OF THE FOLLOWING:

(A) THE PROJECT IS LIMITED SOLELY TO THE ACQUISITION OF A UNIT(S) OF AN EXISTING MRT SERVICE.

(B) THE PROJECT WILL NOT CHANGE THE NUMBER OR TYPE (SPECIAL, NON-SPECIAL) OF EXISTING MRT UNITS AT THE GEOGRAPHIC LOCATION OF THE MRT SERVICE BEING ACQUIRED UNLESS THE APPLICANT DEMONSTRATES THAT THE PROJECT IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 4 OR 5, AS APPLICABLE.

(C) THE PROJECT WILL NOT RESULT IN THE REPLACEMENT/UPGRADE OF THE MRT UNIT(S) TO BE ACQUIRED UNLESS THE APPLICANT DEMONSTRATES THAT THE REQUIREMENTS OF SECTION 6, AS APPLICABLE, ALSO HAVE BEEN MET.

(D) THE REQUIREMENTS OF SECTION 5(2)(E) AND 5(3) ALSO HAVE BEEN MET.

Section ~~10~~9. Requirements for approval - applicants proposing to relocate an existing MRT service AND/OR unit(S)

Sec. ~~10~~9. (1) An applicant proposing to relocate an existing MRT service AND/~~OR~~ ITSunit(S) shall demonstrate that it meets all of the following:

(~~1~~A) ~~The MRT unit(s) to be relocated is listed on the Department Inventory of MRT Units.~~

~~(2)~~ The relocation of the MRT SERVICE AND ITS unit(S) will not change the number or type (special, non-special) of EXISTING MRT units in the planning area, UNLESS SUBSECTIONS (C) AND/OR (D), AS APPLICABLE, ALSO HAVE BEEN MET.

(~~3~~B) The new geographic location will be in the same planning area as the existing geographic location.

(~~4~~C) The project will not result in the replacement/upgrade of the MRT unit(s) to be relocated unless the applicant demonstrates that the requirements of Section ~~7~~6, as applicable, also have been met.

(D) THE PROJECT WILL NOT RESULT IN THE EXPANSION OF AN MRT SERVICE UNLESS THE APPLICANT DEMONSTRATES THAT THE REQUIREMENTS OF SECTION 5, AS APPLICABLE, ALSO HAVE BEEN MET.

(2) AN APPLICANT PROPOSING TO RELOCATE AN MRT UNIT(S) OF AN EXISTING MRT SERVICE SHALL DEMONSTRATE THAT IT MEETS ALL OF THE FOLLOWING:

(A) THE RELOCATION OF THE MRT UNIT(S) WILL NOT CHANGE THE NUMBER OR TYPE (SPECIAL, NON-SPECIAL) OF EXISTING MRT UNITS IN THE PLANNING AREA, UNLESS SUBSECTIONS (C) AND/OR (D), AS APPLICABLE, ALSO HAVE BEEN MET.

(B) THE NEW GEOGRAPHIC LOCATION WILL BE IN THE SAME PLANNING AREA AS THE EXISTING GEOGRAPHIC LOCATION.

(C) THE PROJECT WILL NOT RESULT IN THE REPLACEMENT/UPGRADE OF THE MRT (UNIT)S TO BE RELOCATED UNLESS THE APPLICANT DEMONSTRATES THAT THE REQUIREMENTS OF SECTION 6, AS APPLICABLE, ALSO HAVE BEEN MET.

(D) THE PROJECT WILL NOT RESULT IN THE EXPANSION OF AN MRT SERVICE UNLESS THE APPLICANT DEMONSTRATES THAT THE REQUIREMENTS OF SECTION 5, AS APPLICABLE, ALSO HAVE BEEN MET.

(~~5~~E) ~~The unit to be relocated is not a special purpose unit unless the location to which the special purpose unit is to be relocated meets the requirements of Section 6, as applicable.~~FOR VOLUME PURPOSES, THE NEW SITE SHALL REMAIN ASSOCIATED TO THE ORIGINAL SITE FOR A MINIMUM OF THREE YEARS OR UNTIL THE NEW SITE MEETS THE APPLICABLE VOLUME REQUIREMENTS AS REQUIRED UNDER SECTION 15 OF THESE STANDARDS.

(~~6~~F) ~~The applicant agrees to all applicable project delivery requirements set forth in Section 15 of these standards.~~ FOR A MICROPOLITAN STATISTICAL AREA OR RURAL COUNTY, EACH UNIT AT THE GEOGRAPHIC LOCATION OF THE UNIT TO BE RELOCATED OPERATED AT AN AVERAGE OF AT LEAST 5,500 ETVS IN THE MOST RECENT 12-MONTH PERIOD. FOR A METROPOLITAN STATISTICAL AREA COUNTY, EACH UNIT AT THE GEOGRAPHIC LOCATION OF THE UNIT TO BE RELOCATED OPERATED AT AN AVERAGE OF AT LEAST 8,000 ETVS IN THE MOST RECENT 12-MONTH PERIOD.

(G) THE REQUIREMENTS OF SECTION 5(2)(E) AND 5(3) ALSO HAVE BEEN MET.

Section 10. Requirements for approval -- all applicants

Sec. 10. AN APPLICANT SHALL PROVIDE VERIFICATION OF MEDICAID PARTICIPATION AT THE TIME THE APPLICATION IS SUBMITTED TO THE DEPARTMENT. AN APPLICANT THAT IS INITIATING A NEW SERVICE OR IS A NEW PROVIDER NOT CURRENTLY ENROLLED IN MEDICAID SHALL PROVIDE A SIGNED AFFIDAVIT STATING THAT PROOF OF MEDICAID PARTICIPATION WILL BE PROVIDED TO THE DEPARTMENT WITHIN SIX (6) MONTHS FROM THE OFFERING OF SERVICES IF A CON IS APPROVED. IF THE REQUIRED DOCUMENTATION IS NOT SUBMITTED WITH THE APPLICATION ON THE DESIGNATED APPLICATION DATE, THE APPLICATION WILL BE DEEMED FILED ON THE FIRST APPLICABLE DESIGNATED APPLICATION DATE AFTER ALL REQUIRED DOCUMENTATION IS RECEIVED BY THE DEPARTMENT.

Section 11. Methodology for computing the projected number of equivalent treatment visits

Sec. 11. The applicant being reviewed under Section ~~5~~ 4 shall apply the methodology set forth in this section in computing the projected number of equivalent treatment visits (ETVs).

(1) Identify the number of new cancer cases documented in accord with the requirements of Section 14.

(2) Multiply the number of new cancer cases identified in subsection (1) by the duplication factor identified in Appendix A, for the planning area in which the proposed unit will be located.

(3) Multiply the number of new cancer cases produced in subsection (2) by 0.55 to determine the estimated number of courses of MRT.

(4) Multiply the estimated number of courses of MRT by 20 to determine the total estimated number of treatment visits.

(5) Determine the number of estimated simple, intermediate, and complex treatment visits by multiplying the total estimated number of treatment visits produced in subsection (4) by the percent allocations for each category as set forth in Appendix B.

(6) Multiply the estimated number of treatment visits in the simple category produced in subsection (5) by 1.0.

(7) Multiply the estimated number of treatment visits in the intermediate category produced in subsection (5) by 1.1.

(8) Multiply the estimated number of treatment visits in the complex category produced in subsection (5) by 1.25.

(9) Sum the numbers produced in subsections (6) through (8) to determine the total number of estimated ETVs.

Section 12. Equivalent treatment visits

Sec. 12. For purposes of these standards, equivalent treatment visits shall be calculated as follows:

(1) For the time period specified in the applicable section(s) of these standards, assign each actual treatment visit provided to one applicable treatment visit category set forth in Table 1.

(2) The number of treatment visits for each category in the time period specified in the applicable section(s) of these standards shall be multiplied by the corresponding ETV weight in Table 1 to determine the number of equivalent treatment visits for that category for that time period.

(3) To determine the ETV for intraoperative treatment visits, whether performed on a MRT unit in the radiation oncology department or an OR-based IORT unit, divide the actual, documented number of minutes required to perform each intraoperative treatment visit by 15. The product of this division, rounded up to the next whole number, is the ETV for intraoperative treatment visits. Documentation shall be submitted as part of the CON application and/or on a Department form developed for reporting MRT equivalent treatment visits. If a facility performs intraoperative treatment visits on both a unit located in the radiation oncology department and an OR-based IORT unit, the facility shall maintain separate records for the utilization of each separate unit.

(4) The number of ETVs for each category determined pursuant to subsections (2) and (3) shall be summed to determine the total ETVs for the time period specified in the applicable section(s) of these standards.

TABLE 1 Equivalent TreatmentS		
Treatment Visit Category	NON-SPECIAL Visit Weight	SPECIAL VISIT WEIGHT
Simple	1.00	
Intermediate	1.10	
Complex	1.25	
IMRT	2.50	
Very Complex:		
Total Body Irradiation	~~5.00~~	5.00
Hemi Body Irradiation	~~4.00~~	4.00
~~Patient under 5 years of age~~	~~2.00~~	
Heavy Particle Accelerator	~~5.00~~	5.00
Stereotactic radio-surgery	~~12~~8.00	8.00
(non-gamma knife AND CYBERKNIFE)		
Gamma Knife*	~~8.00 plus 4 additional ETVs for each iso-center after the first.~~	8.00
ALL PATIENTS UNDER 5 YEARS OF AGE RECEIVE A 2.00 ADDITIVE FACTOR. *AFTER THE FIRST ISO CENTER, EACH ADDITIONAL ISO CENTER RECEIVES 4 ADDITIONAL ETVS.		

Section 13. Commitment of new cancer cases

Sec. 13. (1) An applicant proposing to use new cancer cases shall demonstrate all of the following:

(a) Each entity contributing new cancer case data provides, as part of the application at the time it is submitted to the Department, a signed governing body resolution that states that the number of new cancer cases committed to the application shall not be used in support of any other application for an MRT unit(s) for the duration of the MRT service for which the data are being committed.

(b) The geographic locations of all entities contributing new cancer case data are in the same planning area as the proposed MRT SERVICE~~unit(s)~~.

~~(c) Any entity contributing new cancer case data is not listed on the Department Inventory of MRT Units.~~

(2) An entity currently operating or approved to operate a MRT ~~unit~~SERVICE ~~listed on the Department Inventory of MRT Units~~ shall not contribute new cancer cases to ~~support~~ INITIATE any MRT ~~unit/~~service.

Section 14. Documentation of new cancer case data

Sec. 14. (1) An applicant required to document volumes of new cancer cases shall submit, as part of its application, documentation from the DEPARTMENT, VITAL RECORDS AND HEALTH DATA DEVELOPMENT SECTION, ~~Office of the State Registrar~~ verifying the number of new cancer cases provided in support of the application for the most recent calendar year for which verifiable data is available from the State Registrar.

(2) New cancer case data supporting an application under these standards shall be submitted to the MICHIGAN CANCER SURVEILLANCE PROGRAM ~~Office of the State Registrar~~ using a format and media specified in instructions from the State Registrar.

Section 15. Project delivery requirements - terms of approval for all applicants

Sec. 15. (1) An applicant shall agree that, if approved, ~~megavoltage radiation therapy~~MRT services shall be delivered in compliance with the following applicable terms of ~~certificate of need~~CON approval:

(a) Compliance with these standards.

(b) Compliance with applicable safety and operating standards.

(c) Compliance with the following quality assurance standards:

(i)(A)The non-special ~~megavoltage radiation therapy~~MRT units and heavy particle accelerators approved pursuant to these standards shall be operating at a minimum average volume of 8,000 ETVs per unit annually by the end of the third full year of operation, and annually thereafter. The following types of special purpose MRT units: OR-based IORT unit, gamma knife, dedicated stereotactic radiosurgery unit and dedicated total body irradiator approved pursuant to these standards shall be operating at a minimum average volume of 1,000 ETVs per special purpose unit annually by the end of the third full year of operation, and annually thereafter. In meeting this requirement the applicant shall not include any treatment visits conducted by ~~megavoltage radiation therapy~~MRT units approved exclusively for research pursuant to Section ~~8~~7.

(B) The non-special ~~megavoltage radiation therapy~~MRT units and heavy particle accelerators approved pursuant to Section ~~(5~~4~~)~~(2) of these standards shall be operating at a minimum average volume of 5,500 ETVs per unit annually by the end of the third full year of operation, and annually thereafter. In meeting this requirement, the applicant shall not include any treatment visits conducted by ~~megavoltage radiation therapy~~MRT units approved exclusively for research pursuant to Section ~~8~~7.

(ii) An applicant shall establish a mechanism to assure that (a) the ~~megavoltage radiation therapy~~MRT service is staffed so that the ~~megavoltage radiation therapy~~MRT unit is operated by physicians and/or radiation therapy technologists qualified by training and experience to operate the unit safely and effectively. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of a satisfactory quality assurance mechanism as to the operation of the unit if the applicant requires the equipment to be operated by a physician who is board certified or board qualified in either radiation oncology or therapeutic radiology, and/or a radiation therapy technologist certified by the American Registry of Radiological Technologists (ARRT) or the American Registry of Clinical Radiography Technologists (ARCRT). However, the applicant may submit and the department may accept other evidence that the applicant has established and operates a satisfactory quality assurance mechanism to assure that the ~~megavoltage radiation therapy~~MRT unit is appropriately staffed, and (b) for the MRT service/program operating a dedicated stereotactic radiosurgery unit or a gamma knife, a neurosurgeon(s) trained in each type of special MRT unit being operated is on the active medical staff of the applicant organization.

(iii) At a minimum, the following staff shall be provided: (a) 1 F~~.~~T~~.~~E~~.~~ physician trained in radiation oncology for each 250 patients treated with ~~megavoltage radiation therapy~~MRT annually, (b) 1 radiation physicist immediately available during hours of operation, (c) 1 dosimetrist or physics assistant for every 300 patients treated with ~~megavoltage radiation therapy~~MRT annually, (d) 2 F~~.~~T~~.~~E~~.~~ radiation therapy technologists for every MRT unit per shift of operation (not including supervisory time), and (e) 1 F~~.~~T~~.~~E~~.~~ program director who is a physician trained in radiation oncology who may also be the physician required under subsection (iii)(a). For purposes of evaluating this subsection, the department shall consider it prima facie evidence as to the training of the physician(s) if the physician is board certified or board qualified in radiation oncology and/or therapeutic radiology.

(iv) All ~~megavoltage radiation therapy~~MRT treatments shall be performed under the supervision of a radiation oncologist and at least one radiation oncologist will be on site at the geographic location of the unit during the operation of the unit(s).

(v) The applicant shall have equipment and supplies within the megavoltage therapy unit/facility to handle clinical emergencies that might occur in the unit. ~~Megavoltage radiation therapy~~MRT facility staff will be trained in CPR and other appropriate emergency interventions and shall be on-site in the ~~megavoltage radiation therapy~~MRT unit at all times when patients are treated. A physician shall be on-site in or immediately available to the ~~megavoltage radiation therapy~~MRT unit at all times when patients are treated.

(vi) An applicant shall operate a cancer treatment program. For purposes of evaluating this subsection, the department shall consider it prima facie evidence of meeting this requirement if the applicant submits evidence of a cancer treatment program approved by the American College of Surgeons Commission on Cancer. However, the applicant may submit and the Department may accept other evidence that the applicant operates a cancer treatment program as defined in these standards.

(vii) A ~~megavoltage radiation therapy~~MRT service will have simulation capability at the same geographic location of the ~~megavoltage radiation therapy~~MRT service/unit.

(viii) An applicant shall participate in the Michigan Cancer Surveillance Program.

(ix) An applicant required to document new cancer cases shall agree to pay the State Registrar's costs for verification of the new cancer case data.

(x) The applicant shall accept referrals for ~~megavoltage radiation therapy~~MRT services from all appropriately licensed health care practitioners.

(xi) The applicant, to assure that the ~~megavoltage radiation therapy~~MRT unit will be utilized by all segments of the Michigan population, shall: (a) not deny ~~megavoltage radiation therapy~~MRT services to any individual based on ability to pay or source of payment, (b) provide ~~megavoltage radiation therapy~~MRT services to an individual based on the clinical indications of need for the service, and (c) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually. Compliance with selective contracting requirements shall not be construed as a violation of this term.

(xii)(A) The applicant shall participate in a data collection network established and administered by the department OR ITS DESIGNEE. The data may include but is not limited to annual budget and cost information, operating schedules, through-put schedules, demographic and diagnostic information, and the volume of care provided to patients from all payor sources and other data requested by the Department OR ITS DESIGNEE, and approved by the ~~Certificate of Need~~CON Commission. The applicant shall provide the required data on a separate basis for each separate and distinct geographic location or unit, and separately for non-special MRT units and each type of special purpose MRT unit, as required by the Department; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(B) If the applicant intends to include research treatment visits conducted by a ~~megavoltage radiation therapy~~MRT unit other than an MRT unit approved exclusively for research pursuant to Section ~~8~~ 7 in its utilization statistics, the applicant shall submit to the department a copy of the research protocol with evidence of approval by the ~~institutional review board~~IRB. The applicant shall submit this at the time the applicant intends to include research procedures in its utilization statistics. The applicant shall not report to the Department any treatment visits conducted by an MRT unit approved pursuant to Section ~~8~~7.

~~(xiii) Equipment that is replaced shall be removed from service.~~

(~~xiv~~xiII) The applicant shall ~~notify~~ PROVIDE the Department ~~in writing within 10 days of the~~WITH A NOTICE STATING THE FIRST date ~~when any~~ON WHICH THE MRT SERVICE AND ITS unit(s) ~~begins~~ BECAME operationAL, AND SUCH NOTICE SHALL BE SUBMITTED TO THE DEPARTMENT CONSISTENT WITH APPLICABLE STATUTE AND PROMULGATED RULES.

(xIv) The applicant agrees to operate a special purpose MRT unit(s) only for the specific use for which it was approved and to seek approval under a separate CON application to operate the unit as a non-special MRT unit.

(xv~~i~~) An applicant approved to operate a dedicated total body irradiator that uses cobalt as the source of radiation shall obtain and maintain Nuclear Regulatory Commission certification as a total body irradiator. An applicant approved to operate a dedicated total body irradiator that is a permanently modified linear accelerator shall meet any requirements specified by the Department ~~of Consumer & Industry Services~~, Division of Health Facilities and Services, Radiation Safety Section.

(XVI) AN APPLICANT SHALL PARTICIPATE IN MEDICAID AT LEAST 12 CONSECUTIVE MONTHS WITHIN THE FIRST TWO YEARS OF OPERATION AND CONTINUE TO PARTICIPATE ANNUALLY THEREAFTER.

(XVII) AN APPLICANT SHALL NOTIFY THE DEPARTMENT IMMEDIATELY IF THE CONSULTING AGREEMENT REQUIRED PURSUANT TO SECTION 4(2)(E) OF THESE STANDARDS IS TERMINATED PRIOR TO THE END OF THE FIRST 36-MONTHS OF OPERATION OF THE MRT SERVICE. THE NOTIFICATION SHALL INCLUDE A STATEMENT DESCRIBING THE REASONS FOR THE TERMINATION. AN APPLICANT SHALL HAVE 30 DAYS FOLLOWING TERMINATION OF THAT

AGREEMENT TO ENTER INTO A WRITTEN CONSULTING AGREEMENT THAT MEETS THE REQUIREMENTS OF SECTION 4(2)(E). AN APPLICANT SHALL PROVIDE THE DEPARTMENT WITH A COPY OF THAT WRITTEN CONSULTING AGREEMENT.
(XVIII) THE DEPARTMENT MAY USE THE INFORMATION PROVIDED PURSUANT TO SECTION 4(2)(E) OF THESE STANDARDS IN EVALUATING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

(2) An applicant for a ~~megavoltage radiation therapy~~MRT unit under Section ~~8~~ 7 shall agree that the services provided by the ~~megavoltage radiation therapy~~MRT unit approved pursuant to Section ~~8~~ 7 shall be delivered in compliance with the following terms of ~~certificate of need~~CON approval:

(a) The capital and operating costs relating to the research use of the ~~megavoltage radiation therapy~~MRT unit approved pursuant to Section ~~8~~ 7 shall be charged only to a specific research account(s) and not to any patient or third-party payor.

(b) The ~~megavoltage radiation therapy~~MRT unit approved pursuant to Section ~~8~~ 7 shall not be used for any purposes other than as approved by the ~~institutional review board~~IRB unless the applicant has obtained ~~certificate of need~~CON approval for the ~~megavoltage radiation therapy~~MRT unit pursuant to Part 222 and these standards, other than Section ~~8~~7.

(3) The operation of and referral of patients to the ~~megavoltage radiation therapy~~MRT unit shall be in conformance with 1978 PA 368, Sec. 16221, as amended by 1986 PA 319; MCL 333.16221; MSA 14.15 (16221).

(4) The applicable agreements and assurances required by this section shall be in the form of a certification authorized by the owner or governing body of the applicant or its authorized agent.

Section 16. Planning areas

Sec. 16. Counties assigned to each planning area are as follows:

PLANNING AREA			COUNTIES
1	Livingston	Monroe	St. Clair
	Macomb	Oakland	Washtenaw
	Wayne		
2	Clinton	Hillsdale	Jackson
	Eaton	Ingham	Lenawee
3	Barry	Calhoun	St. Joseph
	Berrien	Cass	Van Buren
	Branch	Kalamazoo	
4	Allegan	Mason	Newaygo
	Ionia	Mecosta	Oceana
	Kent	Montcalm	Osceola
	Lake	Muskegon	Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac	Huron	Roscommon
	Bay	Iosco	Saginaw
	Clare	Isabella	Sanilac
	Gladwin	Midland	Tuscola
	Gratiot	Ogemaw	

7	Alcona	Crawford	Missaukee
	Alpena	Emmet	Montmorency
	Antrim	Gd Traverse	Oscoda
	Benzie	Kalkaska	Otsego
	Charlevoix	Leelanau	Presque Isle
	Cheboygan	Manistee	Wexford
8	Alger	Gogebic	Mackinac
	Baraga	Houghton	Marquette
	Chippewa	Iron	Menominee
	Delta	Keweenaw	Ontonagon
	Dickinson	Luce	Schoolcraft

Section 17. Effect on prior ~~planning policies~~CON REVIEW STANDARDS; comparative reviews

Sec. 17. (1) These ~~certificate of need~~CON review standards supersede and replace the ~~Certificate of Need~~CON Review Standards for Megavoltage Radiation Therapy (MRT) Services/Units approved by the ~~Certificate of Need~~CON Commission on ~~September 22, 1998~~MARCH 14, 2000 and effective ~~December 10, 1998~~APRIL 28, 2000.

(2) Projects reviewed under these standards shall not be subject to comparative review.

APPENDIX A

DUPLICATION RATES AND FACTORS

PLANNING AREA	DUPLICATION RATE	DUPLICATION FACTOR
1	0.~~04553~~14181	0.~~95458~~582
2	0.~~08451~~022283	0.~~9155~~7772
3	0.~~06147~~21565	0.~~9385~~7843
4	0.~~06597~~126412	0.~~9340~~7359
5	0.~~09252~~127394	0.~~9075~~7261
6	0.~~09687~~026836	0.~~9031~~7316
7	0.~~13080~~118583	0.~~8692~~8142
8	0.~~08903~~620748	0.~~9110~~7925

APPENDIX B

DISTRIBUTION OF MRT COURSES BY TREATMENT VISIT CATEGORY

Treatment Visit Category	Statewide Percent
Simple	~~12~~1.9%
Intermediate	~~26~~.8%
Complex	~~62~~86.2%
IMRT	11.1%

Source: ~~Special Survey of Megavoltage Radiation Services, Michigan Department of Community Health, June 1991~~2003 ANNUAL HOSPITAL STATISTICAL QUESTIONNAIRE

~~APPENDIX C~~

~~DEPARTMENT INVENTORY OF MEGAVOLTAGE RADIATION THERAPY UNITS~~

~~PLANNING AREA 1~~	~~NO. OF NON-SPECIAL MRT UNITS~~	~~NO. OF SPECIAL MRT UNITS~~
~~North Oakland Medical Center Pontiac~~	~~1~~	
~~Mercy Hospital Port Huron~~	~~1~~	
~~St. Joseph Mercy Hospital Ann Arbor~~	~~4~~	
~~University of Michigan Hospitals Ann Arbor~~	~~4~~	
~~St. Mary's Hospital Livonia~~	~~1~~	
~~Oakwood Hospital~~		
~~Dearborn~~	~~2~~	
~~Southgate~~	~~1~~	
~~William Beaumont Hospital Royal Oak~~	~~3~~	
~~William Beaumont Hospital Troy~~	~~1~~	
~~Grace Hospital Division (Outer Drive) Detroit~~	~~2~~	
~~PHMC Cancer Center~~		
~~Southfield~~	~~1~~	
~~Novi~~	~~1~~	
~~Sinai Hospital Detroit~~	~~2~~	
~~St. John Macomb Hospital Warren~~	~~2~~	

PLANNING AREA 1 continued	NO. OF NON-SPECIAL MRT UNITS	NO. OF SPECIAL MRT UNITS
American Oncologic Associates (MI Institute for Radiation Oncology - MIRO)		
Pontiac	2	
Downriver Center for Oncology		
Brownstown Township	1	
Garden City Radiation Therapy Association		
Garden City	1	
Grosse Pointe Physicians X-Ray Center		
Grosse Pointe Woods	1	
Harper Hospital		
Detroit	4	3
Rochester	1	
Henry Ford Hospital		
Detroit	3	
Henry Ford Hospital		
West Bloomfield	1	
Huron Valley Hospital		
Milford	1	
RADS, PC		
Monroe	1	
Farmington Hills	1	
Clarkston Cancer Treatment Ctr.	1	
Radiation Oncologists		
Rochester Hills	1	
Mt. Clemens	1	
St. John Hospital		
Detroit	2	
St. Joseph Mercy of Macomb		
Clinton Township	1	
X-Ray Treatment Ctr., P.C.		
East Detroit	1	
St. Clair Shores	1	

~~APPENDIX C continued~~

~~PLANNING AREA 2~~	~~NO. OF NON-SPECIAL MRT UNITS~~	~~NO. OF SPECIAL MRT UNITS~~
~~Edward W. Sparrow Hospital~~		
~~Lansing~~	~~3~~	
~~Emma L. Bixby Hospital~~		
~~Adrian~~	~~1~~	
~~WA Foote Hospital~~		
~~Jackson~~	~~2~~	
~~Radiation Oncology Alliance~~		
~~Lansing~~	~~1~~	
~~PLANNING AREA 3~~		
~~Battle Creek Health System~~		
~~Battle Creek~~	~~1~~	
~~Borgess Medical Center/Bronson Methodist Hospital~~		
~~Kalamazoo (joint)~~	~~2~~	
~~Mercy Memorial Medical Center~~		
~~St. Joseph~~	~~2~~	
~~PLANNING AREA 4~~		
~~Hackley Hospital~~		
~~Muskegon~~	~~2~~	
~~Blodgett Memorial Medical Center dba Spectrum Health~~		
~~E. Grand Rapids~~	~~1~~	
~~Butterworth Hospital dba Spectrum Health~~		
~~Grand Rapids~~	~~2~~	
~~Big Rapids (NW Radiation Oncology Center)~~	~~1~~	
~~Lakeshore Area Rad. Oncology Ctr.~~		
~~Holland~~	~~1~~	
~~St. Mary's Hospital~~		
~~Grand Rapids~~	~~1~~	

PLANNING AREA 5	NO. OF NON-SPECIAL MRT UNITS	NO. OF SPECIAL MRT UNITS
Genesys Health System Grand Blanc	2	
Hurley Medical Center Flint	2	
McLaren General Hospital Flint	2	
PLANNING AREA 6		
Bay Medical Center Bay City	1	
Saginaw (Saginaw Radiation Oncology Center	1	
Mid-Michigan Medical Center Midland	1	
Alma	1	
St. Mary's Medical Center Saginaw	2	1
Central Michigan Comp. Oncology Ctr (West Branch)	1	
PLANNING AREA 7		
Munson Medical Center Traverse City	2	
Northern Michigan Hospital Petoskey	2	
PLANNING AREA 8		
Marquette General Hospital Marquette	2	

CON REVIEW STANDARDS FOR MRT SERVICES

RURAL MICHIGAN COUNTIES ARE AS FOLLOWS:

ALCONA	HILLSDALE	OGEMAW
ALGER	HURON	ONTONAGON
ANTRIM	IOSCO	OSCEOLA
ARENAC	IRON	OSCODA
BARAGA	LAKE	OTSEGO
CHARLEVOIX	LUCE	PRESQUE ISLE
CHEBOYGAN	MACKINAC	ROSCOMMON
CLARE	MANISTEE	SANILAC
CRAWFORD	MASON	SCHOOLCRAFT
EMMET	MONTCALM	TUSCOLA
GLADWIN	MONTMORENCY	
GOGEBIC	OCEANA	

MICROPOLITAN STATISTICAL AREA MICHIGAN COUNTIES ARE AS FOLLOWS:

ALLEGAN	GRATIOT	MECOSTA
ALPENA	HOUGHTON	MENOMINEE
BENZIE	ISABELLA	MIDLAND
BRANCH	KALKASKA	MISSAUKEE
CHIPPEWA	KEWEENAW	ST. JOSEPH
DELTA	LEELANAU	SHIAWASSEE
DICKINSON	LENAWEE	WEXFORD
GRAND TRAVERSE	MARQUETTE	

METROPOLITAN STATISTICAL AREA MICHIGAN COUNTIES ARE AS FOLLOWS:

BARRY	IONIA	NEWAYGO
BAY	JACKSON	OAKLAND
BERRIEN	KALAMAZOO	OTTAWA
CALHOUN	KENT	SAGINAW
CASS	LAPEER	ST. CLAIR
CLINTON	LIVINGSTON	VAN BUREN
EATON	MACOMB	WASHTENAW
GENESEE	MONROE	WAYNE
INGHAM	MUSKEGON	

SOURCE:

65 F.R., P. 82238 (DECEMBER 27, 2000)
STATISTICAL POLICY OFFICE
OFFICE OF INFORMATION AND REGULATORY AFFAIRS
UNITED STATES OFFICE OF MANAGEMENT AND BUDGET