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Email: [ckalmowitz@thehelp.com](mailto:ckalmowitz@thehelp.com) 5. Standards: AA 6. Testimony: Written testimony on  
the proposed MRI standards has been uploaded on the Commission Website.

Content-Length: 58268



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April 30, 2013

CON Commission  
Michigan Department of Community Health  
Capitol View Building  
201 Townsend Street  
Lansing, MI 48913

Re: Public Hearing of April 24, 2013  
Comment on Proposed MRI Standards

Dear Commission:

The following amendments are offered to Section 3(6) of the Proposed MRI Standards which governs the initiation of MRI Services:

## 1. PROPOSED AMENDMENTS

Current Language:

(6) The applicant shall demonstrate that the available MRI adjusted procedures from the "Available MRI Adjusted Procedures List" or the adjusted procedures from the "MRI Service Utilization List," as applicable, are from the most recently published MRI lists as of the date an application is deemed submitted by the Department.

Proposed Language (Amendments Are Shown In Strikeouts and Capitalized Letters):

(6) The applicant shall demonstrate that:  
(A) the available MRI adjusted procedures ARE from the MOST RECENTLY PUBLISHED "Available MRI Adjusted Procedures List" AS OF THE DATE AN APPLICATION IS DEEMED SUBMITTED BY THE DEPARTMENT or,  
(B) the adjusted procedures from the "MRI Service Utilization List," are from ARE FROM EITHER (I) the most recently published MRI SERVICE UTILIZATION LIST lists as of the date an application is deemed submitted by the Department, OR (II) THE AVERAGE OF THE TWO MOST RECENTLY PUBLISHED MRI SERVICE UTILIZATION LISTS AS OF THE DATE AN APPLICATION IS DEEMED SUBMITTED BY THE DEPARTMENT.

## 2. RATIONALE

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\*The Health Law Partners, P.C. is a professional corporation organized under the laws of the State of Michigan and authorized to do business in New York State as The Greenberg, Dresevic, Hinrichsen, Iwrey, Kalmowitz, La Salle, Lebow & Pendleton Law Group.

The proposed language simply allows for a broader planning horizon for a provider who has already met the Adjusted Procedure threshold for conversion of a mobile MRI host site to a fixed site under Section 3(2). By way of clarification, this language does **NOT** purport to modify the substantive requirements to qualify for such conversions. Because a new MRI Service Utilization List is published twice each year, the current Standards, in effect, require a provider to make this decision requiring the expenditure of substantial capital in a span of 5 months before a new Utilization List is released by the Department. With pending regulatory shifts and annual declines in provider reimbursement, it is reasonable to allow a somewhat longer planning process in light of the uncertainty in today's healthcare environment.

Should you have any questions, regarding this proposed amendment, please feel free to contact me at my office (248) 996-8510 or my cell at (248) 790-6225.

Sincerely yours,



Carey F. Kalmowitz, Esq.

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5. Standards: AA
6. Testimony: The newly revised language in Section 4(6) regarding replacement of an existing fixed MRI Service or Unit has caused confusion amongst many of our clients. Specifically Line 354, in which the Department has changed "Service" to "Unit."

For example, under the current CON Review Standards for MRI Services, a hospital (or other fixed MRI service) who has been operating one MRI Unit for at least 36-months and has performed very high volumes over the previous 12-months (9,000 Adjusted MRI Procedures) is eligible for a second fixed MRI Unit. In many cases hospitals choose to relocate this second "expansion" unit to an outpatient imaging center or another affiliated hospital.

We are concerned that the newly revised language which was a "technical change" made by the Department could be interpreted to read that this second "expansion" Unit would have to be located at the original hospital for 36-months prior to being relocated to an outpatient center or affiliated hospital.

Given that there was no discussion in the Workgroup of closing this existing "expansion/relocation" provision we would request a clarifying statement from the Department that they will not interpret this new "technical change" to the language to prevent a newly approved "expansion" Unit to be "replaced" within the appropriate planning area even though it has not been operational for 36-months.

7. Testimony:

1. Name: Monica Harrison
2. Organization: Oakwood Healthcare, Inc.
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4. Email: [monica.harrison@oakwood.org](mailto:monica.harrison@oakwood.org)
5. Standards: AA
6. Testimony: Oakwood Healthcare, Inc. operates various MRI modalities, including both mobile and fixed units. In reviewing the proposed changes to the existing MRI Standards, we have some concerns as it relates to the “expansion and relocation” of a fixed MRI unit, specifically an uninstalled MRI unit.

Currently, a facility which has a fixed unit performing in excess of 11,000 MRI adjusted procedures is eligible to expand that service. Frequently, hospitals meeting this requirement opt to relocate the “expansion unit” to an affiliated ambulatory imaging center.

The proposed replacement language in Section 4, Line 354, states “The applicant currently operates the MRI unit to be relocated.” Previously, this line read “The applicant currently operates the MRI service from which the unit will be relocated.” We feel that this proposed language could be interpreted to mean that an expansion unit would need to be operational before it could be relocated.

It is our understanding that the “expand/relocate” provision was not discussed in the workgroup setting. Therefore, we would ask for assurance from the Department that this language as proposed would not hinder an applicant from expanding at one facility and relocating the uninstalled second unit to another facility within a ten mile radius of the existing site.

Thank you for the opportunity to provide comment on these proposed standards.

7. Testimony: