GENERAL COUNSEL'S REPORT
October 28, 2015

C. VHA Enterprises, Inc., 87-CN-032A. Request for modification to convert mobile MRI services to a fixed location at 1424 Baddour Parkway, Suite G., Lebanon (Wilson County), TN 37087. If the modification is approved, the CON holder (Insight Health Services Corp.) would no longer be permitted to offer MRI services anywhere else.

VHA Enterprises, Inc. was approved for the provision of magnetic resonance imaging services at health care providers in the following counties: Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Giles, Hickman, Houston, Lawrence, Lewis, Marshall, Maury, Montgomery, Robertson, Rutherford, Stewart, Wynne, Williamson, and Wilson.

Please see the attached letter for additional information.

h3gm
HARWELL HOWARD HYNE GABBERT & MANNER, P.C.

333 commerce street, suite 1500
nashville, tennessee 37201
phone: 615.256.0500 *fax:* 615.251.1059

h3gm.com

September 30, 2013

VIA HAND DELIVERY

Ms. Melanie Hill, Executive Director
Tennessee Health Services & Development Agency
502 Deaderick Street
Andrew Jackson Bldg., 9th Floor
Nashville, Tennessee 37243

Re: Conversion of mobile MRI Certificate of Need 87-CN-032 (the "CON") to a fixed site within the Service Area

Dear Melanie:

This firm represents Insight Health Services Corp. ("Insight"), a Delaware corporation authorized to do business in Tennessee. Together with its sister company, Center for Diagnostic Imaging ("CDI"), Insight operates imaging centers, provides mobile imaging services and manages medical imaging partnerships with physician offices and hospitals in over 40 states. Insight has operated an imaging center in Murfreesboro, Tennessee for the past 14-years.

Insight possesses the above-referenced CON for a mobile MRI unit to provide services in 20 counties in Middle Tennessee. The CON was originally issued to VHA Enterprises, Inc. on December 21, 1987.[1] VHA, its mobile MRI service and the CON, was acquired by Maxum Health Services Corporation in 1988. Maxum merged with and into American Health Services Corporation in 1996, and simultaneous with that transaction changed its name to Insight. Our investigation has determined that the CON has been in use since its implementation in 1988. The CON, a copy of which is enclosed as Exhibit A, provides:

> [A]cquisition of a mobile Magnetic Resonance Imaging (MRI) unit to provide the service to healthcare providers in the following twenty (20) Middle Tennessee counties: Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Giles, Hickman, Houston, Lawrence, Lewis, Marshall, Maury, Montgomery, Robertson,

[1] At the very meeting that Insight's mobile MRI application for a Certificate of Need was approved by the Health Facilities Commission ("HFC"), predecessor to the Health Services Development Agency ("HSDA"), another mobile MRI CON application was approved to operate in 19-other counties in Tennessee. *See, e.g.,* Horizon Mobile MRI, 87-CN-031. We understand these two mobile MRI CONs were the only like kind ever issued with such a large permissible service area, by either the HFC or HSDA. Upon Insight's knowledge, information and belief, we understand that CON is no longer in operation. Insight's request herein should put to rest the last such historical artifact.

Rutherford, Stewart, Wayne, Williamson and Wilson counties, on the premises located at facilities within the counties listed above.

We are writing you today to request that the CON be converted from a mobile unit with a 20-county permissible operating area, to a fixed unit located at 1424 Baddour Parkway, Ste. G, Lebanon, Wilson County, Tennessee 37087,[2] which is within the scope of the existing CON. A satellite image of the location is attached hereto as Exhibit B. This location is already built out and padded for an MRI unit and which Insight will lease to the Group as set forth more fully below. The leased space is already configured for patient reception and waiting as well as medical office functions so only cosmetic improvements are necessary. The mobile MRI unit consists of a GE 1.5T high field magnet that is currently owned by Insight, Thus, Insight anticipates little additional costs to initiate services at this location.[3]

If the conversion is approved by your Agency, Insight intends to enter into a long-term management agreement with Diagnostic Radiology Consultants, P.A. (the "Group"),[4] whereby in exchange for an established management fee, Insight will provide the Group, among other things, with the above-referenced space, non-physician personnel, and use of the MRI. Insight will also provide back-office management services, including billing services on behalf of the Group for both the professional component as well as the technical component of the Group's diagnostic imaging services.

There are four (4) other MRI units in fixed locations in Wilson County, three (3) physician office MRIs, and one hospital based MRI. In 2014 these units provided a total of 8,073 procedures. The one physician office (radiologists, similar to that which Insight is proposing) is located in Mt. Juliet, nearly a half-hour away, and moreover, is already operating in excess of capacity. Indeed, while referring physicians praise this source for the reasonable self-pay rates offered to uninsured patients, they nonetheless complain about the 2+ week wait time just to get an appointment and consequent turn-around on MRI reports.

The Lebanon hospital MRI is likewise near capacity, and the other two physician office MRIs (orthopaedics), one of which is located in Mt. Juliet, *are limited to treating their own patients*, not patients referred by unaffiliated physicians (and thus should not be taken into

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[2] Both this Agency and its predecessor have routinely approved the conversion of mobile MRI CONs to a fixed location. *See, e.g.,* Bedford Co. Med. Ctr., CN9901-060; Baptist Hosp. of Cocke Co., CN9910-93; Harton Reg. Med. Ctr., CN9912-108; East Ridge Hosp. – Columbia, CN9711-087; So. Tenn. Med. Ctr., CN9912-111; Cleveland Comm. Hosp., CN0505-041; Sycamore Shoals Hosp., CN0008-075; Hardin Co. Gen. Hosp., CN0210-101; Baptist Mem. Hosp.-Union City, CN0001-003. Indeed, Insight could not identify any application for conversion of a mobile MRI CON to a fixed location ever being denied by the Agency or its predecessor agency.

[3] At the request of the Agency's General Counsel, Insight published notice of this request in the Lebanon Democrat, a newspaper of general circulation published out of Lebanon, Wilson County, Tennessee. A copy of this notice is attached hereto as Exhibit C.

[4] Insight has operated with other physician groups at its Murfreesboro location, and partnered with this group exclusively for the last 4-years.

consideration). Insight submits that the location and service area can support the establishment of a fixed, versus, mobile MRI.

Based on our review of the scope of the CON and the fact that it does not list any specific locations in the 20-county service area, we believe that Insight is already permitted to operate the mobile MRI unit on the aforementioned premises. However, Insight, and its anticipated radiologist-group partner, believe converting the CON from mobile to fixed, together with a long-term management relationship, provides them certainty necessary to secure that relationship and make the necessary investment now in establishing the proposed center, and maintaining it and developing it in the future.

We also note that Tenn. Code Ann. § 68-11-1607(a)(6) permits a holder of a CON covering equipment, such as an MRI unit, to upgrade or replace that equipment without obtaining another CON by providing written notice to the HSDA. Insight is seeking HSDA's approval of its conversion project to provide it and the radiology group the assurance necessary to enter into a long-term relationship and to consider down the road upgrading or replacing the existing mobile MRI unit with the then state-of-the-art equipment.

If you should have questions or need additional information please contact me at any time. I look forward to hearing from soon. Thank you.

Very truly yours,

HARWELL HOWARD HYNE
GABBERT & MANNER, P.C.

Jeffrey J. Miller

JJM/cbg

Enclosures

cc: Jim Christofferson, Esq.

EXHIBIT A

STATE OF TENNESSEE

HEALTH FACILITIES COMMISSION

NF

Certificate of Need 87 -CN-032 is hereby granted under the provisions of the Tennessee Health Planning and Resources Development Act of 1979, as amended

to VHA Enterprises, Inc.
The Towers at Williams Square, Suite 2100
5215 North O'Connor Road
Irving, TX 75039

for VHA Diagnostic Services, Inc.

This Certificate is issued for the acquisition of a mobile Magnetic Resonance Imaging (MRI) unit to provide the service to healthcare providers in the following twenty (20) Middle Tennessee counties: Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Giles, Hickman, Houston, Lawrence, Lewis, Marshall, Maury, Montgomery, Robertson, Rutherford, Stewart, Wayne, Williamson, and Wilson counties.

on the premises located at facilities within the counties as listed above.

for an estimated project cost of $ 2,400,000

This Certificate is subject to the requirements of T.C.A. 68-11-101 et. seq., and to rules and regulations issued thereunder by this Commission. This Certificate of Need is further subject to the following DEVELOPMENT TIMETABLE:

12th month following Commission approval - Final Plans Approved/Financing Secured
18th month following Commission approval - Implementation of Service as certified.

Date Approved November 18, 1987

Date Issued December 21, 1987

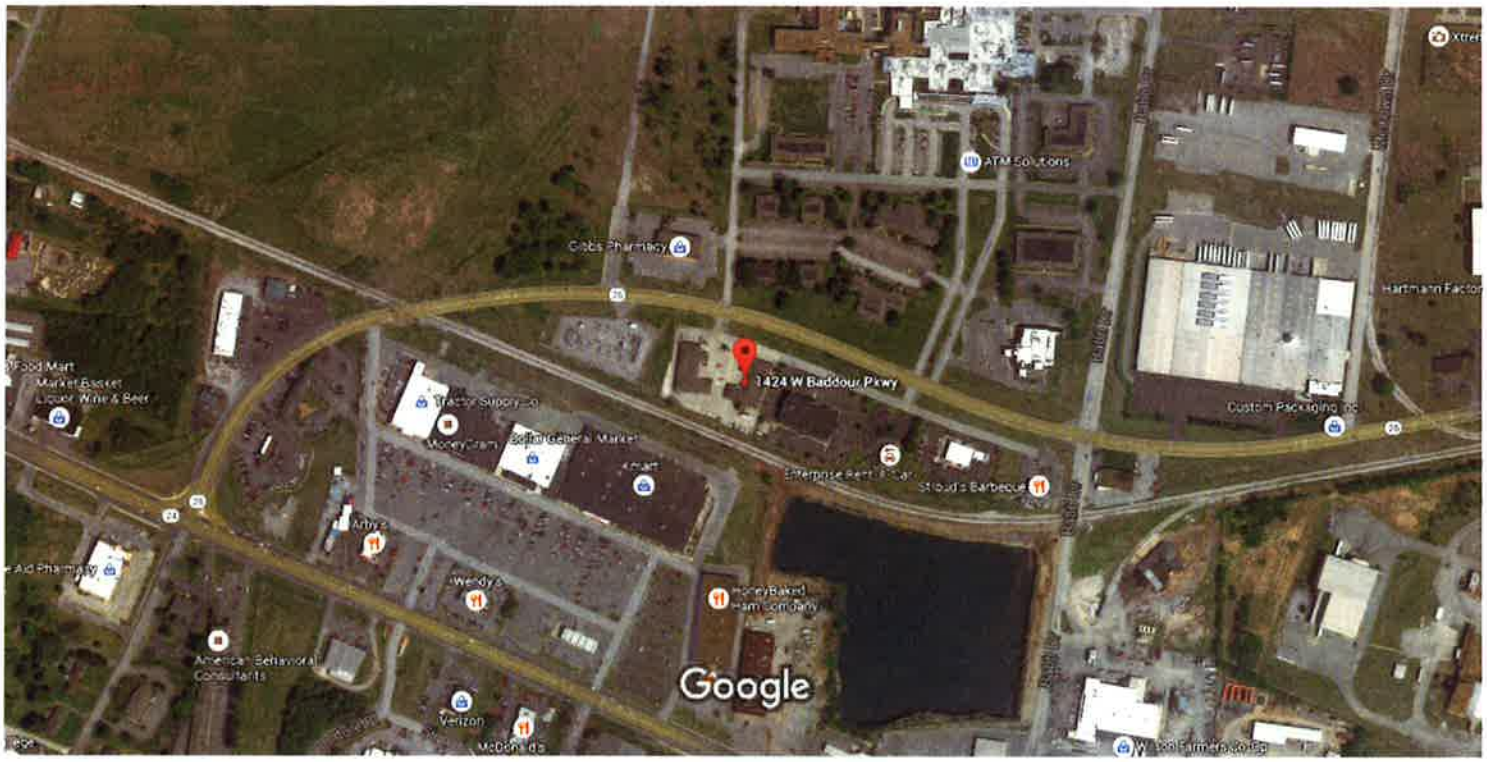
Robert C. Hortman
Chairman

Linda B. Penny
Secretary

HF-0022

EXHIBIT B

1424 W Baddour Pkwy



1424 W Baddour Pkwy
Lebanon, TN 37087

EXHIBIT C

Cost of Publication

$ 103.00

Proof of Publication

BEFORE THE TENNESSEE HEALTH SERVICES & DEVELOPMENT AGENCY

IN RE: Certificate of Need 87-CN-032, permitting the provision of Magnetic Resonance Imaging Services in twenty (20) Middle Tennessee counties, including Wilson County

This is to provide official notice to the Health Services & Development Agency (the "Agency"), and all interested parties, that Insight Health Corp., a Delaware corporation ("Insight"), d/b/a Center for Diagnostic Imaging, f/k/a American Health Services Corp., which is authorized by Certificate of Need 87-CN-032 (the "CON")to provide mobile Magnetic Resonance Imaging ("MRI") services in twenty (20) Middle Tennessee counties, including Wilson County, Tennessee, intends to request that the Agency modify the CON from mobile to a fixed location within the service area authorized by the CON, at 1424 Baddour Parkway, Suite G, Lebanon, Tennessee 37087. The request is expected to be before the Agency on the General Counsel's report for the Agency's meeting scheduled for October 28, 2015. The contact person for this request is Jeffrey J. Miller, Esq., Harwell Howard Hyne Gabbert & Manner, P.C., 333 Commerce Street, Ste. 1500, Nashville, TN 37201, Telephone: 615-256-0500, Email: jjm@h3gm.com.

LEBANON DEMOCRAT

PUBLICATION CERTIFICATE

This is to certify that the legal notice hereto attached was published in *The Lebanon Democrat*, a daily newspaper published in the City of Lebanon, County of Wilson, State of Tennessee on the following dates:

Signed: Melanie Ray

9-29-2015

Subscribed and sworn to before me

on this 29th day of Sept.

My Commission expires: 7-8-19

TIMOTHY RALSTON
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
MY COMMISSION EXPIRES 7-8-2019