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AUG 08 2008

Medical Facilities
Planning Section

Ms. Carol G. Potter
NC Division of Health Service Regulation
Medical Facilities Planning Section
2714 Mail Service Center
Raleigh, NC 27699-2714

Re: Petition from Parkway Urology, P.A.d/b/a
Cary Urology, P.A;

Dear Ms Potter:

I am writing in response to the petition by the Parkway Urology, P.A. d/b/a Cary Urology to change the methodology in allocating linear accelerator CON's to one designed specifically for prostate cancer-specific linac center. I am a practicing Radiation Oncologist in the Department of Radiation Oncology at the Rex Cancer Center.

I do not agree with the petitioner that a need exists for a linear accelerator as a special need for a comprehensive multispecialty prostate health center, since many aspects of a multidisciplinary center exists at the Rex Cancer and lacks only an official name at this time. The multidisciplinary team includes Radiation and Medical Oncologists, Urologists, nurse navigators for only prostate patients as well as cancer support specialists including but not limited to a psyco-social worker and nutritionists. In addition there is a highly regarded outreach program with an advisory board consisting of urologists, physicians, and community leaders of the underserved population as well as private community physicians. The outreach educational and screening programs have been in existence in the African American population for eleven years and have been very successful. I personally have participated in this screening program in the last several years. The commitment from the V Foundation was in part predicated on the existence and success of the entire program that has been in existence at Rex. To say that these programs do not exist or are not successful does at best reflect a lack of knowledge, understanding and capriciousness on the part of the petitioner.

I will state at this point that the only logical reason for the petitioners need for a linear accelerator is a means to increase revenue. The argument provided by the petitioner is an attempt to hide this fact. There was no more or less a need for these services ten years ago when IMRT was not available. However, the current state of reimbursement for IMRT has awakened the entrepreneurs within the urology

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community to a new source of revenue especially in states without a CON law.

At this point I would like to present some arguments for the proposed adjustment provided by the petitioner which in truth are specious and should be addressed (beginning on page 5 of the petition).

1. Prostate Care: The majority of reports in the literature is either sponsored by the National Cancer Institute or from highly reputable institutions, and is usually peer reviewed prior to being published in leading journals. Studies which have little follow-up or admit that the majority of patients were lost do not get published. Moreover, the confusion in the literature is based more on the past prejudices that have existed between the urology and radiation communities which hindered good randomized studies. The current results on the control of low risk prostate cancer comparing radiation therapy and surgery appear to be comparable at least at the 10 year mark. Will the petitioner give the choice to the patient or encourage the choice which results in more revenue? At the present time we are asked to present the pros and cons of radiation therapy for each individual, should this be eliminated from the options for the patient.

2. Unique Aspects of Prostate/Urological Cancer: The stated use of the linear accelerator with IMRT to achieve high dose (Gray or Gy not **grey** as stated in the petition) is correct. However, IMRT is also used to minimize side effects, which it has done as has been reported in the literature, but not stated by the petitioner. In all the years of practice I never had the need for an on site urologist to address the side effects of radiation, the patient is usually seen by the radiation oncologist, who is trained to treat the radiation side effects unless there is a severe reaction where surgery is needed.

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3. Multidisciplinary Approach to Prostate: Radiation oncology centers are designed to treat all patients with cancer. There have been no reports in the literature which show or even mention the possibility of an advantage of having a center which treats only one disease. The remainder of the arguments regarding the lack of a true multidisciplinary prostate health center in North Carolina while pointing to other centers fails to recognize the fact that none of the centers have linacs dedicated to prostate but have physicians dedicated to the treatment of prostate cancer. The arguments are sophomoric in perception and delivery while presenting information relative to the petitioners point. The Radiation Oncologists at the Rex Cancer Center have over 5 years of experience with brachytherapy and several years with IMRT. Analysis of our results with brachytherapy showed our control rate for low and intermediate risk prostate cancer are comparable to those reported by many of the centers noted by the petitioner. We have accomplished this with the help of urologists in a collaborative multidisciplinary manner, by discussing cases with the individual urologists as well as at multidisciplinary conferences.
4. Finally, it is important to address the argument on the underserved. The service and outreach programs established at Rex have gone unmentioned by the petitioner. The volunteer service at screening sessions, the outreach programs mentioned above which address the underserved have also gone unmentioned. The petitioner fails to give details of the programs which will replace these and fails to mention where the center will be. If it is Cary how will patients from underserved areas get to the center, which is not at this time on available public transport lines.

5. Many questions need to be asked regarding every aspect of this petition. I am hopeful that the members of the Medical Facilities Planning Section will give the public the opportunity to address this question in order to make a rational decision.

In summary, I have chosen to address only some of the more capricious points made by the petitioner. The petition, in general, fails to provide a cogent argument for a special center for the treatment of prostate cancer. There was not a full disclosure of all the facts but just the facts which satisfied his case. It is incumbent on the medical facilities planning section to investigate the points of the petition and

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evaluate it on the merit of the arguments. The petition is about revenue and approval of the petition will only strengthen the argument for the elimination of the CON law. If the petitioner is granted favor, the it the only conclusion the medical community can make is to eliminate the CON law in order to provide for a level playing field for all specialties to purchase whatever is necessary to provide for a multidisciplinary approach for all cancer.

Sincerely,
Robert Ornitz, M.D for
Charles Scarantino, M.D

Charles W. Scarantino
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