

**MISSISSIPPI STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
AUGUST 2010**

**CON REVIEW: FSF-NIS-0610-025
GUMTREE IMAGING, LLC, TUPELO
ACQUISITION/ESTABLISHMENT AND OFFERING OF MRI SERVICES
CAPITAL EXPENDITURE: \$1,090,000
LOCATION: TUPELO, LEE COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Gumtree Imaging, LLC is a Limited Liability Company located at 4381 South Eason Boulevard, Suite 102 in Tupelo, Mississippi. William Pillow, M.D. is the sole member of Gumtree Imaging, LLC.

B. Project Description

Gumtree Imaging, LLC requests Certificate of Need (CON) authority for the acquisition/establishment and offering of freestanding MRI services. Gumtree Imaging, LLC proposes to operate Monday through Friday from 8:00 a.m. to 5:00 p.m.

Gumtree Imaging, LLC proposes to acquire a Gold Seal Excite 1.5 Telsa MRI Unit with a refurbished magnet to offer MRI services at 4381 South Eason Boulevard, Suite 102 in Tupelo, Mississippi. The applicant states that there will be no construction with this project and only minor renovations to accommodate the MRI. The applicant states that the space where the MRI will be located is approximately 425 square feet and will require minimal renovation related to shielding. Two offices will be renovated as an MRI equipment room and a control room for a total of 176 square feet.

The applicant provided a detailed quotation on the specifications and description of the 1.5 Telsa MRI unit prepared by GE Healthcare.

The Mississippi State Department of Health, Division of Licensure and Certification, issued a site assessment letter stating that the proposed facility was considered a business occupancy. Business occupancies that are not hospital affiliated are not subject to The Division of Fire Safety and Construction's authority.

Gumtree Imaging, LLC anticipates to finance the proposed project with a loan from BancorpSouth with a 5% interest rate for a period of five years. The applicant submitted an amortization schedule, a three-year Projected Operating Statement, and a letter from BancorpSouth indicating good standing and an available line of credit for the proposed project. The applicant expects that the project will require 1.4 FTE's at an annual cost of \$55,286 the first year. The applicant affirms that the project will be complete within one year of CON approval.

II. TYPE OF REVIEW REQUIRED

The Mississippi State Department of Health reviews applications for major medical equipment acquisition and offering of MRI services in accordance with Section 41-7-191, subparagraph (1)(d)(xii) (f), and (i) of the Mississippi Code of 1972 Annotated, as amended, and duly adopted rules, procedures, plans, criteria, and standards of the Mississippi State Department of Health.

In accordance with Section 41-7-197 (2) of the Mississippi Code 1972 Annotated, as amended, any person may request a public hearing on this project within 20 days of publication of the staff analysis. The opportunity to request a hearing expires on September 6, 2010.

III. CONFORMANCE WITH THE STATE HEALTH PLAN AND OTHER ADOPTED CRITERIA AND STANDARDS

A. State Health Plan (SHP)

The *FY 2010 State Health Plan* contains criteria and standards which an applicant is required to meet before receiving Certificate of Need (CON) authority for offering MRI services. This application is in substantial compliance with applicable criteria and standards.

Acquisition or Otherwise Control of MRI Equipment

SHP Criterion 1- Need

An entity desiring to acquire or otherwise control MRI equipment shall demonstrate a minimum of 2,700 procedures per year by the end of the second year of operation, utilizing the procedure estimation methodology contained in the *FY 2010 State Health Plan*. This criterion includes both fixed and mobile MRI equipment.

The applicant projects that there will be 2,904 procedures performed during the first year of operation, based on physician affidavits. However, the applicant states that the financial projections have been conservatively based on 2,700 procedures in year one.

The applicant makes the following projections of MRI procedures to be performed during the first three years of operation:

Projected MRI Procedures		
Year 1	Year 2	Year 3
2,700	2,800	2,904

a. Applicants for non-hospital based MRI facilities may submit affidavits from referring physicians. MRI procedures projected in affidavits shall be based on actual MRI procedures referred during the year.

The application contains 14 letters of support and 12 affidavits from physicians indicating that they will refer approximately 2,904 to 3,024 MRI procedures the first year of operation. The applicant affirms that the projections in the affidavits submitted were based on actual MRI procedures referred by the physicians during the last year.

One of the affidavits contained in the application is from Dr. Bryan Fagan whom currently practices in Jackson, Mississippi. Gumtree Imaging, LLC states that Dr. Fagan is in the process of relocating to Tupelo, Lee County, Mississippi. A copy of a statement evidencing this intent was included in the application submitted. Dr. Fagan submitted that he would refer 67 MRI procedures per month. According to the applicant, Dr. Fagan's projections are based on historical data from his practice as an orthopedic surgeon and also the volume of patients he anticipates treating based on the number of patients seen by the group that Dr. Fagan is joining. The practice Dr. Fagan is joining is the same practice, North East Orthopedics, P.A., that occupies office space where the applicant proposes to locate the MRI unit.

Upon careful examination of affidavits submitted by the applicant, staff determined that some of the numbers appear to have been altered. Therefore, it is questionable as to whether the referral numbers represent actual referrals by the physicians during the year. Furthermore, because Dr. Fagan's referrals were not based on actual historical referrals from GHSA 2, staff did not accept the numbers projected in his affidavit. In discounting Dr. Fagan's referrals (804 for year one) the applicant's projected procedures decreased to 2,100 - 2,184, for the first year of operation. However, based on the referral patterns of the physicians, staff accepts that the applicant can meet the 2,700 minimum by the end of the second year.

b. The applicant shall document a reasonable population within its service area to justify 2,700 procedures per proposed MRI unit.

The proposed project will service the Lee County Area. The *FY 2010 State Health Plan* projected a population of 77,577 for Lee County. According to the MSDH's MRI need methodology, Lee County would be expected to generate 6,751 MRI scans.

MRI Need Projection Methodology:

$$\frac{77,577 \text{ (Lee County's Population)}}{1,000} = 77.577$$

$$77.577 \times 87.02 \text{ (MS MRI use rate)} = 6,751$$

$$6,751 = \text{(Projected MRI Scans for Lee County's Population)}$$

Lee County currently has five providers of MRI, utilizing eight units. These providers performed 22,230 procedures, well in excess of the formula projections.

The applicant anticipates performing MRI procedures in addition to those evidenced by the affidavits. The applicant believes that based on the information submitted they will exceed the 2,700 minimum requirement, placing the applicant's utilization numbers in line with those experienced by other MRI providers in the Tupelo area (See Attachment 2).

c. The applicant shall demonstrate that all existing units within its defined service area has performed an average of 1,700 procedures for the most recent 12-month period.

The *FY 2010 State Health Plan* indicates that there were 9 MRI providers that performed a total of 31,918 scans for FY 2008 in GHSA 2 utilizing 13 FTE units. All existing units (both fixed and mobile) in GHSA 2 performed an average of 2,455 procedures during 2008. The applicant states that the MRI units in Lee County performed an average of 2,778 procedures in 2008. Based on the number of procedures performed specifically in Tupelo, the applicant submits that not only is the 1,700 procedure requirement met but the number of procedures per unit helps justify the need for another MRI provider in Tupelo, Lee County and GHSA 2.

It is noted, however, that although the MRI providers in GHSA 2 collectively performed an average of MRI procedures in excess of 1,700, there are three units in the area performing less than 1,700 procedures.

(See Attachment 2 for a listing of MRI sites in GHSA 2, both fixed and mobile, and FTEs).

SHP Criterion 2 - Assurances

The application included a detailed quotation on the specifications and description of the 1.5 Telsa MRI unit prepared by GE Healthcare. The applicant affirms that the equipment is FDA approved and only qualified personnel will be allowed to operate the equipment. The applicant proposes to operate Monday through Friday from 8:00 a.m. to 5:00 p.m.

SHP Criterion 3 – Data Requirement

Gumtree Imaging, LLC affirms that they will record and maintain the information required by this criterion and shall make the data available to the Mississippi State Department of Health within 15 business days of request.

SHP Criterion 4 – Authorized Entity

Gumtree Imaging, LLC was formed on April 27, 2010, by the filing of a Certificate of Formation with the Office of the Mississippi Secretary of State. Gumtree Imaging, LLC's registered office is located at 111 East Washington Street, P.O. Box 627, Houston, Mississippi 38851, with Thomas A. Byrne Jr. as the registered agent.

SHP Criterion 5 – Authorization to Provide MRI

The application seeks CON approval from the Mississippi State Department of Health, for the acquisition/establishment and offering of MRI services in General Hospital Service Area 2.

Criteria for Offering of MRI Services

SHP Criterion 1 - Need

An entity desiring to acquire or otherwise control MRI equipment shall demonstrate a minimum of 2,700 procedures per year by the end of the second year of operation. This criterion includes both fixed and mobile MRI equipment. In addition, the applicant must show methodology used for the projections.

The applicant alludes to Lee County as its service area. Lee County's 2010 projected population is 77,577, which yields a need for 6,751 MRI procedures based on the formula in the Plan. However, Lee County has five MRI providers utilizing eight MRI units. These providers performed MRI procedures well in excess of the projected need for MRI procedures in Lee County. In addition, one unit in Lee County performed well below 1,700 MRI procedures.

Applicants for non-hospital based MRI facilities may submit affidavits from referring physicians. MRI procedures projected in affidavits shall be based on actual MRI procedures referred during the year.

Based on the referral figures in the affidavits, physicians indicate that they will refer approximately 2,100 – 2,184 MRI procedures the first year of operation. Given the referral patterns of the physicians, it is expected that the applicant can reach the required 2,700 procedures by the end of the second year of operation.

The applicant advocates that the proposed project will bring a much needed MRI unit to GHSA 2. The applicant concluded that the proposed project will help improve the delivery of health services and promote health care quality as residents will have an additional provider from which to obtain needed MRI services.

SHP Criterion 2 – Documentation of Diagnostic Imaging Modalities

Gumtree Imaging, LLC certifies that a full range of diagnostic imaging modalities for verification and complimentary studies will be available at the time the MRI services begin. Among these modalities are computed tomography, ultrasound, angiography, nuclear medicine, and conventional radiology.

SHP Criterion 3 – Accessibility

Gumtree Imaging, LLC submits that it will provide imaging services to all patients regardless of the patient's race, color, age, sex, ethnicity, or ability to pay.

SHP Criterion 4 – Staffing

The applicant affirms that a Director, Board Certified radiologist or a nuclear medicine imaging physician, or other board eligible licensed physician, and an MRI Technologist/Radiographer will be on site during the hours of operation to ensure the center functions properly and provide interpretation of clinical images.

SHP Criterion 5 – Research Staffing

Gumtree Imaging, LLC affirms that the proposed MRI unit will not be used for experimental procedures.

SHP Criterion 6 – Data Requirement

The applicant affirmed that the facility will record and maintain the information required by this criterion and shall make the data available to the Mississippi State Department of Health upon request.

SHP Criterion 7 – CON Approval

The applicant seeks CON authority to acquire MRI equipment.

B. General Review (GR) Criteria

Chapter 8 of the *Mississippi Certificate of Need Review Manual, revised May 1, 2010*, addresses general criteria by which all CON applications are reviewed. This application is in substantial compliance with general review criteria.

GR Criterion 1 – State Health Plan

The application has been reviewed for compliance with the *FY 2010 State Health Plan*.

GR Criterion 2 – Long Range Plan

According to the applicant, the President of Gumtree Imaging, LLC, William Pillow, M.D., has been actively involved in healthcare and has strived to ensure the best available care is provided to the residents of Lee County. Upon recognizing a need for additional MRI services, the applicant began inquiring throughout the community to determine the local physicians' and the community support for an additional MRI unit. After realizing there was enough physician and community support for the project, the applicant decided to move forward with the submission of the proposed project. This project is consistent with Dr. Pillow's long standing goal of ensuring the residents of Tupelo, Lee County and GHSA 2 are provided the necessary and highest level of care possible.

GR Criterion 3 – Availability of Alternatives

According to the applicant, the following alternatives were considered:

- Not to seek CON approval for the offering of MRI services in the Tupelo area and to maintain the current number of MRI providers in GHSA 2. However, given the support and current MRI utilization, this alternative was rejected as not moving forward with this project would not meet the identified need for an additional MRI provider in GHSA 2.
- Obtaining a mobile MRI; however, after evaluating the support for the project and based upon the anticipated procedures, it determined the mobile unit would have been needed at the site on a nearly full-time basis. Therefore, the applicant decided it was best to move forward with a CON application for a fixed MRI unit.

The applicant states that MRI procedures are common diagnostic tests which physicians frequently use in making decisions concerning patient diagnosis and treatment. In the past, patients had to travel to hospitals for all their imaging needs. However, there has been a shift in the patient population away from hospitals to free-standing, outpatient services. The applicant suggests that free-

standing, outpatient MRI services, like that proposed, are much easier to access and less troublesome for patients than busy hospitals. With the proposed project, the applicant intends to offer residents of GHSA 2 an outpatient setting that is convenient and easily accessible to obtain the MRI services they need.

The applicant believes that the proposed project will help improve the delivery of health services and promote health care quality as residents will have an additional provider from which to obtain needed MRI services.

GR Criterion 4 – Economic Viability

The three-year projected operating statement contained in the application indicates a net income of \$1,054,007 the first year, \$1,116,270 the second year, and \$1,197,129 the third year of operation.

The applicant believes that the proposed charges for MRI scans are comparable to the charges of other providers for similar services in GHSA 2. The applicant does not anticipate a large impact on healthcare costs as a result of this project.

The applicant's projected volume of utilization for the MRI services is 2,700 for the first year, 2,800 for the second year, and 2,904 for the third year of operation.

GR Criterion 5 – Need for Project

- a. **Access by the Population Served:** The applicant states that there are no policies or procedures which would exclude patients based on race, color, age, sex, ethnicity or ability to pay.
- b. **Relocation of Services:** This criterion is not applicable to the proposed project.
- c. **Utilization of Facilities in Service Area:** According to the *FY 2010 State Health Plan* there are 12 Fixed Units and 1 Mobile Unit in GHSA 2. The *FY 2010 State Health Plan* indicates that there were 9 MRI providers that performed a total of 31,918 scans for FY 2008 in GHSA 2. All existing units (both fixed and mobile) in GHSA 2 performed an average of 2,455 procedures during 2008. The applicant asserts that the average number of procedures performed by the MRI providers in GHSA 2 is well in excess of the minimum requirement of 1,700 procedures to add a new MRI provider. The applicant states that with the exclusion of North Mississippi Sports Medicine (who only provides extremity MRI procedures) the providers in Tupelo are averaging 3,123 procedures per unit. The applicant submits that based on the average number of procedures performed per unit, coupled with the affidavits and letters of support submitted in the application, justifies the need for the proposed project.
- d. **Probable Effect on Existing Facilities in the Area:** The applicant believes that with all MRI providers experiencing high utilization, the proposed project should only have a minimal effect, if any, on existing MRI providers.

The applicant provided affidavits from physicians to verify the projected number of procedures they will perform for years one through three. The application contained 14 letters of support and 1 letter of opposition.

GR Criterion 6 – Access to the Facility or Service

The applicant affirmed that all residents of the health planning service area, hospital service area and patient service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women handicapped persons, and the elderly have access to the services of the existing facility and will continue to have access.

The applicant projects gross patient revenue of \$97,200 will be provided to charity/medically indigent patients for the first year of operation.

The applicant affirms that the facility will operate Monday through Friday from 8:00 a.m. to 5:00 p.m.

GR Criterion 7 – Information Requirement

Gumtree Imaging, LLC affirms that it will record and maintain the information stated in this criterion regarding charity care, care to the medically indigent and Medicaid populations and make it available to the Mississippi State Department of Health within 15 days of request.

GR Criterion 8 – Relationship to Existing Health Care System

According to the *FY 2010 Mississippi State Health Plan*, General Hospital Service Area 2 has nine (9) providers of MRI services. There are five (5) MRI providers in Lee County.

The applicant states that local physicians are in support of the proposed project as they intend to utilize the services in diagnosis and treatment of patients. The applicant believes that the disapproval of the proposed project could lead to longer delays in patients receiving MRI services which delays physician's decisions that are reliant upon the results of these procedures. The applicant states that the addition of this provider will help to ensure the MRI needs of the patients in GHSA 2 are adequately met and will continue to be met in the future.

Gumtree Imaging, LLC does not believe that approval of the proposed MRI project will have any adverse affect on existing facilities in the proposed service area.

After reviewing the applicant's estimated number of procedures and GHSA 2 FY 2008 MRI utilization, staff determined that the service area will exceed minimum MRI scans for GHSA 2.

GR Criterion 9 – Availability of Resources

The applicant affirms that a Director, Board Certified radiologist or nuclear medicine imaging physician, or other board eligible licensed physician, and an MRI Technologist/Radiographer will be employed at the facility. The applicant indicates that 1.4 FTE personnel will be hired from within the local community of certified physicians, radiological technologists or new graduates from the local schools of radiographic technology. Gumtree Imaging, LLC will use a loan from BancorpSouth to finance the proposed project.

GR Criterion 10– Relationship to Ancillary or Support Services

The applicant affirms that all necessary support and ancillary services are available and will be in place prior to implementing the proposed project.

GR Criterion 11– Health Professional Training Programs

The applicant states that it will make the proposed service available, to the extent practical, for the clinical needs of health professional training programs in the service area.

GR Criterion 16– Quality of Care

Gumtree Imaging, LLC states that the proposed project will bring an additional MRI provider to GHSA 2 which will help improve the delivery of health services and promote health care quality as residents will have an additional provider from which to obtain needed MRI services.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

	Item	Cost	Percentage of Total
a.	Construction Cost – New	\$ 0	0.00%
b.	Construction Cost – Renovation	\$375,000	34.40%
c.	Capital Improvements	\$ 0	0.00%
d.	Total Fixed Equipment Cost	\$600,000	55.05%
e.	Total Non-Fixed Equipment Cost	\$ 0	0.00%
f.	Land Cost	\$ 0	0.00%
g.	Site Preparation Cost	\$ 0	0.00%
h.	Fees (Legal, consulting, etc.)	\$ 5,000	0.46%
i.	Fees (architectural, engineering, etc)	\$ 35,000	3.21%
j.	Contingency Reserve	\$ 75,000	6.88%
k.	Capitalized Interest	\$ 0	0.00%
l.	Other (Personal Financing)	\$ 0	0.00%
	Total Proposed Capital Expenditure	1,090,000	100%

B. Method of Financing

The applicant states that the proposed project will be financed with a five-year fixed rate loan from BancorpSouth at a 5% rate of interest.

C. Effect on Operating Cost

The three-year projected operating statement of Gumtree Imaging, LLC is provided in Attachment 1.

D. Cost to Medicaid/Medicare

The applicant's impact on third party payors is as follows:

Patient Mix by Payor	Utilization Percentage	First Year Revenue
Medicaid	4%	120,000
Medicare	31%	998,400
Other	65%	2,121,600
Total	100%	\$3,240,000

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for comment. The Division of Medicaid stated that it is unclear whether the applicant will be certified as an Independent Diagnostic Testing Facility (IDTF) or as another type of provider. Mississippi Medicaid reimburses IDTF providers for Medicare crossover claims only. No direct payments are made to IDTF providers for services to Medicaid-only beneficiaries.

VI. CONCLUSION AND RECOMMENDATION

This project is in substantial compliance with the criteria and standards for the acquisition or otherwise control of MRI equipment and for offering of MRI services as contained in the *FY 2010 Mississippi State Health Plan*; Chapter 8 of the *Mississippi Certificate of Need Review Manual, May 1, 2010*, and all adopted rules, procedures, and plans of the Mississippi State Department of Health.

The Division of Health Planning and Resource Development recommends approval of this application submitted by Gumtree Imaging, LLC for the acquisition/establishment and offering of MRI services.

ATTACHMENT 1

**Gumtree Imaging, LLC, Tupelo
 Acquisition/Establishment and Offering of MRI Services**

Three-Year Operating Statement

	Year 1	Year 2	Year 3
Revenue			
Inpatient Care Revenue			
Outpatient Revenue	<u>\$3,240,000</u>	<u>\$3,351,883</u>	<u>\$3,484,196</u>
Gross Patient Revenue	\$3,240,000	\$3,351,883	\$3,484,196
Charity	32,400	33,599	34,842
Deductions from Revenue	1,249,829	1,296,073	1,344,026
Net Patient Care Revenue	\$1,957,771	\$2,022,211	\$2,105,328
Total Operating Revenue	<u>\$1,957,771</u>	<u>\$2,022,211</u>	<u>\$2,105,328</u>
Operating Expenses			
Salaries	\$ 49,046	\$ 50,885	\$ 52,793
Benefits	6,240	6,474	6,717
Supplies	2,800	2,904	3,011
Services	182,000	182,000	182,000
Lease Expenses	141,932	141,932	141,932
Depreciation	250,000	250,000	250,000
Interest	55,079	43,994	32,342
Other	216,667	227,752	239,404
Total Operating Expenses	<u>\$ 903,764</u>	<u>\$ 905,941</u>	<u>\$ 908,199</u>
Net Operating Income	\$1,054,007	\$1,116,270	\$1,197,129
Procedure Projections			
MRI Scans	2,700	2,800	2,904
Charge per procedure	\$ 1,200	\$ 1,197	\$ 1,200
Cost per procedure	\$ 335	\$ 324	\$ 313

Attachment 2

**General Hospital Service Area 2
 Location and Number of MRI Procedures
 FY 2010 State Health Plan**

Facility	Location	County	Type of Equip.	Number of Procedures FY 2007	Number of Procedures FY 2008	Days Operated FY 2008	FTE Unit FY 2008
Baptist Memorial Hospital- Booneville	Booneville	Prentiss	F	941	884	M-F, 40 Hrs	1.00
Baptist Memorial Hospital - Union	New Albany	Union	F	2,410	2,282	M-F, 80 Hrs.	1.00
Imaging Center of Gloster Creek Village	Tupelo	Lee	F	3,360	3,530	M-F, 72 Hrs.	1.00
Magnolia Regional Health Center	Corinth	Alcorn	F(2)	5,305	5,541	M-Su, M-F-110 Hrs.	2.00
Medical Imaging at Barnes Crossing	Tupelo	Lee	*F/M	616	2,057	M, T, & Th, M-F 74 Hrs.	1.00
Medical Imaging at Crossover Road	Tupelo	Lee	F	2,929	2,394	M-F, 40 Hrs.	1.00
North Miss. Medical Center	Tupelo	Lee	F(4)	14,442	13,885	M-Su. & M-F, 240 Hrs.	4.00
North Miss. Medical Center – Iuka	Iuka	Tishomingo	M	837	981	M-F, 40 Hrs.	1.00
North Mississippi Sports Medicine	Tupelo	Lee	F	488	364	M-F, 40 Hrs.	1.00
Totals				31,228	31,918		13

Sources: *FY 2010 State Health Plan*. Applications for Renewal of Hospital License for Calendar Years 2008 and 2009; Fiscal Year 2007 and 2008 Annual Hospital Reports; FY 2007 and FY 2008 MRI Utilization Survey

* (Alliance Imaging provided mobile MRI services to Medical Imaging at Barnes Crossing from October 1, 2007 through June 26, 2008. However, Medical Imaging at Barnes Crossing obtained a CON to establish MRI services with a fixed unit, and began performing MRI procedures on June 27, 2008).

F – Fixed Unit
 M – Mobile Unit
 FTE – Full Time Equivalent Units

Note: FTEs are calculated for mobile units only. If a unit is at one site for 5 days or more or 40 hour or more it is counted at 1 FTE unit. All fixed units are counted as one unit regardless of the number of hours in operation.