



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704
<http://www.ncdhhs.gov/dhsr/>

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Phone: (919) 855-3873
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March 22, 2012

Gary S. Qualls
K&L Gates, LLP
PO Box 14210
Research Triangle Park, NC 27560

RE: Exempt from Review / Acquisition of existing diagnostic center at 200 North Grove Street Lincolnton from Blue Ridge Radiology Associates, P.A. by Carolinas Healthcare System / Lincoln County

Dear Mr. Qualls:

In response to your letter dated March 16, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Carolinas Healthcare System may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *"A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need."*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

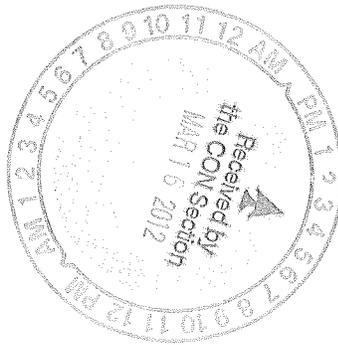
Sincerely,

Paula Quirin,
Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR





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A handwritten signature in blue ink, appearing to read "Paula".

March 16, 2012

Via Hand Delivery

Mr. Craig R. Smith
Chief, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health & Human Services
2704 Mail Service Center
Raleigh, North Carolina 27699-2704

Re: Exemption Notice for The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System

Dear Mr. Smith:

Our client, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System ("CHS") is planning to acquire an existing, operational diagnostic center (the "Facility") in Lincolnton, Lincoln County, currently owned by Blue Ridge Radiology Associates, P.A. ("BRRRA"). The Facility is located at 200 North Grove Street, Lincolnton, North Carolina.

CHS is seeking to purchase assets of the Facility through an asset purchase agreement. CHS will not acquire the building or the lease for the space for the Facility's current location. The purpose of this letter is to provide prior notice of this acquisition, which is exempt from certificate of need ("CON") review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the "Agency"). CHS seeks confirmation that it is permitted to acquire the Facility without CON Review, thus acquiring BRRRA's existing CON rights to own that existing health service facility (as defined in the CON statute).

I. THE PROPOSAL

Effective March 19, 2012, CHS will become the owner of the Facility, which is an existing "health service facility" as that term is defined in N.C. Gen. Stat. § 131E-176(7a), through a purchase and sale agreement. The Facility operates a computerized axial tomography ("CT") scanner, an ultrasound unit, a mammography unit, a bone densitometry unit and an x-ray machine. Currently, BRRRA contracts for mobile magnetic resonance imaging ("MRI") services but that contract will cease once the Facility is purchased. Additionally, the mammography unit will be sold prior to CHS's purchase of the Facility.

Mr. Craig R. Smith
March 16, 2012
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II. EXEMPTION NOTICE

Under North Carolina law, a CON is required only prior to offering or developing a “new institutional health service.” A “[n]ew institutional health service” includes a variety of services and activities, including the establishment of a diagnostic center. N.C. Gen. Stat. § 131E-176(16)(a). However, the North Carolina General Assembly has exempted certain types of proposals from CON review under N.C. Gen. Stat. § 131E-184, including the acquisition of an existing health service facility, including equipment owned at the time of acquisition. N.C. Gen. Stat. § 131E-184(a)(8).

The proposed project involves only the acquisition of an existing diagnostic facility, which falls within the purview of the statutory definition of “health service facility.” Further, the proposed transaction does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14)(o) and (16)(f1). Likewise, the transaction does not include the offering of any *per se* reviewable services. N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the transaction involves only the acquisition of an existing health service facility, it is exempt from CON review.

This letter is intended to constitute notice to the Agency under N.C. Gen. Stat. § 131E-184 of an exempt transaction.

III. CONCLUSION

Based on the foregoing information, we hereby request the Agency’s confirmation that the proposal described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(a)(8), and thus CHS may acquire the Facility with all its existing CON rights without a CON.

If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,


Gary S. Qualls