



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
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Division Director

July 11, 2014

Kenneth L. Burgess  
301 Fayetteville Street, Suite 1900  
Raleigh, NC 27601

**Exempt from Review – Acquisition of Facility**

Facility: MedWest Swain Hospital  
Acquisition by: DLP Swain County Hospital, LLC  
County: Swain  
FID #: 923480

Dear Mr. Burgess:

In response to your letter of June 23, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, DLP Swain County Hospital, LLC, 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 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,

Julie Halatek  
Project Analyst

Martha J. Frisone, Interim Chief  
Certificate of Need Section

cc: Medical Facilities Planning Branch, DHSR  
Acute and Home Care Licensure and Certification Section, DHSR



**Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone: 919-855-3873 • Fax: 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer



*Julie*

Poyner Spruill<sup>LLP</sup>



June 23, 2014

Kenneth L. Burgess  
Partner  
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[kburgess@poynerspruill.com](mailto:kburgess@poynerspruill.com)

**Via Hand Delivery**

Ms. Martha Frisone  
Acting Chief  
Certificate of Need Section  
Division of Health Service Regulation  
N.C. Department of Health and Human Services  
809 Ruggles Drive  
Raleigh, NC 27603

**RE: Notice of Exempt Acquisition of an Existing Health Care Facility and Request for No Review Determination: Acquisition of MedWest Swain Hospital (FID #923480)**

Dear Ms. Frisone:

Our firm represents DLP Swain County Hospital, LLC ("DLP Swain") and DLP Healthcare, LLC ("DLP Healthcare"). We are providing this letter pursuant to N.C. Gen. Stat. § 131E-184(a)(8) to inform the Certificate of Need Section ("CON Section") that DLP Swain proposes to acquire ownership and control of substantially all of the assets of MedWest Swain Hospital ("MedWest Swain"), located in Bryson City. As you are probably aware, MedWest Swain is an acute care hospital (Lic. No. H0069), with 48 general acute care beds; 1 shared surgical operating room and 1 endoscopy room, and is owned by WestCare, Inc.

DLP Swain and WestCare, Inc. will enter into an asset purchase agreement pursuant to which DLP Swain will acquire all of the assets of MedWest Swain. WestCare, Inc. is a North Carolina nonprofit corporation. DLP Swain is a Delaware limited liability corporation authorized to do business in North Carolina and is a related entity to DLP Healthcare. DLP Healthcare is a joint venture between Duke Quality Network, Inc. (a wholly-controlled affiliate of Duke University Health System, Inc.) and DLP Partner, LLC, a Delaware company which is a related entity to LifePoint Hospitals, Inc., a publicly-traded company that operates 61 hospital campuses in 20 states. An organizational chart depicting the post-closing corporate ownership structure is attached for your convenience.

DLP Healthcare was formed for the purpose of strengthening and improving the delivery of healthcare services throughout North Carolina and the surrounding regions by creating flexible affiliation options for community hospitals. DLP Healthcare currently has affiliation and/or joint ownership arrangements with other North Carolina community hospitals.

As previously noted, in the proposed transaction, DLP Swain will acquire ownership and control of all of the assets of MedWest Swain, including the acute care hospital which is an existing health service facility as defined under North Carolina's Certificate of Need Law at N.C. Gen. Stat. § 131E-176(9b). The Certificate of Need Law provides that, upon receiving prior written notice, the CON Section shall exempt from CON review the acquisition of "an existing health service facility, including equipment owned by the health service facility at the time of acquisition." N.C. Gen. Stat. § 131E-184(a)(8).

Ms. Martha Frisone  
Acting Chief, CON Section  
June 23, 2014  
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Poyner Spruill<sup>LLP</sup>

The purpose of this letter is to serve as the prior written notice required by that statutory provision. Accordingly, we would appreciate receiving written confirmation that DLP Swain's proposed transaction whereby it will acquire ownership and control of MedWest Swain's assets, as described herein, is exempt from CON review.

Thank you in advance for your prompt consideration of this request. The parties wish to close the proposed transaction on or about July 31, 2014, and we request a response from you before that time, if possible.

Please contact us if you have questions or need any additional information.

With best regards, I am

Very truly yours,



**Kenneth L. Burgess**  
*Partner*

Enclosure

cc: (via e-mail, w/ enclosure)  
Cory A. Brown, Esq., Counsel for DLP Healthcare  
Christy Gudaitis, Esq., Counsel for Duke  
Jennifer Peters, Esq., Counsel for LifePoint

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

Effective January 01, 2013, this license is issued to  
*WestCare, Inc.*

to operate a hospital known as  
*MedWest Swain*

located in Bryson City, North Carolina, Swain County.

This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall remain  
in effect until amended by the issuing agency.

Facility ID: 923480

License Number: H0069

**Bed Capacity: 48**

General Acute 48

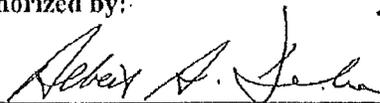
Dedicated Inpatient Surgical Operating Rooms: 0

Dedicated Ambulatory Surgical Operating Rooms: 0

Shared Surgical Operating Rooms: 1

Dedicated Endoscopy Rooms: 1

Authorized by:



Acting Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation

# DLP HEALTHCARE, LLC

Duke Quality Network, Inc. 3%

**Governors:**  
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DLP Partner, LLC 97%

