

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION  
RALEIGH, NORTH CAROLINA**

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY FOUNDATION HEALTH MOBILE ) DECLARATORY RULING  
IMAGING, LLC, and NOVANT HEALTH, INC. )  
Project I.D. No. J-7008-04 )**

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statutes § 150B-4 and 10A NCAC 14A .0103, under the authority granted me by the Secretary of the Department of Health and Human Services.

On March 27, 2015, Foundation Health Mobile Imaging, LLC (“Foundation”), and Novant Health, Inc. (“Novant”) (hereinafter collectively, “Foundation”), requested a declaratory ruling allowing for the addition of three (3) host sites for a mobile MRI scanner for Project I.D. No. J-7008-04 (“Project”) on the grounds that the change does not constitute a material change in scope or a failure to materially comply with the representations made in the Certificate of Need (“CON”) application for the Project, pursuant to N.C.G.S. §§ 131E-181(a) and (b). On May 5, 2015, the Department issued a Declaratory Ruling granting Foundation’s Request. On May 12, 2015, Foundation requested a correction to the Declaratory Ruling on the basis that it had provided the incorrect address for one (1) of the host sites listed in its request, to wit: Moore Orthopaedics and Sports Medicine, P.A. (“Moore Orthopaedics”) is located at 1165 Cedar Point Boulevard, Cedar Point, Carteret County, North Carolina, not 4251 Arendell Street, Morehead City, Carteret County, North Carolina. The correct addresses were provided for the other two (2) host sites. All of the other facts, assertions, and representations made by Foundation and contained in the request of

March 27, 2015, remain the same and are incorporated herein by reference. This ruling will be binding upon the Department and the entity requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Denise M. Gunter, of Nelson Mullins Riley & Scarborough, LLP, has requested this ruling on behalf of Foundation and has provided the material facts upon which this ruling is based.

### **ANALYSIS**

The inadvertent error of listing the incorrect address of the Moore Orthopaedics site does not change the previous analysis. Therefore, the Analysis contained in the Declaratory Ruling issued on May 5, 2015, remains the same and is incorporated herein by reference.

### **CONCLUSION**

Assuming the statements of fact and representations in the requests of March 27, 2015, and May 12, 2015, to be true, I conclude that Foundation's addition of Moore Orthopaedics and Sports Medicine, PA, located at 1165 Cedar Point Boulevard, Cedar Point, Carteret County, North Carolina, as a host site for the mobile MRI scanner will not constitute a material change in the scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON in violation of N.C.G.S. § 131E-189(b).

This the \_\_\_\_\_ day of May, 2015.

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Drexdal Pratt, Director  
Division of Health Service Regulation  
N.C. Department of Health and Human Services

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing Declaratory Ruling upon the PETITIONER by certified mail, return receipt requested, by causing a copy of same to be placed in the United States Mail, first-class, postage pre-paid envelope addressed as follows:

**CERTIFIED MAIL**

Denise M. Gunter  
NELSON MULLINS RILEY & SCARBOROUGH, LLP  
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Suite 530  
Winston-Salem, North Carolina 27103  
ATTORNEY FOR FOUNDATION HEALTH MOBILE  
IMAGING, LLC, and NOVANT HEALTH, INC.

This the \_\_\_\_\_ day of May, 2015.

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Cheryl Ouimet  
Chief Operating Officer