



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/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief
Phone: (919) 855-3873
Fax: (919) 733-8139

December 27, 2013

Russell Herring
1003 Old Waterford Way, Suite 2-C
Leland, NC 28451

Disapproval

Project I.D. #: F-10006-12
Facility: AssistedCare of the Carolinas
Project Description: Develop a new Medicare-certified home health agency
County: Mecklenburg
FID #: 120391

Dear Mr. Herring:

The Certificate of Need Section, Division of Health Service Regulation, Department of Health and Human Services has disapproved the above referenced certificate of need application. This decision was made after review of all the applications submitted for this cycle and after consideration of the G.S. 131E-175 et. seq., and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application.

A legal proponent or any person aggrieved by this decision may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

If you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Emery Milliken
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 Mail Service Center
Raleigh, North Carolina, 27699-2001



It is requested that a copy of the petition also be served on the Certificate of Need Section.

Please be advised that in accordance with G.S. 131E-188, as a condition precedent to proceeding with a contested case hearing on the approval of an applicant for a certificate of need, the petitioner shall deposit a bond with the clerk of superior court where the new institutional health service that is the subject of the petition is proposed to be located. The bond shall be secured by cash or its equivalent in an amount equal to five percent (5%) of the cost of the proposed new institutional health service that is the subject to the petition, but may not be less than five thousand dollars (\$5,000) and may not exceed fifty thousand dollars (\$50,000). Moreover, the applicant who received approval for the new institutional health service that is the subject of the petition may bring an action against a bond filed under this subsection in the superior court of the county where the bond was filed. Upon finding the petition for a contested case was frivolous or filed to delay the applicant, the court may award the applicant part or all of the bond filed.

Please refer to the Project I.D. # and Facility I.D. # (FID) in all correspondence.

Sincerely,

Mike J. McKillip, Project Analyst

Martha J. Frisone, Chief
Certificate of Need Section

MJM:MJF:llp

Attachment

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

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of conditional approval on the following person(s) by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope(s) addressed as follows:

Elizabeth Kirkman
2709 Water Ridge Parkway, Suite 200
Charlotte, NC 28217

Project I.D. #F-10004-12
FID # 120389

Mike Raney
2106 South 17th Street
Wilmington, NC 28401

Project I.D. #F-10003-12
FID #944774

I hereby certify that I have served the foregoing notice of disapproval on the following person(s) by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope(s) addressed as follows:

Russell Herring
1003 Old Waterford Way, Suite 2-C
Leland, NC 28451

Project I.D. #F-10006-12
FID #120391

Tim Brooks
509 W. 3rd Street
Pembroke, NC 28372

Project I.D. #F-10005-12
FID #120390

Newell D. Yarborough
103 Marsh Edge Lane
Savannah, GA 31419

Project I.D. #F-10001-12
FID #110543

Wanda Coley
6752 Parker Farm Drive, Suite 210
Wilmington, NC 28405

Project I.D. #F-10007-12
FID #120392

Mike Hamilton
7205 Lee Highway, Suite B
Chattanooga, TN 37421

Project I.D. #F-10008-12
FID #120393

Max O. Mason
223 Highway 70 East
Garner, NC 27529

Project I.D. #F-10010-12
FID #120394

Aneel Gill
1626 Jeurgens Court
Norcross, GA 30093

Project I.D. #F-10011-12
FID #120395

Ogadinma Akagha
464 Eastway Drive
Charlotte, NC 28205

Project I.D. #F-10012-12
FID # 060874

This the 27th day of December, 2012.

Mike J. McKillip
Project Analyst