



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**  
Division of Health Service Regulation

**ROY COOPER** • Governor  
**MANDY COHEN, MD, MPH** • Secretary  
**MARK PAYNE** • Director

April 27, 2018

James Shafer  
1801 South Seventeenth Street  
Wilmington, NC 28401

**Disapproval**

Project ID #: O-11437-17  
Facility: Wilmington SurgCare  
Project Description: Develop one new OR pursuant to the need determination in the 2017 SMFP for a total of 11 ORs upon completion of this project and Project ID #O-11272-16 (add three ORs and one procedure room)  
County: New Hanover  
FID #: 923566

Dear Mr. Shafer:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has disapproved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, N.C. Gen. Stat. §131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with N.C. Gen. Stat. §131E-186.

A legal proponent or any person aggrieved by this decision may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §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:

Lisa G. Corbett  
Department of Health and Human Services,  
Office of Legal Affairs,

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION**

**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704  
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

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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 Agency.

Please be advised that in accordance with N.C. Gen. Stat. §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,

Gregory F. Yakaboski  
Project Analyst

Fatimah Wilson  
Team Leader, Certificate of Need

Attachment

cc: Construction Section, DHSR  
Acute & Home Care Licensure & Certification Section, DHSR  
Amy Craddock, Assistant Chief, Healthcare Planning, DHSR

**CERTIFICATE OF SERVICE**

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

Cory Hess  
5200 Doughtymews Lane  
Fuquay-Varina, NC 27526

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

James Shafer  
1801 South Seventeenth Street  
Wilmington, NC 28401

Kristy Hubard  
2131 S. 17<sup>th</sup> Street  
Wilmington, NC 28401

Stephen DeBiasi  
2716 Ashton Drive  
Wilmington, NC 28412

This the 27<sup>th</sup> day of April, 2018.

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Gregory F. Yakaboski  
Project Analyst, Certificate of Need