



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

October 29, 2018

Mr. Jim Swann
3390 Dunn Road
Eastover, NC 28312

Conditional Approval

Project ID #: J-11540-18
Facility: Johnston Dialysis Center
Project Description: Relocate four dialysis stations from Zebulon Kidney Center to Johnston Dialysis Center for a total of 32 dialysis stations upon completion of this project, Project I.D.# J-11372-17 (develop a new 10-station dialysis facility by relocating two dialysis stations from FMC Four Oaks, four stations from Johnston Dialysis Center and four stations from FMC Hope Dialysis) and Project I.D.# J-11407-17 (add one dialysis station to Johnston Dialysis Center)
County: Johnston
FID #: 944566

Dear Mr. Swann:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved 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. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Bio-Medical Applications of North Carolina, Inc. d/b/a Johnston Dialysis Center shall materially comply with all representations made in the certificate of need application.

- 2. Pursuant to Policy ESRD-2, Bio-Medical Applications of North Carolina, Inc. shall relocate 4 dialysis stations from Zebulon Kidney Center to Johnston Dialysis Center for a total of no more than 32 dialysis stations at Johnston Dialysis Center upon completion of this project, Project I.D. # J-11372-17 and Project I.D. # J-11407-17.**
- 3. Upon completion of this project, Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify four dialysis stations at Zebulon Kidney Care for a total of no more than 26 dialysis stations at Zebulon Kidney Care.**
- 4. Bio-Medical Applications of North Carolina, Inc. d/b/a Johnston Dialysis Center shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.

The conditional approval is valid only for a capital expenditure of \$0. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you 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 date of this 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).]

N.C. Gen. Stat. §150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, 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,
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.

The certificate of need will not be issued before the completion of this 30 day period ending November 28, 2018. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

- | | | |
|--|-------|----------------|
| 1. Financing Obtained | _____ | July 16, 2018 |
| 2. Equipment Ordered | _____ | April 16, 2019 |
| 3. Equipment Installed | _____ | May 31, 2019 |
| 4. Equipment Operational | _____ | June 14, 2019 |
| 5. Services Offered | _____ | June 30, 2019 |
| 6. Medicare and/or Medicaid Certification Obtained | _____ | June 30, 2019 |

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

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

Sincerely,



Bernetta Thorne-Williams
Project Analyst



Gloria C. Hale
Team Leader

Attachment

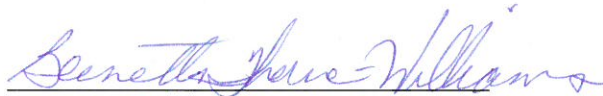
cc: Acute & Home Care Licensure & Certification Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

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:

Mr. Jim Swann
3390 Dunn Road
Eastover, NC 28312

This the 29th day of October, 2018.



Bernetta Thorne-Williams
Project Analyst, Certificate of Need