



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 15, 2018

Dr. Kenneth Owen
2119 Coniston Place
Charlotte, NC 28207

Conditional Approval

Project ID #: F-11524-18
Facility: Tryon Medical Partners - Ballantyne
Project Description: Develop a new diagnostic center
County: Mecklenburg
FID #: 180309

Dear Dr. Owen:

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. Tryon Medical Partners, PLLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Tryon Medical Partners, PLLC shall materially comply with the last made representation.**
- 2. Tryon Medical Partners, PLLC shall develop a diagnostic imaging center as part of a physician and surgical specialty practice to be located in Charlotte.**

- 3. Tryon Medical Partners, PLLC, as part of this project, shall not acquire any equipment that is not included in the project's proposed capital expenditures in Section Q of the application or that would otherwise require a certificate of need.**
- 4. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Tryon Medical Partners, PLLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**
- 5. Tryon Medical Partners, PLLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to insurance 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 **\$1,298,868**. 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 14, 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 _____ January 4, 2019
2. Drawings Completed _____ January 7, 2019
3. Construction/Renovation Contract(s) Executed _____ January 16, 2019
4. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ January 30, 2019
5. 50% of Construction/Renovation Completed _____ February 13, 2019
6. 75% of Construction/Renovation Completed _____ February 27, 2019
7. Construction/Renovation Completed _____ March 13, 2019
8. Equipment Ordered _____ January 4, 2019
9. Equipment Installed _____ March 13, 2019
10. Equipment Operational _____ March 20, 2019
11. Building/Space Occupied _____ March 20, 2019
12. Licensure Obtained _____ March 27, 2019
13. Services Offered _____ April 1, 2019
14. Medicare and/or Medicaid Certification Obtained _____ May 1, 2019
15. Facility or Service Accredited _____ April 1, 2020
16. Final Annual Report Due _____ June 30, 2022

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.

Dr. Kenneth Owen
October 15, 2018
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Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,



Julie M. Faenza
Project Analyst



Gloria C. Hale
Team Leader

Attachment

cc: 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:

Dr. Kenneth Owen
2119 Coniston Place
Charlotte, NC 28207

This the 15th day of October, 2018.



Julie M. Faenza
Project Analyst, Certificate of Need

