



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**

January 14, 2019

Bill Schiff  
4825 Creekstone Drive, Suite 250  
Durham, NC 27705

**Conditional Approval**

Project ID #: J-11617-18  
Facility: Duke Health Center Apex  
Project Description: Develop a new diagnostic center  
County: Wake  
FID #: 180515

Approved Capital Expenditure: \$760,237  
Conditions of Approval: See Attachment A  
Approved Timetable: See Attachment B  
Last Date to Appeal: February 13, 2019  
Required State Agency Findings: Enclosed

Dear Mr. Schiff:

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 review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

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

The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Furthermore, 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). **Response to the conditions in Attachment A 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 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 approved timetable for this project is found in Attachment B.

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. 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. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the 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 thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

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,



Celia C. Inman  
Project Analyst



Gloria C. Hale  
Team Leader

Enclosures:

- Attachment A: Conditions of Approval
- Attachment B: Approved Timetable
- Required State Agency Findings

cc: Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

**Attachment A**  
**Conditions of Approval**

- 1. Private Diagnostic Clinic, PLLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Private Diagnostic Clinic, PLLC shall materially comply with the last made representation.**
- 2. Private Diagnostic Clinic, PLLC shall develop a new diagnostic imaging center with existing X-ray, C-arm and Echocardiography medical diagnostic equipment.**
- 3. Private Diagnostic Clinic, PLLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and 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, Private Diagnostic Clinic, 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. Private Diagnostic Clinic, PLLC 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.**



**Attachment B  
Approved Timetable**

1. **Construction/Renovation Contract(s) Executed** \_\_\_\_\_ **May 20, 2019**
2. **25% of Construction/Renovation Completed** \_\_\_\_\_ **May 27, 2019**  
(25% of the cost is in place)
3. **50% of Construction/Renovation Completed** \_\_\_\_\_ **June 3, 2019**
4. **75% of Construction/Renovation Completed** \_\_\_\_\_ **June 10, 2019**
5. **Construction/Renovation Completed** \_\_\_\_\_ **June 17, 2019**
6. **Equipment Installed** \_\_\_\_\_ **June 25, 2019**
7. **Equipment Operational** \_\_\_\_\_ **June 25, 2019**
8. **Building/Space Occupied** \_\_\_\_\_ **June 17, 2019**
9. **Services Offered** \_\_\_\_\_ **July 1, 2020**
10. **Facility or Service Accredited** \_\_\_\_\_ **July 1, 2020**
11. **Final Annual Report Due** \_\_\_\_\_ **September 1, 2022**

