



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

January 29, 2024

Catharine Cummer
4825 Creekstone Dr
Suite 100
Durham, NC 27703

Conditional Approval

Project ID #: J-12438-23
Facility: Duke Gastroenterology of Raleigh
Project Description: Cost overrun for Project J-11934-20 (develop a new ambulatory surgical facility with four GI endoscopy procedure rooms)
County: Wake
FID #: 200638

Approved Capital Expenditure: \$1,901,084
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: February 29, 2024
Required State Agency Findings: Enclosed

Dear Ms. Cummer:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. The conditional approval is valid only for the approved capital expenditure shown above. If the capital cost will exceed the approved capital expenditure amount by more than 115%, the applicant must first obtain a new certificate of need.

Response to the conditions in Attachment A should be attached to an email addressed to the Project Analyst and the Co-signer no later than 35 days from the date of the decision. The certificate of need will not be issued if the response to the conditions in Attachment A has not been received by the Agency.

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.

The applicant shall not begin developing this project until after the certificate of need has been issued and the certificate of need will not be issued until the applicant has documented that all conditions that must be met prior to issuance of the certificate of need have been met.

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

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
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

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conditions you may file a petition for a contested case hearing in accordance with G.S.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).

G.S. 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:

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

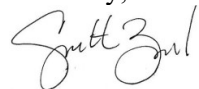
It is requested that a copy of the petition also be served on the Agency.

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,



Cynthia L. Bradford
Project Analyst
Cynthia.bradford@dhhs.nc.gov



Micheala Mitchell
Chief
Micheala.mitchell@dhhs.nc.gov

Enclosures:

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

cc: Acute & Home Care Licensure & Certification Section, DHSR
Construction Service Section, DHSR

Attachment A
Conditions of Approval

- 1. Duke Health Integrated Practice, Inc., and Duke University Health System, Inc. (hereinafter known collectively as the certificate holder) shall materially comply with the representations in this application.**
- 2. The certificate holder shall develop a new ambulatory surgical facility with no more than four gastroenterology (GI) endoscopy procedure rooms, upon competition of this project and Project ID# J-11934-20.**
- 3. The total combined capital expenditure for this project and Project ID# J-11934-20 is \$5,409,720, an increase of \$1,901,804 over the previously approved capital expenditure of \$3,507,916 previously approved in Project ID# J-11934-20.**
- 4. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
 - b. The certificate holder shall complete all sections of the Progress Report form.**
 - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. The first progress report shall be due on July 1, 2024.**
- 5. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.**

Attachment B
Approved Timetable

| Milestone | | Date <i>mm/dd/yyyy</i> |
|------------------|--|----------------------------------|
| 1 | Construction / Renovation Contract(s) Executed | 11/15/2023 |
| 2 | 25% of Construction / Renovation Completed (25% of the cost is in place) | 02/01/2024 |
| 3 | 50% of Construction / Renovation Completed | 04/01/2024 |
| 4 | 75% of Construction / Renovation Completed | 06/01/2024 |
| 5 | Construction / Renovation Completed | 09/01/2024 |
| 6 | Equipment Ordered | 03/01/2024 |
| 7 | Equipment Installed | 09/01/2024 |
| 8 | Equipment Operational | 09/30/2024 |
| 9 | Building / Space Occupied | 09/30/2024 |
| 10 | Licensure Obtained | 09/30/2024 |
| 11 | Services Offered | 09/30/2024 |
| 12 | Medicare and / or Medicaid Certification Obtained | 12/31/2024 |
| 13 | Facility or Service Accredited | 12/31/2024 |
| 14 | First Annual Report Due* | 09/03/2026 |