



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704
<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief
Phone: (919) 855-3873
Fax: (919) 733-8139

July 30, 2012

Wallace C. Hollowell, III
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue / GlenLake One / Second Floor
Raleigh, NC 27612

RE: No Review / Hospice & Palliative Care Charlotte Region / Purchase of a new building at 6624
Walsh Avenue in Charlotte to use for non-clinical functions / Mecklenburg County
FID # 031119

Dear Mr. Hollowell:

The Certificate of Need (CON) Section received your correspondence of July 18, 2012 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

In addition, you should contact the Construction Section to determine if they have any requirements for development of the proposed project. Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D.# (FID) if the facility is licensed.

Sincerely,

Fatimah Wilson
Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

cc: Acute & Home Care Licensure and Certification Section, DHSR



Falmer

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
4140 Parklake Avenue / GlenLake One / Second Floor / Raleigh, NC 27612
Tel: 919.877.3800 Fax: 919.877.3823
www.nelsonmullins.com



Wallace C. Hollowell, III
Tel: 919.877.3803
Fax: 919.877.3823
chuck.hollowell@nelsonmullins.com

July 18, 2012

Via U.S. Mail and Electronic Mail

Craig Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
N.C. Dept. of Health and Human Services
2704 Mail Service Center
Raleigh, NC 27699-2704
Craig.Smith@dhhs.nc.gov

Re: *No Review Request for Hospice & Palliative Care Charlotte Region*

Dear Craig:

I am writing on behalf of Hospice & Palliative Care Charlotte Region ("HPCCR") to confirm that the activities described below do not require certificate of need review.

HPCCR currently has three licensed hospice offices in Mecklenburg County (HOS4436, HOS3132, and HOS3727). HPCCR recently purchased a building that is located at 6624 Walsh Avenue in Charlotte - approximately 100 yards from its South Charlotte office, which is located at 7845 Little Avenue. HPCCR intends to use this building for only non-clinical functions. Specifically, HPCCR intends to house some of its non-clinical departments, such as human resources and information technology, in this new building. In addition, HPCCR intends to use space in the building to host educational programs for its staff and the public. It intends to name the building the "Learning Resource Center."

HPCCR's new building would not house any clinical operations and would not serve as a hospice office. Rather, it would simply house some of HPCCR's administrative departments as well as providing space for educational programs. It is HPCCR's understanding that the acquisition and use of this new building in the manner described above would not require certificate of need review.

Craig Smith, Chief
July 18, 2012
Page 2

The only potential definition of new institutional health service that could apply to this component of the Company's proposed facility is that set forth in N.C. Gen. Stat. § 131E-176(16)b., which requires a CON for the expenditure of more than \$2,000,000 "to develop or expand a health service . . . or which relates to the provision of a health service."

This provision is not triggered for at least two reasons. First, HPCCR will not incur a capital expense of more than \$2,000,000 in connection with its acquisition of this new building. Second, the way in which HPCCR intends to use this building does not "relate[] to the provision of a health service."

The CON Law defines "health service" as:

an organized, interrelated medical, diagnostic, therapeutic, and/or rehabilitative activity that is integral to the prevention of disease or the clinical management of a sick, injured, or disabled person.
"Health service" does not include administrative and other activities that are not integral to clinical management.

N.C. Gen. Stat. § 131E-176(9a) (emphasis added). All of the activities that HPCCR intends to perform in the new building are either "administrative" or "are not integral to clinical management."

Accordingly, HPCCR respectfully requests that the CON Section confirm that none of the activities described above require certificate of need review.

If you require any further information on this matter, please let me know. I will look forward to hearing from you soon. With best regards, I am

Very truly yours,



Wallace C. Hollowell, III

cc: Peter A. Brunnick