



North Carolina Department of Health and Human Services
Division of Health Service Regulation

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REVISED

February 28, 2013

Ms. Erin Jochum Roberts
Smith Moore Leatherwood, LLP
2800 Two Hanover Square
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility

Facility: Roanoke Home Care & Hospice
Acquisition by: Amedisys, L.L.C
County: Washington
FID #s: 924104

Dear Ms. Roberts:

In response to your letter of January 18, 2013, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Amedisys, L.L.C may proceed to acquire just the hospice services currently provided by Roanoke Home Care & Hospice in Plymouth, License Number HC0523, without first obtaining a certificate of need. Amedisys, L.L.C must license the facility as a freestanding hospice facility.

However, you need to contact the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a



Certificate of Need Section

www.ncdhhs.gov

Telephone 919-855-3873

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Williams, Bernetta

From: Erin Roberts [Erin.Roberts@smithmoorelaw.com]
Sent: Friday, January 18, 2013 3:30 PM
To: Williams, Bernetta
Cc: Jacob Kantrow; Kris Novak; Gusti McGee
Subject: CON Exemption Notice: Updated Information Regarding Roanoke Home Care & Hospice
Attachments: Roberts, Erin_0118152929_001.pdf

Bernetta,

Attach, please find information that we discussed earlier this week regarding the transaction between MTW (d/b/a Roanoke Home Care & Hospice) and Amedisys. If you have any questions, please do not hesitate to contact me directly. Thank you in advance for your assistance with this. Have a nice weekend,
Erin

Erin Jochum Roberts
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SMITH MOORE LEATHERWOOD

January 18, 2012

VIA E-MAIL: bernetta.williams@dhhs.nc.gov

Ms. Bernetta Thorne-Williams
Analyst, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health and Human Services
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: Notice of Exemption: Acquisition of Existing Certified Hospice Agency operated by the Martin-Tyrrell-Washington District Health Department, d/b/a Roanoke Home Care & Hospice, by Amedisys Hospice, L.L.C.

Dear Ms. Thorne-Williams:

This is a follow-up to my letter dated November 19, 2012 regarding the sale of substantially all of the tangible and intangible assets of the Martin-Tyrrell-Washington District Health Department, a North Carolina public authority ("MTW") used exclusively in connection with its Medicare-certified hospice agency (the "Hospice Agency") to Amedisys Hospice, L.L.C., a Louisiana limited liability company ("Amedisys"). You confirmed in your letter dated December 18, 2012 that the transaction is exempt from certificate of need ("CON") review in accordance with N.C. Gen. Stat. 131E-184(a)(8). While we appreciate your prompt response, Amedisys has informed MTW that it will not maintain a hospice office in Tyrrell County (under license number HC0524), which changes the terms of the transaction as originally described to the CON Section; provided, however, we continue to believe that the transaction is exempt from CON review in accordance with N.C. Gen. Stat. 131E-184(a)(8).

Analysis

Under North Carolina law, a CON must be obtained before offering or developing a new institutional health service. N.C. Gen. Stat. § 131E-178(a). A "new institutional health service" is expressly defined in N.C. Gen. Stat. § 131E-176(16) to include:

the purchase, lease, or acquisition of any health service facility, or portion thereof, or controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need pursuant to G.S. 131E-180.

"Health service facility" includes hospice office. N.C. Gen. Stat. § 131E-176(9b).

The CON Act enumerates certain situations, however, in which an applicant is exempt from CON review. Amedisys' acquisition of the Hospice Agency fits squarely within N.C. Gen. Stat. § 131E-184(a)(8)'s exemption for the acquisition of "an existing health service facility, including equipment owned by the health

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Atlanta, GA ■ Charlotte, NC ■ Greensboro, NC ■ Greenville, SC ■ Raleigh, NC ■ Wilmington, NC

January 18, 2012

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service facility at the time of acquisition." Pursuant to the terms of the agreement between MTW and Amedisys, Amedisys will purchase MTW's assets used exclusively in the operation of the Hospice Agency, thereby assuming ownership and operation of the Hospice Agency except, however, Amedisys will not acquire the Hospice Agency's Tyrell County hospice license, or the Hospice Agency's Medicare provider number or agreement, but will enroll in Medicare upon the closing of the transaction. Thus, given that the transaction involves only the sale of an existing health service facility, it is exempt from CON review.

Conclusion

Based on the foregoing information, we hereby request the CON Section's confirmation that the transaction described herein is exempt from CON review, under N.C. Gen. Stat. §131E-184(a)(8).

If you require additional information, please contact us at the above number. Thank you in advance for your review of this notice.

Very truly yours,

SMITH MOORE LEATHERWOOD LLP



Erin Jochum Roberts



Copy of original approval letter

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

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December 18, 2012

Ms. Erin Jochum Roberts
Smith Moore Leatherwood, LLP
2800 Two Hanover Square
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility

Facility: Roanoke Home Care & Hospice
Acquisition by: Amedisys, L.L.C
County: Martin, Tyrrell and Washington
FID #s: 924104; 954102; and 954103

Dear Ms. Roberts:

In response to your letter of November 19, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Amedisys, L.L.C may proceed to acquire just the hospice services currently provided by Roanoke Home Care & Hospice out of the three facilities identified below without first obtaining a certificate of need. Amedisys, L.L.C must license the facilities as freestanding hospice facilities:

- Roanoke Home Care & Hospice, License Number HC0523, Plymouth;
- Roanoke Home Care & Hospice, License Number HC0524, Columbia; and
- Roanoke Home Care & Hospice, License Number HC0525, Williamston

However, you need to contact the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate



Roanoke Home Care & Hospice

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determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Bernetta Thorne-Williams
Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

cc: Construction Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR
Medical Planning Section, DHSR