



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

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

June 13, 2014

Joseph Kahn  
Nexsen Pruet, PLLC  
4141 Parklake Avenue, Suite 200  
Raleigh, North Carolina 27612

**No Review**

Facility or Business: Vidant Pungo Hospital  
Project Description: Transfer control of corporation to the Town of Belhaven  
County: Beaufort  
FID #: 923419

Dear Mr. Kahn:

The Certificate of Need Section (CON Section) received your electronic mail of June 10, 2014 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.

Moreover, you need to contact the Acute and Home Care Licensure and Certification Section, of the Division of Health Service Regulation (DHSR) to determine if they have any requirements for development of the proposed project.

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.



**Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone: 919-855-3873 • Fax: 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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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,

  
Jane Rhoe-Jones, Project Analyst



Martha J. Frisone, Interim Chief  
Certificate of Need Section

cc: Medical Facilities Planning Branch, DHR  
Acute and Home Care Licensure and Certification Section, DHR

## Evans, Stephanie

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**From:** Frisone, Martha  
**Sent:** Wednesday, June 11, 2014 2:43 PM  
**To:** Evans, Stephanie  
**Cc:** Pittman, Lisa; rhoe-jones, jane e  
**Subject:** FW: Pungo Hospital - Follow-up Information [IWOV-NPRAL1.FID76672]

Stephanie, please print, log and give to Jane to prepare a response.

Martha J. Frisone  
N.C. Department of Health and Human Services  
Interim Chief, CON Section - Division of Health Service Regulation  
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**From:** Pittman, Lisa  
**Sent:** Tuesday, June 10, 2014 4:54 PM  
**To:** Frisone, Martha  
**Subject:** FW: Pungo Hospital - Follow-up Information [IWOV-NPRAL1.FID76672]

FYI

Lisa Pittman  
N.C. Department of Health and Human Services  
Team Leader, CON Section - Division of Health Service Regulation  
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(Office) 919-855-3989  
[lisa.pittman@dhhs.nc.gov](mailto:lisa.pittman@dhhs.nc.gov)  
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**From:** Kahn, Joseph [<mailto:JKahn@nexsenpruet.com>]  
**Sent:** Tuesday, June 10, 2014 4:38 PM  
**To:** Conley, Azzie; Pratt, Drexdal; Pittman, Lisa  
**Cc:** Cheltenham, Laetitia L.; Church, Richard; 'Edward Gallagher' ([egallagh@vidanthealth.com](mailto:egallagh@vidanthealth.com))  
**Subject:** Pungo Hospital - Follow-up Information [IWOV-NPRAL1.FID76672]

FID# 923419 Belhaven Co.

Dear Ms. Conley, Ms. Pittman, and Mr. Pratt:

This email serves as a follow-up to our call on June 5, 2014, and we, again, thank you for your time and attention to these matters. As you know, we represent the Town of Belhaven, NC (the "Town") with regard to the proposed transfer of control of Pungo District Hospital Corporation d/b/a Vidant Pungo Hospital ("Pungo Hospital") in Belhaven. As discussed in our call, there is a possibility that the transfer of control of Pungo Hospital could result in a temporary suspension of services at Pungo Hospital, and we respectfully request your review to determine the impact, if any, any such suspension of services would have on Pungo Hospital's license, Certificate of Need, and Critical Access Hospital (CAH) designation.

Pungo Hospital currently operates a licensed acute care hospital located at 202 E. Water Street, Belhaven, NC pursuant to NC License Number H0002. On or around, July 1, 2014, University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health ("Vidant") expects to transfer control of Pungo Hospital to the Town. This transfer of control is expected to be accomplished through the assignment from Vidant to the Town of the appointment authority of the Board of Directors of Pungo Hospital, so that, following the transfer, the Town will appoint the Board of Directors of Pungo Hospital.

The proposed transaction will not otherwise change the ownership of Pungo Hospital's assets or change the operator or licensee of any services offered by Pungo Hospital. Pungo Hospital will remain the owner and licensed operator of the hospital under its legal business name and tax identification number. Simply, the Town, rather than Vidant, will appoint the Board of Directors of Pungo Hospital following the transaction. In addition, the "doing business as" name and chief executive officer of the hospital will change on the date the proposed transfer is consummated. The Town is finalizing decisions related to the new "doing business as" name and chief executive officer. We will follow-up with the Division of Health Service Regulation (DHSR) to confirm the new name and chief executive officer once those decisions have been reached.

While we expect the transfer of control to proceed as set forth above, the Town has not yet entered into a binding agreement with Vidant to effectuate the transfer of control of Pungo Hospital from Vidant to the Town, and it is possible that such a transfer may occur after July 1, 2014. Though the Town is working diligently to ensure that Pungo Hospital remains operational as of the transfer date, it is also possible that there may be a temporary suspension of services (5-120 days) following the transfer of control.

Per your request in our June 5 call, below is a list of possible scenarios that could result in a temporary suspension of services. Please note that these scenarios are not all-inclusive, and there could be other unforeseen events that would result in, or could otherwise impact the length of, such a suspension. Accordingly, we will contact DHSR if any additional issues arise that could result in a possible suspension of services at Pungo Hospital.

1) Scenario #1- The services at Pungo Hospital may be suspended for a period of 5-60 days for any of the following reasons:

- a. Third-party agreements that are critical to the operation of the hospital have not been put into place; and/or
- b. Funds have not been allocated to allow Pungo Hospital to employ the staff required to operate the hospital.

2) Scenario #2- The services at Pungo Hospital may be suspended for a period of 60 or more days for the reasons set forth above and/or for any of the following reasons:

- a. A delay in engaging management resources, including due to funding issues; and/or
- b. The newly formed Hospital Board could find it difficult to operate the hospital with limited access to capital.

It is our goal that this transfer of control, and any possible suspension of services (if any), can be implemented in a way that would not result in any negative impact on, or lead to the loss of, Pungo Hospital's Acute Care license, CON, and/or CAH designation. Any guidance you can provide to further this goal will be greatly appreciated. Due to the time-sensitive nature of this transfer, your prompt response is respectfully requested. Thank you for your assistance in this matter. Please feel free to contact us if you have any questions or need additional information.

Sincerely,

**Joseph M. Kahn**

Health Care Practice Group

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