



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

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Drexdal Pratt
Division Director

December 15, 2015

Gary S. Qualls
PO Box 14210
Research Triangle Park, NC 27709-4210

No Review

Record #: See Attachment A
Facility Name: See Attachment A
FID #: See Attachment A
Business Name: Murphy Post-Acute and Wellness, Inc.
Business #: 2332
Project Description: Transfer ownership of facilities in Attachment A from Murphy Medical Center, Inc. to a wholly owned subsidiary
County: See Attachment A

Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letters of December 3, 2015 and December 11, 2015 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.

However, you need to contact the Agency's Acute and Home Health Licensure and Certification Section to determine if it has any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented in your correspondence. 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 this office. 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



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

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

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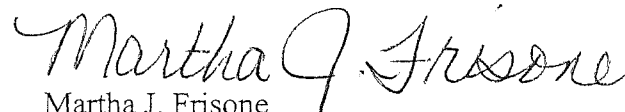
original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,



Julie Halatek
Project Analyst



Martha J. Frisone
Assistant Chief, Certificate of Need

Attachment

cc: Acute and Home Care Licensure and Certification Section, DHSR
Kelli Fisk, Program Assistant, Healthcare Planning

ATTACHMENT A

Record #	County	Name of Facility	FID #	Current Owner	Bus. #	Wholly Owned Subsidiary
1810	Murphy	Good Shepherd Home Health and Hospice Agency, Inc.	953771	Murphy Medical Center, Inc.	2332	Murphy Post-Acute and Wellness, LLC
1811	Clay	Good Shepherd Home Health and Hospice Agency, Inc.	953772	Murphy Medical Center, Inc.	2332	Murphy Post-Acute and Wellness, LLC

Halatek, Julie F

From: Qualls, Gary <Gary.Qualls@klgates.com>
Sent: Friday, December 11, 2015 2:35 PM
To: Halatek, Julie F
Subject: RE: Exemption Notice for Murphy Post-Acute and Wellness, LLC to Acquire two Home Health Agency and Hospice Offices/Clay and Cherokee Counties

Thanks, Julie:

Murphy Post-Acute and Wellness, LLC (“Murphy Post-Acute”) is being formed by Murphy Medical Center, Inc. (“MMC”) as a subsidiary to hold these HHA and Hospice assets. MMC will be the sole member of Murphy Post-Acute, and there are no entities in between those two (so the ownership is direct). The HHA and Hospice offices will simply be moved from MMC ownership to Murphy Post-Acute ownership.

Let me know if you need anything else.

Thanks

Gary



Gary S. Qualls

Partner
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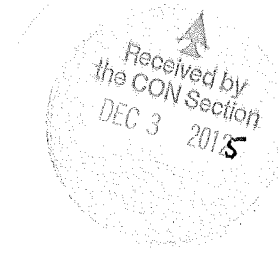
From: Halatek, Julie F [mailto:julie.halatek@dhhs.nc.gov]
Sent: Friday, December 11, 2015 2:22 PM
To: Qualls, Gary
Subject: RE: Exemption Notice for Murphy Post-Acute and Wellness, LLC to Acquire two Home Health Agency and Hospice Offices/Clay and Cherokee Counties

Gary,

Sorry about that – no idea why that happened! At any rate, I realized after I left you the message I would need a description of the corporate reorganization/restructuring/whatever it is being labeled as in order to go forward with the no review. Could you email me back a brief description of what will take place and I will include it with the written request and go from there? Thanks!

Julie Halatek, Esq.

Project Analyst, Certificate of Need
Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section



December 3, 2015

Gary S. Qualls
D 919.466.1182
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gary.qualls@klgates.com**VIA HAND DELIVERY**Ms. Martha Frisone, Assistant Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Exemption Notice for Murphy Post-Acute and Wellness, LLC to acquire two Home Health Agency and Hospice Offices / Clay and Cherokee Counties

Dear Martha:

Murphy Post-Acute and Wellness, LLC (“Murphy Post-Acute”) is planning to acquire two home health agency and hospice offices currently owned and operated by Murphy Medical Center, Inc. (“MMC”).¹ The two offices are located in Murphy, Cherokee County, North Carolina and Brasstown, Clay County, North Carolina (the “Facilities”).

The purpose of this letter is to provide prior notice of these acquisitions, which are exempt from certificate of need (“CON”) review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the “Agency”).² Murphy Post-Acute seeks confirmation that it is permitted to acquire the Facilities as described herein without CON Review, thus acquiring the rights to own the existing health service facilities (as defined in the CON statute).

¹ Murphy Post-Acute is a wholly owned subsidiary of MMC.

² Technically, since this is merely an internal reorganization, involving MMC and its subsidiary, these acquisitions are not even a CON reviewable event because they do not rise to the level of a new institutional health service. However, Murphy Post-Acute is nevertheless conservatively filing this exemption notice in the event that the Agency considers it necessary.

I. BACKGROUND

MMC is the current owner of the two Facilities, which are Medicare certified home health agency and hospice offices. The Facility located in Clay County is licensed as HC0318 and the Facility located in Cherokee County is licensed as HC0275. On or around February 1, 2016, Murphy Post-Acute will acquire substantially all of the assets associated with these existing health service facilities.

II. EXEMPTION NOTICE

Under North Carolina law, a CON is required only prior to offering or developing a “new institutional health service.” “New institutional health service” includes the establishment of a new health service facility. See N.C. Gen. Stat. § 131E-176(16)(a). However, the North Carolina General Assembly saw fit to exempt certain types of proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt proposal is the acquisition of an existing health service facility, “including equipment owned by the health service facility at the time of acquisition.” N.C. Gen. Stat. § 131E-184(a)(8).

This project involves only the acquisition of existing home health agency and hospice offices, which fall within the purview of the statutory definition of “health service facility.” See N.C. Gen. Stat. § 131E-176(9b). Furthermore, Murphy Post-Acute’s acquisition of these Facilities does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services. N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the transaction involves only the acquisition of existing health service facilities, it is exempt from CON review.

Ms. Martha Frisone, Assistant Chief
December 3, 2015
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III. CONCLUSION

Based on the foregoing information, we hereby request the Agency's confirmation that the proposal described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(a)(8), and thus Murphy Post-Acute may acquire the Facilities from MMC with all of their existing CON rights without a CON.

If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Gary S. Qualls".

Gary S. Qualls