



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

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Mark Payne
Assistant Secretary for Audit and
Health Service Regulation

June 13, 2016

Jonathan M. Sumrell
PO Box 72050
Richmond, VA 23255-2050

Exempt from Review – Acquisition of Facility

Record #: 1947
Facility Name: Atlantic Orthopedics, P.A.
Type of Facility: Diagnostic Center
FID #: 050378
Acquisition by: Triangle Orthopaedic Associates, P.A.
Business #: 1888
County: New Hanover

Dear Mr. Sumrell:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of May 12, 2016, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, Triangle Orthopaedic Associates, P.A. may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section to obtain instructions for changing ownership of the existing facility. Note that pursuant to 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 determination.



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

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

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

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

An Equal Opportunity/ Affirmative Action Employer



Jonathan M. Sumrell

June 13, 2016

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

Sincerely,



Julie Halatek
Project Analyst



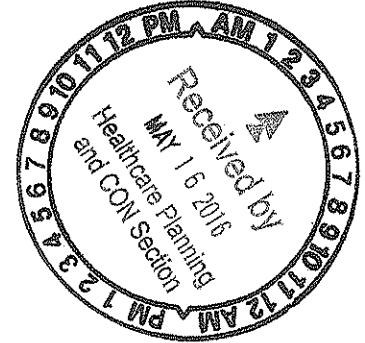
Martha J. Frisone,
Assistant Chief, Certificate of Need

cc: Acute and Home Care Licensure and Certification Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR



Jonathan M. Sumrell
Ext. 447
Email: jsumrell@hdjn.com

May 12, 2016



BY FEDERAL EXPRESS

Martha Frisone, Assistance Section Chief
Certificate of Need Section
North Carolina Department of Health and Human Services
Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704

**RE: Notice of Exempt Transactions – Services Agreement/Lease of Fixed and Mobile Magnetic Resonance Imaging Programs:
Project ID No. O-7259-05, Fixed MRI, New Hanover County
Project ID No. E-8230-08, Mobile MRI, Hickory, Newton, Morganton and Lenoir/Catawba, Caldwell, and Burke Counties**

Dear Ms. Frisone:

I am writing as counsel to Triangle Orthopaedic Associates, P.A. (“TOA”), OrthoWilmington, P.A. and Carolina Orthopaedic Specialists, P.A. pursuant to N.C. Gen. Stat. § 131E-184(a)(8) to provide notice to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (“CON Section”) of two exempt transactions involving one fixed MRI and one mobile MRI program as follows:

- Project ID No. O-7259-05, Fixed MRI, New Hanover County, CON held by Ortho Wilmington, P.A.
- Project ID No. E-8230-08, Mobile MRI, Hickory, Newton, Morganton and Lenoir/Catawba, Caldwell, and Burke Counties, CON held by Carolina Orthopaedic Specialists, P.A.

OrthoWilmington, P.A. (Project ID No. O-7259-05) and Carolina Orthopaedic Specialists, P.A. (Project ID No. E-8230-08) intend to enter into Support Services Agreements with TOA whereby TOA will obtain substantially all of the named providers’ assets through the Support Services Agreement that includes the provision of all equipment and space, including but not limited to:

- The MRI approved for each provider;
- The physical space of each provider; and

- All tangible assets owned by each provider in connection with the conduct of the providers' medical practice, including but not limited to medical equipment.

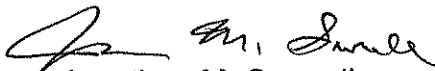
On the effective date of each specific Services Agreement, on or about July 1, 2016, the two above named providers will no longer operate their respective medical practices, including their respective MRI programs.

N.C. Gen. Stat. § 131E-176(16)(f1) provides that the acquisition by purchase, donation, lease, transfer, or comparable arrangement of an MRI constitutes a new institutional health service. Further, N.C. Gen. Stat § 131E-178(b) states that "[n]o person shall make an acquisition by donation, lease, transfer, or comparable arrangement without first obtaining a certificate of need from the Department, if the acquisition would have been a new institutional health service if it had been made by purchase." However, N.C. Gen. Stat. § 131E-184(a)(8) provides that the acquisition of "an existing health service facility, including equipment owned by the health service facility at the time of acquisition" is exempt from CON review if the CON Section receives prior written notice of the proposed acquisition.

The above described transactions will not involve the development or initiation of any new health service facility or the introduction of any new medical equipment that would otherwise qualify as a new institutional health service under North Carolina CON statutes and regulations. TOA plans to operate the MRI programs at each of the approved locations and in compliance with all criteria as outlined in each of the two respective CONs and will not operate an MRI at any new location or operate any new or additional MRI equipment not approved for use by the existing CONs. Therefore, the transactions described are exempt from CON review under N.C. Gen. Stat § 131E-184(a)(8). This letter serves as the required notice for such exempt transactions.

I would appreciate any possible efforts to expedite approval of this exemption notice. If you have any questions, or if I can be of any assistance, please let me know.

Sincerely,


Jonathan M. Sumrell

cc: Matthew C. Connors, Esq.
Stephen DeBiasi, Chief Executive Officer, OrthoWilmington, P.A.
Jim Carrier, Chief Executive Officer, Carolina Orthopaedic Specialists, P.A.
Charles Wilson, Chief Executive Officer, Triangle Orthopaedic Associates, P.A.