



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

Roy Cooper
Governor

Dempsey E. Benton
Interim Secretary DHHS

Mark Payne, Director
Health Service Regulation

January 6, 2017

Renee J. Montgomery
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility

Record #: 2129
Facility Name: Western Regional Radiation Therapy Center (managed by Harris Regional Hospital)
FID #: 923046
Acquisition by: DLP Harris Regional Hospital, LLC
County: Jackson

Dear Ms. Montgomery:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of December 22, 2016, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, DLP Harris Regional Hospital, LLC may proceed to acquire the ownership interest currently held by Mission Health System, Inc. in 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. 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

Healthcare Planning and Certificate of Need Section

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December 22, 2016

Via Email (Martha.Frisone@dhhs.nc.gov) and U.S. Mail

Ms. Martha Frisone
Assistant Section Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health and Human Services
2704 Mail Service Center
Raleigh, North Carolina 27699-2704



Re: *Western Regional Radiation Therapy Center*

Dear Ms. Frisone:

We represent DLP Harris Regional Hospital, LLC d/b/a Harris Regional Hospital (“Harris Regional”). Harris Regional and Mission Health System, Inc. (“Mission”) are joint venture partners that own Western Regional Radiation Therapy Center Partnership (“Radiation Therapy Center”), a general partnership that owns a freestanding facility located in Jackson County, North Carolina that provides linear accelerator and radiation therapy services. Harris Regional and Mission each own 50% of Radiation Therapy Center which has a linear accelerator. Radiation Therapy Center is managed by Harris Regional. Patients receiving linear accelerator services at Radiation Therapy Center receive simulator services at Harris Regional.

Harris Regional and Mission have reached an agreement in which Mission’s partnership interest in Radiation Therapy Center will be redeemed (the “Transaction”). As a result, Radiation Therapy Center will be dissolved as a partnership and its assets, including the linear accelerator, will be distributed to Harris Regional. Following the transaction, the Radiation Therapy Center will be operated as a part of Harris Regional Hospital and will continue to provide linear accelerator and radiation therapy services at the same location in Jackson County. The Transaction will not involve the offering of any new health service facility, service or equipment, and the inventory of linear accelerators in Jackson County and the State overall will not change.

Although Radiation Therapy Center is currently owned by both Harris Regional and Mission Health System, Inc., the activity involved with the linear accelerator has been reported

Ms. Martha Frisone
December 22, 2016
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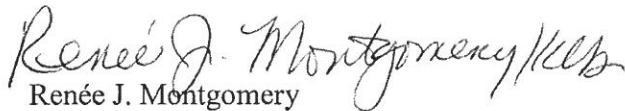
on the licensure applications submitted by Harris Regional. As a result, the inventory of linear accelerators in the State Medical Facilities Plan shows that the owner of the linear accelerator is Harris Regional Hospital. When LifePoint acquired Harris Regional Hospital in August of 2014, it continued reporting the linear accelerator on the Hospital's licensure application as the previous owner had done. This further confirms that there will be no change in the inventory of linear accelerators reflected in the State Medical Facilities Plan.

We request a determination by your agency that the Transaction will not require a Certificate of Need. On numerous occasions, the Director of the Division of Health Service Regulation has determined that a change in ownership interests in an entity that owns a radiation therapy facility that includes linear accelerator services is not subject to Certificate of Need review. See e.g., *In Re: Request for Declaratory Ruling by JRH Ventures, LLC, Smithfield Radiation Oncology, LLC and Johnson Radiation Oncology, LLC*, January 26, 2012; *In Re: Request for Declaratory Ruling by Alliance Oncology, LLC*, December 3, 2008; and *In Re: Request for Declaratory Ruling by Rex Healthcare, Inc. and Smithfield Radiation Oncology, LLC*, December 21, 2007.

We would appreciate your confirmation that the parties can proceed with the transaction without obtaining a Certificate of Need. Please let us know if you have any questions.

Thank you for your attention to this matter.

Sincerely,


Renée J. Montgomery

RJM:klb

cc: Azzie Conley, Chief, Acute and Home Care Licensure and Certification Section
Stephen L. Heatherly, CEO, Harris Regional Hospital
Ronald A. Paulus, M.D., CEO, Mission Health System, Inc.