



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

February 26, 2018

J. Melvin Deaton
PO Box 2568
Hickory, NC 28603-2568

Exempt from Review – Acquisition of Facility

Record #: 2529
Facility Name: Shelby Manor
Type of Facility: Adult Care Home
FID #: 921104
Acquisition by: Shelby Propco, LLC
Business #: 2803
County: Cleveland

Dear Mr. Deaton:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of February 16, 2018, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(a)(8). Therefore, Shelby Propco, LLC 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 Adult Care Home Licensure Section to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C. Gen. Stat. §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

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



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

Sincerely,



Julie M. Faenza
Project Analyst



Martha J. Frisone
Chief, Healthcare Planning and
Certificate of Need Section

cc: Adult Care Home Licensure Section, DHSR
Shareta Blackwell, Program Assistant Healthcare Planning, DHSR

Shelby Propco, LLC

Post Office Box 2568
Hickory, North Carolina 28603-2568



February 16, 2018

CONSTRUCTION SECTION

FEB 19 2018

RECEIVED

Mr. Steven Lewis, Section Chief
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
2704 Mail Service Center
Raleigh, NC 27699-2704

Re: Exemption Notice for Shelby Manor (Adult Care Home in Cleveland County)
FID#: 921104; Facility License No.: HAL-023-008

Dear Mr. Lewis:

Shelby Propco, LLC (“Shelby Propco”) is planning to acquire an adult care home in Cleveland County, currently known as Shelby Manor (hereafter “the Facility”). The Facility is located at 1176 Wyke Road in Shelby, North Carolina. The Facility is listed in the “Inventory of Adult Care Home Beds” in the 2018 State Medical Facilities Plan as having 74 adult care home beds.

Shelby Propco is seeking to purchase the Facility through a purchase and sale agreement. The purpose of this letter is to provide prior notice of this acquisition, which is 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”). Shelby Propco seeks confirmation that it is permitted to acquire the Facility as described herein without CON Review, thus acquiring the Facility’s existing CON rights to own that existing health service facility (as defined in the CON statute) with 74 adult care beds.

I. THE PROPOSAL

As of this date, Shelby Limited Partnership., owns the property and building comprising the Facility, which is an existing “health service facility,” as that term is defined in N.C. Gen. Stat. § 131E-176(9)(b), and Hunt & Associates Elderly Housing Corporation is the Licensee. Shelby Propco will purchase the Facility, and the Licensee will be Shelby Opco, LLC. The Facility will still be known as Shelby Manor.

II. EXEMPTION NOTICE

Under North Carolina law, a Certificate of Need (“CON”) is required only prior to offering or developing a “new institutional health service.” “New institutional health service” includes a variety of services and activities, including a capital expenditure exceeding \$2 million. N.C. Gen. Stat. § 131E-176(16)(b).

The North Carolina General Assembly saw fit to exempt certain types of services or proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt service or proposal includes the

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Certificate of Need Section
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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).

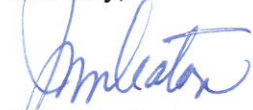
This project involves only the acquisition of an existing adult care home, which falls within the purview of the statutory definition of "health service facility." After acquisition, the Licensee, Shelby Opco, LLC, will operate the Facility as an adult care home. Furthermore, Shelby Propco's acquisition of the Facility 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(14)(o) 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 an existing health services facility, it is exempt from CON review.

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 Shelby Propco may acquire the Facility with all its existing CON rights without a CON.

In addition, we respectfully request that this request be considered on an **expedited basis** because the parties wish to proceed with this transaction as soon as possible. If you require additional information to consider this request, please contact us at (828) 322-5535 as soon as possible. We thank you for your consideration of this request.

Sincerely,



J. Melvin Deaton
Executive Assistant