



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

February 12, 2018

Stephanie M. Hoffman
Bradley, Arant, Boult, Cummings, LLP
1600 Division Street, Suite 700
Nashville TN 37203-2754

No Review

Record #: 2510
Business Name: Outpatient Imaging Affiliates, LLC
Business #: 1368
Project Description: Change in ownership structure of parent companies
County: See Attachment A

Dear Ms. Hoffman:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter of February 6, 2018 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.

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 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.

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

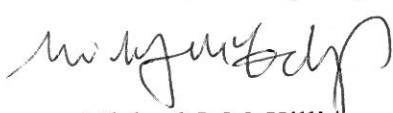
LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER



Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. McKillip". The signature is fluid and cursive, with a large loop at the end.

Michael J. McKillip
Project Analyst

A handwritten signature in black ink, appearing to read "Martha J. Frisone". The signature is cursive and elegant, with a large initial "M".

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

Attachment A

Outpatient Imaging Facilities in North Carolina

Name of Facility	Legal Entity	FID#	County
Raleigh Radiology-Brier Creek	Brier Creek Imaging, LLC	060525	Wake
Raleigh Radiology-Cedarhurst	Pinnacle Health Services of North Carolina, LLC	080829	Wake
Raleigh Radiology-Clayton	Pinnacle Health Services of North Carolina, LLC	150392	Johnston
Raleigh Radiology-Wake Forest	Pinnacle Health Services of North Carolina, LLC	090950	Wake
Wake Forest Baptist Imaging	Wake Forest Baptist Imaging, LLC	160116	Forsyth



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February 12, 2018

Stephanie M. Hoffman
Bradley, Arant, Boult, Cummings, LLP
1600 Division Street, Suite 700
Nashville TN 37203-2754

No Review

Record #: 2510
Business Name: Outpatient Imaging Affiliates, LLC
Business #: 1368
Project Description: Change in ownership structure of parent companies
County: ~~Wake and Forsyth~~ See Attachment A Exhibit

Make an Attachment H and add the county to the table

Dear Ms. Hoffman:

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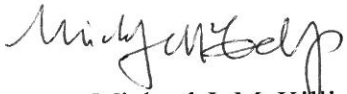
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Stephanie Hoffman
February 12, 2018
Page 2

Sincerely,

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Michael J. McKillip
Project Analyst

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

Stephanie M. Hoffmann 1210

shoffmann@bradley.com
615.252.3837 direct
615.248.3037 fax

Bus : 1368
Rec # 2510

Bradley

February 6, 2018

VIA FEDERAL EXPRESS

Ms. Martha Frisone
North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive
Raleigh, North Carolina 27603



Re: Notice of Proposed Transaction; Request for Determination of Reviewability

Dear Ms. Frisone:

I write on behalf of our client, Outpatient Imaging Affiliates, LLC (“OIA”), which, by and through its subsidiaries, owns and operates health care facilities located in North Carolina. The purpose of this letter is to provide notice of a proposed transaction (the “Proposed Transaction”) involving OIA and to request a formal determination regarding whether the Proposed Transaction is subject to certificate of need (“CON”) review under North Carolina law. As described more fully below, it is our understanding that the Proposed Transaction will not require CON review.

DESCRIPTION OF PROPOSED TRANSACTION

OIA partners with healthcare providers such as health systems, academic medical centers, and radiology groups to develop, market, and operate outpatient imaging centers across the United States (each, a “Facility” and collectively, the “Facilities”). Five of these Facilities are located in North Carolina. OIA and OIA Acquisition Holdings, LLC (“Holdings”) are parties to an agreement that, subject to the satisfaction or waiver of certain conditions, will result in the acquisition of one hundred percent (100%) of the membership interests of OIA by Holdings.

Enclosed for your reference as Exhibit A is a listing of the Facilities located in North Carolina that will be included in the Proposed Transaction. In addition, enclosed as Exhibit B are ownership structure charts showing the ownership of each of the Facilities before and after the closing of the Proposed Transaction.

As shown in Exhibit B, the Proposed Transaction will not result in any change in the direct ownership of the Facilities. Instead, the Proposed Transaction will result in a change in the ownership structure several levels removed from the legal entities that own and operate the Facilities. In each case, the legal entity that owns and operates the Facility will retain its legal business name, federal tax identification number, and assets, and there will be no change in the direct ownership of its stock. Accordingly, the Proposed Transaction will not result in a change of ownership of any of the Facilities for Medicare purposes. In addition, no change in the local governing bodies or day-to-day operations of the Facilities is anticipated as a result of the Proposed Transaction.

Ms. Martha Frisone
North Carolina Department of Health and Human Services
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APPLICABLE LAW

It is our understanding that the Proposed Transaction will not require CON review, and that no other filings will be required in connection with the Proposed Transaction. Under North Carolina law, a CON is required for the “acquisition by donation, lease, transfer, or comparable arrangement ... if the acquisition would have been a new institutional health service if it had been made by purchase.” N.C. Gen. Stat. § 131E-178(b). The term “new institutional health services” is defined to include “[t]he purchase, lease, or acquisition of any health service facility, or portion thereof, or a controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need issued pursuant to [N.C. Gen. Stat. § 131E-180].” N.C. Gen. Stat. § 131E-176(16)(l).

As reflected in Exhibit B, the Proposed Transaction will not result in the purchase, lease, or acquisition of the Facilities, nor will it result in the purchase, lease, or acquisition of a controlling interest in the Facilities. Rather, the legal entities that own and operate the Facilities will remain the same following the closing of the Proposed Transaction. However, the Proposed Transaction will result in a change in one of the legal entities that owns indirect ownership interests in the legal entities that own and operate the Facilities, and we understand that the Department may interpret the Proposed Transaction to constitute an “acquisition” in the case of at least one of the Facilities.¹

Although it is our understanding that the Proposed Transaction will not constitute an “acquisition” for purposes of North Carolina CON law, we understand that the acquisition of an existing health service facility is, in any event, exempt from CON review pursuant to N.C. Gen. Stat. § 131E-184(a)(8), provided that prior written notice is provided to the Department. In the event that the Department determines that the Proposed Transaction will constitute an acquisition of an existing health service facility with respect to any of the Facilities, please allow this letter to serve as the notice required under N.C. Gen. Stat. § 131E-184(a) and a request for confirmation that the Proposed Transaction is exempt from CON review.

REQUEST FOR DETERMINATION OF REVIEWABILITY

We respectfully request a determination from your office regarding whether the Proposed Transaction is subject to, or exempt from, CON review under North Carolina law, or will otherwise require action with the Department. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at (615) 252-3837 or shoffmann@bradley.com.

Very truly yours,

BRADLEY ARANT BOULT CUMMINGS LLP

By:



Stephanie M. Hoffmann

¹ As described in the enclosed ownership structure charts, OIA’s indirect ownership interest in all but one of the legal entities that own and operate the Facilities is 50 percent or less.

Ms. Martha Frisone
North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section
February 6, 2018
Page 3

Enclosures: Exhibit A – OIA Affiliates Facilities in North Carolina
Exhibit B – Ownership Structure Charts

cc: Perry Baker (via email: pbaker@oiarad.com)
Dennis Williams (via email: dennis.williams@dlapiper.com)

EXHIBIT A

OIA-AFFILIATED FACILITIES IN NORTH CAROLINA

FACILITY NAME	LEGAL ENTITY	FACILITY ID No.	LOCATION
Raleigh Radiology—Brier Creek	Briercreek Imaging, LLC	060525	Raleigh, NC
Raleigh Radiology-- Cedarhurst	Pinnacle Health Services of North Carolina, LLC	080829	Raleigh, NC
Raleigh Radiology-- Clayton	Pinnacle Health Services of North Carolina, LLC	150392	Clayton, NC
Raleigh Radiology—Wake Forest	Pinnacle Health Services of North Carolina, LLC	090950	Wake Forest, NC
Wake Forest Baptist Imaging	Wake Forest Baptist Imaging, LLC	160116	Winston-Salem, NC

EXHIBIT B

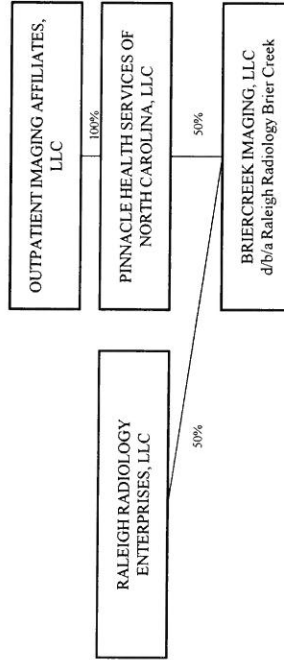
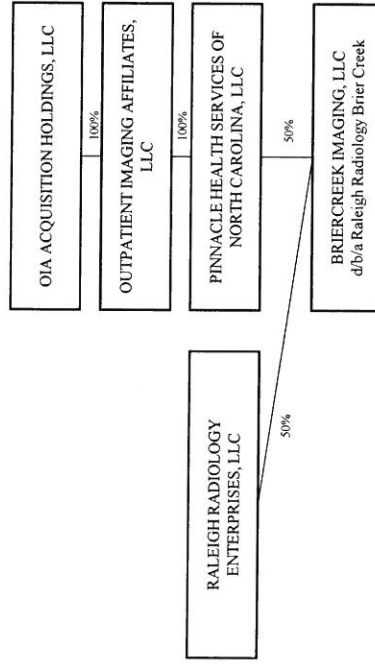
OWNERSHIP STRUCTURE CHARTS

Please see attached.

**BRIERCREEK IMAGING, LLC
OWNERSHIP STRUCTURE CHART**

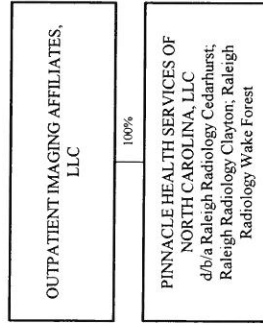
BEFORE PROPOSED TRANSACTION

AFTER PROPOSED TRANSACTION

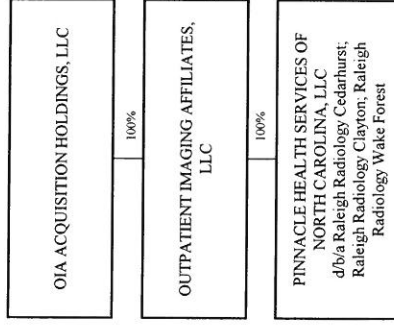


**PINNACLE HEALTH SERVICES OF NORTH CAROLINA, LLC
OWNERSHIP STRUCTURE CHART**

BEFORE PROPOSED TRANSACTION



AFTER PROPOSED TRANSACTION



**WAKE FOREST BAPTIST IMAGING, LLC
OWNERSHIP STRUCTURE CHART**

BEFORE PROPOSED TRANSACTION

AFTER PROPOSED TRANSACTION

