



NC DEPARTMENT OF  
**HEALTH AND  
 HUMAN SERVICES**  
 Division of Health Service Regulation

ROY COOPER • Governor  
 MANDY COHEN, MD, MPH • Secretary  
 MARK PAYNE • Director

April 12, 2019

Robert Leandro  
 301 Fayetteville Street  
 Suite 1400  
 Raleigh, NC 27601

**Exempt from Review – Acquisition of Facility**

**Record #:** 2917  
**Facility Name:** Eastern Regional Surgical Center  
**Type of Facility:** Ambulatory Surgical Center  
**FID #:** 923475  
**Acquisition by:** DLP Wilson Medical Center, LLC  
**Business #:** 2091  
**County:** Wilson

Dear Mr. Leandro:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your representations, the above referenced proposal is exempt from certificate of need (CON) review in accordance with N.C. Gen. Stat. §131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. The Agency’s determination is limited to the question of whether or not the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. 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.”*

Additionally, as long as DLP Wilson Medical Center, LLC maintains the ambulatory surgical center’s license, it can suspend services and still have the ability to re-open the facility without a CON or in the alternative will have the right to file a CON to relocate the operating rooms (ORs) at a later date.

In the event that the business listed above does acquire the facility, you should contact the Agency’s Acute and Home Care Licensure and Certification Section to obtain instructions for changing ownership of the existing facility.

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 regarding whether or not a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

*Bernetta Thorne-Williams*  
 Bernetta Thorne-Williams  
 Project Analyst

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

cc: Acute and Home Care Licensure and Certification Section, DHSR  
 Frank Kirschbaum, Wyrick Robbins Yates & Ponton, LLP

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION  
 HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION  
 LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
 MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704  
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 Charlotte, NC  
 Columbia, SC  
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 Raleigh, NC  
 Spartanburg, SC

April 1, 2019



**VIA E-MAIL AND U.S. MAIL:**

Martha Frisone, Chief  
 Healthcare Planning and Certificate of Need Section North  
 Carolina Department of Health and Human Services  
 2704 Mail Service center  
 Raleigh, NC 27699-2704  
[Martha.Frisone@dhhs.nc.gov](mailto:Martha.Frisone@dhhs.nc.gov)

**Re: Change of Ownership, Surgery Center of Wilson, LLC d/b/a Eastern Regional Surgical Center, Wilson County, License No. AS0005**

Dear Ms. Frisone:

DLP Wilson Medical Center, LLC, ("DLP-Wilson") is providing prior notification pursuant to N.C. Gen. Stat. § 131E-184(8)(a) that it intends to acquire the above referenced licensed ambulatory surgical center ("ASC") from the Surgery Center of Wilson, LLC d/b/a Eastern Regional Surgical Center ("ESRC"). Because ESRC leases, rather than owns, the physical structure of this facility, DLP-Wilson plans to enter into a sublease or licensing agreement with ESRC. After DLP receives a new license to operate the ASC, DLP-Wilson's sublease or licensing agreement with ESRC will be terminated and DLP-Wilson will provide the Licensure Section and the CON Section notice that services at the facility are suspended. DLP-Wilson will then either restart services at the facility or file a CON Application to relocate the operating rooms ("ORs"). Following the transfer of ownership, DLP-Wilson will become the licensee of the ASC. DLP-Wilson plans to maintain its license during the period of time that services are suspended.

Please confirm that this transaction is exempt from CON review and that it is the CON Section's position that as long as DLP-Wilson maintains the ASC license it can suspend services and still have the ability to re-open the facility without a CON or in the alternative will have the right to file a CON to relocate the ORs at a later date.

Thank you for your consideration of this matter.

Sincerely,

Robert A. Leandro

RAL:clr



Wyrick Robbins Yates & Ponton LLP  
ATTORNEYS AT LAW

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March 26, 2019

Ms. Martha Frisone  
Chief, Healthcare Planning and Certificate of Need  
North Carolina Division of Health & Human Services  
809 Ruggles Drive  
Raleigh, NC 27603

Re: Surgery Center of Wilson, LLC d/b/a Eastern Regional Surgical Center  
License AS0005

Dear Ms. Frisone:

We write to you on behalf of our client Surgery Center of Wilson, LLC d/b/a Eastern Regional Surgical Center ("ERSC"). The Certificate of Need ("CON") for this facility was initially issued on June 30, 1980. In the years that have followed, the ownership of this facility changed as various corporate entities were acquired by other entities, with the most recent acquisition taking place on April 18, 2008 when Surgery Center of Wilson, LLC acquired all the assets of the facility, including the CON, from its prior owner, Wilson, LP. On June 11, 2008, your office issued a letter acknowledging this change of ownership and issued a new license to ERSC, which has been renewed each year since (attached hereto as Exhibit A).

Within the next week, ERSC is planning to enter into a transaction (the "Purchase Agreement") whereby it will sell substantially all of its existing assets to the local hospital, DLP Wilson Medical Center, LLC ("WMC"). Because new CONs were not issued when ownership of the facility changed in the past, WMC has requested that ERSC ensure that the CON is held by ERSC prior to the date of closing specified in the Purchase Agreement. As the current holder of the CON, and as the current licensee, ERSC respectfully requests that your office issue a new CON reflecting ERSC as the current holder of the CON as soon as reasonably possible.

Please do not hesitate to let us know if you have any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Frank Kirschbaum'.

Frank Kirschbaum