



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

November 23, 2021

Michael Herrmann
mherrmann@manatt.com

Exempt from Review – Acquisition of Facility

Record #: 3742
Date of Request: October 28, 2021
Facility Name: Kindred Hospice
Type of Facility: Hospice Agency
FID #: 170133
Acquisition by: Community Home Care & Hospice, LLC
Business #: 529
County: Edgecombe

Dear Mr. Herrmann:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that the project described above is exempt from certificate of need (CON) review in accordance with G.S. 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 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 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.*"

If 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 a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Gregory F. Yakaboski
Project Analyst

Micheala Mitchell
Chief

cc: Acute and Home Care Licensure and Certification Section, DHSR

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: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

October 28, 2021

VIA ELECTRONIC MAIL

Micheala Mitchell, Chief, Certificate of Need
NC Department of Health and Human Services
Division of Health Service Regulation
Healthcare Planning and Certificate of Need Section
2704 Main Service Center
Raleigh, NC 27699-2704
micheala.mitchell@dhhs.nc.gov

RE: Notice of Exemption – Acquisition of Capital Care Resources d/b/a Kindred Hospice
(License Number HOS4887) by Community Home Care & Hospice, LLC

Dear Ms. Mitchell:

We represent Humana Inc. the ultimate parent owner of Capital Care Resources (“Capital Care”) and Community Home Care & Hospice, LLC (“Community Home Care”). As a part of a corporate reorganization transaction within Humana Inc., Community Home Care (a currently licensed hospice provider in North Carolina (please see the Community Home Care licenses at the end of the letter)) intends to acquire substantially all of the hospice assets of Capital Care (which is a current licensed hospice provider in North Carolina) (the “Transaction”). In accordance with N.C. Gen. Stat. § 131E-184(a)(8), this letter requests that the North Carolina Department of Health and Human Services (“NCDHHS”) consider and confirm that the Transaction and Community Home Care would not require review by the Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation, and be exempt from, North Carolina’s Certificate of Need (“CON”) approval requirements.

It is our understanding that N.C. Gen. Stat. § 131E-184(a)(8) provides that upon prior written notice, NCDHHS shall exempt from CON review, the acquisition of an existing health service facility, including equipment owned by the health service facility at the time of acquisition. In addition, we understand that the term “Health service facility” includes a variety of provider types including hospice offices. N.C Gen. Stat. § 131E-176(9b).

Currently, Capital Care d/b/a Kindred Hospice owns and operates a licensed North Carolina hospice office, located at 1712 W Howard Avenue, Tarboro, North Carolina 27886 (License Number HOS4887) (the “Health Service Facility”). Community Home Care intends to operate the Health Service Facility at its present location and to continue serving the communities and populations currently served by Capital Care.

Based on the foregoing information, we hereby respectfully request that Agency’s confirmation that the proposal described above is exempt from CON review under N.C. Gen.

October 28, 2021

Stat. §131E-184(a)(8). Our client is also in communication with the Acute and Home Care Licensure and Certification Section regarding this Transaction and will be providing notification to them separately.

We respectfully request and would appreciate NCDHHS' confirmation of the exemption. If you have any questions regarding this letter or the Transaction, please contact me at mherrmann@manatt.com or (312) 477-4770.

Thank you for your time and consideration of this request.

Sincerely,

Mike Herrmann

Mike Herrmann

cc: Randi Seigel

Community Home Care & Hospice, LLC Hospice Licenses

HC2361
HOS2996
HOS3005
HOS2424
HOS3009
HOS2985
HOS2241
HC3436

From: [Mitchell, Micheala L](#)
To: [Waller, Martha K](#)
Subject: FW: [External] North Carolina Hospice CON Exemption Request & Change of Ownership Application Filing Process
Date: Tuesday, November 2, 2021 11:33:32 AM
Attachments: [North Carolina - CON Exemption Request.PDF](#)

Martha,

This was delayed because I had to confer with Lisa. My bad!

Micheala Mitchell, JD
[NC Department of Health and Human Services](#)
[Division of Health Service Regulation](#)
Section Chief, Healthcare Planning and CON Section
809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704
Office: 919 855 3879
Micheala.Mitchell@dhhs.nc.gov

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From: Herrmann, Michael <MHerrmann@manatt.com>
Sent: Thursday, October 28, 2021 11:59 AM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>
Cc: Joyce, Nancy <nancy.joyce@dhhs.nc.gov>; Seigel, Randi <RSeigel@manatt.com>
Subject: [External] North Carolina Hospice CON Exemption Request & Change of Ownership Application Filing Process

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Dear Ms. Mitchell,

We are reaching out on behalf of our client regarding a proposed transaction involving the transfer of hospice operations from Capital Care Resources d/b/a Kindred Hospice (License # HOS4887) to Community Home Care & Hospice, LLC. We have attached here our Certificate of Need Exemption Request letter. We are cc'ing Ms. Joyce as we intend to submit the associated Change of Ownership Application today, as well. Can you please confirm that the Certificate of Need Exemption Request and the associated Change of Ownership Application can be submitted simultaneously? If not, we

kindly request an expedited review of this letter so that we can submit the associated Change of Ownership application by November 1st.

Please let us know if we can provide any additional information. Thanks very much for your assistance.

Best,
Mike

Michael Herrmann
Associate

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Chicago, IL 60606
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