



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

September 2, 2021

Mary Kathryn Hurd  
[mhurd@mwe.com](mailto:mhurd@mwe.com)

**Exempt from Review – Acquisition of Facility**

**Record #:** 3657  
**Date of Request:** August 17, 2021  
**Facility Name:** Good Shepherd Hospice  
**Type of Facility:** Hospice  
**FID #:** 190067  
**Acquisition by:** Hospice of the South Holdings, LLC  
**Business #:** 3439  
**County:** Cherokee

Dear Ms. Hurd:

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,

Ena Lightbourne  
Project Analyst

Micheala Mitchell  
Chief

cc: Acute and Home Care Licensure and Certification Section, DHSR  
[erin@robertslawnc.com](mailto:erin@robertslawnc.com)

**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

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August 16, 2021

***VIA ELECTRONIC MAIL***

Ena Lightbourne, Project Analyst  
NC Department of Health and Human Services  
Division of Health Service Regulation  
Healthcare Planning and Certificate of Need Section  
2704 Mail Service Center  
Raleigh, NC 27699-2704  
[ena.lightbourne@dhhs.nc.gov](mailto:ena.lightbourne@dhhs.nc.gov)

RE: Notice of Exemption – Acquisition of Hospice of the South, Inc. dba Good Shepherd Hospice (License Numbers HOS 5091/5092) by Hospice of the South Holdings, LLC d/b/a Hospice of the South LLC

Dear Ms. Lightbourne:

We represent Care Hospice, Inc., the sole owner of Hospice of the South Holdings, LLC. Hospice of the South Holdings, LLC (“Buyer”) intends to acquire substantially all of the assets of Hospice of the South, Inc. (“Seller”)(which is a current licensed hospice provider in North Carolina with a similar name)(the “Transaction”). In accordance with North Carolina 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 Buyer 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, the Department 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, Hospice of the South, Inc. owns and operates two licensed North Carolina hospice offices including Hospice of the South, Inc. d/b/a Good Shepherd Hospice, located at 6950 Hwy 64W Brasstown, North Carolina 28902 (license no. HOS5091) and Hospice of the South, Inc. d/b/a Good Shepherd Hospice at 75 Medical Park Lane, Ste. C, Murphy, North Carolina 28906 (license no. HOS5092)

**McDermott  
Will & Emery**

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US practice conducted through McDermott Will & Emery LLP.

August 16, 2021

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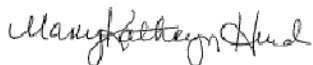
(collectively, the “Seller’s Health Service Facilities”). Buyer intends to operate the Health Service Facilities at their present locations and to continue serving the communities and populations currently served by Seller.

Based on the foregoing information, we hereby respectfully request the Agency’s confirmation that the proposal described above is exempt from CON review under N.C. Gen. Stat. §131E-184(a)(8). Our client is also in communication with the Acute and Home Care Licensure and Certification Section as well as the Division of Medical Assistance regarding this Transaction and will be providing notifications to them separately.

As the parties anticipate the Transaction to be completed on or about September 15, 2021, we respectfully request and would appreciate NCDHHS’ confirmation of the exemption prior to that date. If you have any questions regarding this letter or the Transaction, please contact me at [mhurd@mwe.com](mailto:mhurd@mwe.com) or (202) 756-8925. Please also copy the Seller’s counsel, Erin J. Roberts, on any correspondence related to this matter at the following address [erin@robertslawnc.com](mailto:erin@robertslawnc.com).

Thank you for your time and consideration of this request.

Sincerely,



MaryKathryn Hurd

Cc: Michaela Mitchell  
Fatimah Wilson  
Robert McMullan  
Jerry Tichner  
Erin J. Roberts

**McDermott  
Will & Emery**

**From:** [Wilson, Fatimah](#)  
**To:** [Waller, Martha K](#)  
**Subject:** FW: [External] Request for CON Exemption: Acquisition of Hospice of the South, Inc. dba Good Shepherd Hospice (License Numbers HOS 5091/5092)  
**Date:** Tuesday, August 17, 2021 9:17:13 AM  
**Attachments:** [Hospice of the South, Inc. dba Good Shepherd Hospice CON Exemption Request Letter.pdf](#)

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For logging

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**From:** Hurd, MaryKathryn <Mhurd@mwe.com>  
**Sent:** Monday, August 16, 2021 6:58 PM  
**To:** Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>  
**Cc:** Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>; Wilson, Fatimah <fatimah.wilson@dhhs.nc.gov>; Robert McMullan <RobertMcmullan@carehospice.com>; Tichner Jr., Jerome <JTichner@mwe.com>; erin@robertslawnc.com  
**Subject:** [External] Request for CON Exemption: Acquisition of Hospice of the South, Inc. dba Good Shepherd Hospice (License Numbers HOS 5091/5092)

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Dear Ms. Lightbourne:

Please see attached notice of exemption related to the acquisition of Hospice of the South, Inc. dba Good Shepherd Hospice (License Numbers HOS 5091/5092). If you have any questions or would like to discuss, please do not hesitate to contact me.

Thank you in advance for your time and consideration of this request.

Best,

MaryKathryn

MaryKathryn Hurd  
Associate

**McDermott Will & Emery LLP** The McDermott Building, 500 North Capitol Street, NW, Washington, DC 20001-1531  
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