

host sites were Mountainview Medical in King, Winston-Salem Health Care in Winston-Salem, Northern Hospital of Surry County in Mount Airy, Central Triad Imaging in Kernersville and Thomasville Medical Center in Thomasville. (Northern Hospital of Surry County and Thomasville Medical Center were identified as “backup sites” in the CON application.) Through a declaratory ruling obtained in 2006, Petitioners were allowed to locate the mobile MRI at Medical Associates of Davie in Davie County on Sundays. In 2009, Petitioners were approved to offer mobile service at Mecklenburg Diagnostic Imaging, LLC, in Mooresville.

Thomasville now has a fixed MRI and Northern Hospital of Surry County has been approved for a second fixed scanner, so these sites no longer need the Scanner’s services. Services at Mountainview have ended due to a drop in referrals for MRI scans. One of Novant’s subsidiaries was approved for a fixed MRI scanner in Kernersville, so the Scanner is no longer needed there. Services at Medical Associates of Davie ended in early 2010 due to lack of volume. In March 2010, Winston-Salem Health Care was approved for fixed MRI service, so that site no longer requires the Scanner. Accordingly, there will be a gap in the service schedule for the Scanner.

To fill the gap, Petitioners have identified Forsyth Medical Center Imaging - Maplewood, 3155 Maplewood Avenue, Winston-Salem, NC 27103 as a host site. Maplewood is located .86 miles and 3 minutes from Winston-Salem Health Care. Petitioners will not incur additional capital costs to serve Maplewood because Maplewood already has a pad and electrical hook up for the Scanner. There will be no change in the scope of services originally proposed. Petitioners represent that the service agreement for the Maplewood site will be substantially similar to the agreement with the Mooresville site. Petitioners further represent that they will satisfy all the requirements and representations regarding the host sites in their original CON

application. There will be no increases in costs or charges for the provision of services as a result of the route change.

ANALYSIS

The CON law would require a full review of Petitioners' proposed site addition if it were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed change does not constitute a material change in the physical location or the scope of the Project. The addition of the Maplewood site is in material compliance with the original certificate of need, which permitted Petitioners to serve sites in Forsyth County, among other locations. The proposed route change will allow Petitioners to maximize the usage of their existing equipment. Furthermore, the certificate of need that was issued for the Scanner requires Petitioners to serve at least two host sites per week, so allowing Petitioners to serve Maplewood will help enable them to fulfill the conditions on the certificate. There will be no increase in costs or charges for the provision of services, and there will not be any change in the scope of services as a result of the site addition.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Petitioners' certificate of need if they fail to develop the Project in a manner consistent with the representations made in their application or with any conditions that were placed on their certificate. They will not be developing the Project in a manner that is materially different from the representations made in their application, nor will they be developing the Project in a manner that is inconsistent with any of the conditions that were placed on their certificate.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the addition of 3155 Maplewood Avenue, Winston-Salem, NC 27103 as a host site

for Project I.D. No. G-7065-04, will not constitute a material change in the physical location or scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON in violation of N.C.G.S. § 131E-189(b).

This the _____ day of _____, 2010.

Drexdal Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Denise M. Gunter
Nelson Mullins Riley & Scarborough LLP
380 Knollwood Street, Suite 530
Winston-Salem, NC 27103

This the _____ day of November, 2010.

Jeff Horton
Chief Operating Officer