

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION
RALEIGH, NORTH CAROLINA**

**IN RE: REQUEST FOR DECLARATORY)
RULING BY CAROLINAS IMAGING)
SERVICES, LLC) DECLARATORY RULING
Project I.D. No. F-6868-03)**

I, Drexdal Pratt, Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Carolinas Imaging Services, LLC (hereinafter “CIS”) has requested a declaratory ruling allowing for a change in host sites for Project I.D. No. F-6868-03 on the grounds that the change does not constitute a material change in scope or physical location or a failure to materially comply with the representations made by CIS in its Certificate of Need (“CON”) application for its project. N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entity requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Robert V. Bode of Bode, Call & Stroupe, L.L.P. has requested this ruling on behalf of CIS and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

CIS owns and operates a mobile MRI scanner for which it was issued a Certificate of Need on or about October 5, 2004 to serve sites in Anson, Lincoln, Burke, and Polk Counties.

The mobile scanner was approved to serve Anson Community Hospital in Anson County, Lincoln Medical Center in Lincoln County (subsequently renamed Carolinas Medical Center-Lincoln), Valdese General Hospital in Burke County, and St. Luke's Hospital in Polk County.

CIS has used its mobile unit to provide services at various times to Carolinas Medical Center-Lincoln, Anson Community Hospital and St. Luke's Hospital.

Valdese General Hospital was approved for a fixed MRI scanner shortly after CIS's mobile MRI scanner began operation, and consequently did not need and has never received any mobile service from CIS.

Mobile services were rendered at Carolinas Medical Center-Lincoln from May 2005 until March 2008 and from August 2009 until July 2010.

Mobile services have been provided to Anson Community Hospital since August 2005 and to St. Luke's Hospital since June 2009.

The scanner currently serves Anson Community Hospital and St. Luke's Hospital but has times during which no services are provided at any site on Monday, Thursday and Friday.

CIS seeks to add an additional host site to this mobile scanner's route at Carolinas Medical Center-Northeast in Cabarrus County for mobile service one day per week.

ANALYSIS

The CON law would require a full review of CIS's request for a change in host sites if that change were to represent a material change in the physical location or scope of the project.

N.C.G.S. § 131E-181(a). The proposed site change does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

CIS does not propose to change mobile MRI service that is currently being provided to the current host sites, Anson Community Hospital and St. Luke's Hospital.

The addition of this site will not reduce the availability of days at any of the other sites and will improve the utilization of the unit.

The proposed additional site offers greater access to care for the service area as well as promotes greater cost effectiveness for CIS's mobile program due to the increased use of the scanner.

The addition this new host site will not create any capital expenditures for CIS because an existing mobile MRI unit is being used and Carolinas Medical Center-Northeast already has a pad and electrical connections to accommodate the mobile unit.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw CIS's CON if CIS fails to develop the service in a manner consistent with the representations made in the application or with any conditions that were placed on the CON. CIS will not be developing its project in a manner that is materially different from the representations made in its application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were placed on its CON.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the addition of Carolinas Medical Center-Northeast in Concord, North Carolina as a host site for CIS' mobile MRI scanner, Project I.D. No. F-6868-03, 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 January, 2011.

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

Robert V. Bode
Bode, Call & Stroupe, L.L.P.
3105 Glenwood Avenue, Suite 300
Raleigh, North Carolina 27612

This the _____ day of January, 2011.

Jeff Horton
Chief Operating Officer