

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY ALLIANCE HEALTHCARE) DECLARATORY RULING
SERVICES, INC.)
Project I.D. No. G-7038-04)**

I, Drexdal Pratt, as 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 to me by the Secretary of the Department of Health and Human Services.

Alliance Healthcare Services, Inc. (hereinafter “Alliance”) has requested a declaratory ruling allowing for a site addition for Project I.D. No. G-7038-04 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 Alliance 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. Joy Heath of the Law Office of Joy Heath has requested this ruling on behalf of Alliance and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

Pursuant to CON approval granted to Alliance Imaging, Inc. the Project ID G-7038-04, and subsequent authorizations, Alliance presently provides a Mobile MRI scanner (a GE 1.5T Horizon ES LX CX K4, internally designated by Alliance as SIG 224) (Serial# 1LH152UHJ011011284) to the following sites in Western North Carolina:

- Southeastern Sports Medicine, 7 Turtle Creek Drive in Asheville;
- Laurel Park Medical Centre, 1881 Pisgah Drive in Hendersonville;
- Charles A. Cannon Memorial Hospital, 434 Hospital Drive in Linville; and
- West Care Medical Park of Franklin, 55 Holly Springs Park Drive in Franklin.

In its request, Alliance proposes to add Alleghany Memorial Hospital, 233 Doctor's Street, Sparta, North Carolina 28675 as a host site for the above-described mobile MRI scanner.

ANALYSIS

The CON law would require a full review of Alliance's proposed additional host site if that change were to represent a material change in the physical location or scope of the project. *See* N.C. Gen. Stat. §131E-181(a). The proposed addition of a host site does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

The use of this host site will not affect the scope of services offered, or the costs and charges to Alliance or to the public for the provision of mobile MRI services at Alliance's Western North Carolina host sites.

The provision of mobile MRI services at Alleghany Memorial Hospital will not require any new equipment. Alliance represents that it will furnish the services at Alleghany Memorial Hospital in a manner materially the same as at its present host sites and will continue to serve at

least two host sites per week in compliance with the conditions on its CON and all applicable regulations.

North Carolina General Statutes Section 131E-189(b) allows the Department to withdraw Alliance's CON if Alliance 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. Alliance will not be developing its project in a manner that is materially different from the representation made in its Application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were place on its CON.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude Alliance may include Alleghany Memorial Hospital, 233 Doctor's Street, Sparta, NC 28675 as an additional host site for its mobile MRI Scanner, Project ID No. G-7038-04, as this additional host site will not constitute a change in the scope or physical location of the Project; will not violate N.C. Gen. Stat. §131E-181; and will not constitute a failure to satisfy a condition of the CON in violation of N.C. Gen. Stat. §131E-189(b).

This the _____ day of August, 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

Joy Heath, Esq.
Law Office of Joy Heath
514 Daniels Street, Suite 182
Raleigh, NC 27605

This the _____ day of August, 2011.

Jeff Horton
Chief Operating Officer