



CAPE FEAR VALLEY HEALTH

BEHAVIORAL HEALTH CARE
BLADEN COUNTY HOSPITAL
CAPE FEAR VALLEY
MEDICAL CENTER
CAPE FEAR VALLEY
REHABILITATION CENTER
HEALTH PAVILION NORTH
HIGHSMITH-RAINEY
SPECIALTY HOSPITAL
BLOOD DONOR CENTER
CANCER CENTER
CARELINK
CAPE FEAR VALLEY
HOMECARE & HOSPICE, LLC
CUMBERLAND COUNTY EMS
FAMILY BIRTH CENTER
HEART & VASCULAR CENTER
HEALTHPLEX
LIFELINK
CRITICAL CARE TRANSPORT
PRIMARY CARE PRACTICES
SLEEP CENTER

March 22, 2013

Via Electronic Mail

State Health Coordinating Council
North Carolina Division of Health Service Regulation
Medical Facilities Planning Branch
2714 Mail Service Center
Raleigh, NC 27699-2714

Re: MedCapital Advisors, LLC: Petition for Change in Basic Policies and Methodologies

Dear Chairman Parks and Members of the Council:

On behalf of Cape Fear Valley Health System (Cape Fear Valley), I am writing to express comments in opposition to the Petition submitted by MedCapital Advisors, LLC on March 6, 2013 concerning "a change in basic policies and methodologies," specifically changes to policies and methodologies involving ambulatory surgery services.

MedCapital Advisors' Request Changes that Require Legislative Action

On page 1 of its Petition, MedCapital Advisors states that:

CON and licensure exceptions be applied equally to all ambulatory surgical facilities, regardless of medical/surgical specialty.

Specifically, MedCapital Advisors requests that:

[...] orthopedic surgery, ophthalmology, urology, OB/GYN, general surgery, and other medical/surgical specialties be allowed to develop and operate single specialty ambulatory surgical facilities, not subject to the requirements of CON and state licensure, equally as plastic surgery, oral maxillofacial surgery, and otolaryngology (ENT) do presently.

MedCapital Advisors volunteers that "[l]egal challenge or legislation may have to be initiated to gain equal protection as was provided to the medical/surgical specialty of gastroenterology under H.B. 1600." Cape Fear Valley concurs that the most appropriate avenue is a legal challenge or the Legislature and not the State Health Coordinating Council (SHCC).



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At the present time, there are three bills pending in the North Carolina General Assembly to amend N.C.G.S. 131E, Article 9 (the Certificate of Need statute). Those bills include:

- Senate Bill 202: Enact CON Reform¹ filed on March 5, 2013 by Senator Randelman.
- House Bill 177: Amend Certificate of Need Laws² filed on February 27, 2013 by Representatives Avila, Collins, and Burr.
- House Bill 83: Enact CON Committee Recommendations³ filed on February 7, 2013 by Representatives Torbett, Glazier, and Collins.

The change requested by MedCapital Advisors' Petition is included in Senate Bill 202 and House Bill 177, respectively.

The appropriate forum for MedCapital Advisors' advocacy is the North Carolina General Assembly. The North Carolina General Assembly will hear from all interested parties, review complete and accurate data, information, and research, and make a decision after being fully informed of the intended and unintended consequences.

MedCapital Advisors' Request Changes that Exceed the Authority of the SHCC

The authority and role of the SHCC are defined in the Certificate of Need statute. The SHCC is defined in N.C.G.S. 131E-176(17) as:

the Council that prepares, with the Department of Health and Human Services, the State Medical Facilities Plan.

N.C.G.S. 131E-176(25) defines the *State Medical Facilities Plan (SMFP)* as

the plan prepared by the Department of Health and Human Services and the North Carolina State Health Coordinating Council, and approved by the Governor.

¹ <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S202v1.pdf> Senate Bill 202 would exempt diagnostic centers and single-specialty ambulatory surgery operating rooms from the Certificate of Need law.

² <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H177v1.pdf> House Bill 177 would exempt diagnostic centers and single-specialty ambulatory surgery operating rooms from the Certificate of Need law.

³ <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H83v2.pdf> House Bill 83 would make numerous changes to the Certificate of Need law.



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Throughout the development of the annual *SMFP*, there are opportunities for public review and comment. A public hearing was held on March 6, 2013 to receive comments and petitions for changes in basic policies and methodologies for projecting need.

Styled as a "petition for changes in basic policies and methodologies for projecting need," MedCapital Advisors does not seek such changes. Even MedCapital Advisors concedes that "[l]egal challenge or legislation may have to be initiated to gain equal protection as was provided to the medical/surgical specialty of gastroenterology under H.B. 1600."

MedCapital Advisors' Petition is simplistic and provocative in its approach. It presents a position of an interested party, without complete and accurate data, information, and research, and does not inform its readers of the intended and unintended consequences of the changes requested. The potential impact of changes proposed in the Petition are far reaching and the Petition does not provide a detailed analysis of the negative impact this change will have on existing non-profit health care providers.

The most appropriate action for the SHCC is to deny the MedCapital Advisors' Petition, and allow the North Carolina General Assembly and its committees to study carefully, deliberate fully, and to take action consistent with its legislative authority.

In conclusion, Cape Fear Valley respectfully requests that the SHCC deny the Petition of MedCapital Advisors and take no further action.

Please do not hesitate to contact me if you have any questions or would like additional information. Many thanks in advance for your consideration.

Sincerely,

Sandra T. Godwin
Executive Director for Corporate and Strategic Planning
Cape Fear Valley Health System