



**North Carolina Department of Health and Human Services  
Division of Health Service Regulation  
Certificate of Need Section**

2704 Mail Service Center • Raleigh, North Carolina 27699-2704  
<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor  
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief  
Phone: (919) 855-3873  
Fax: (919) 733-8139

September 27, 2012

Mr. Russell Herring  
1003 Old Waterford Way, Suite 2C  
Leland, NC 28451

**Disapproval**

Project I.D. #: J-8817-12  
Facility: AssistedCare of the Carolinas  
Project Description: Develop a Medicaid-certified home health agency in Wake County  
County: Wake  
FID #: 120223

Dear Mr. Herring:

The Certificate of Need Section, Division of Health Service Regulation, Department of Health and Human Services has disapproved the above referenced certificate of need application. This decision was made after review of all the applications submitted for this cycle and after consideration of G.S. 131E-175 et. seq. and regulations promulgated thereunder, the State Medical Facilities Plan, and other applicable information. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with G.S. 131E-186.

A legal proponent or any person aggrieved by this decision may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

If you file a petition for a contested case hearing, you must serve a copy of the petition on the



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Department of Health and Human Services by mailing a copy of your petition to:

Emery Milliken  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Certificate of Need Section.

Please be advised that in accordance with G.S. 131E-188, as a condition precedent to proceeding with a contested case hearing on the approval of an applicant for a certificate of need, the petitioner shall deposit a bond with the clerk of superior court where the new institutional health service that is the subject of the petition is proposed to be located. The bond shall be secured by cash or its equivalent in an amount equal to five percent (5%) of the cost of the proposed new institutional health service that is the subject to the petition, but may not be less than five thousand dollars (\$5,000) and may not exceed fifty thousand dollars (\$50,000). Moreover, the applicant who received approval for the new institutional health service that is the subject of the petition may bring an action against a bond filed under this subsection in the superior court of the county where the bond was filed. Upon finding the petition for a contested case was frivolous or filed to delay the applicant, the court may award the applicant part or all of the bond filed.

Please refer to the Project I.D.# and Facility I.D.# (FID) in all correspondence.

Sincerely,

Gregory F. Yakaboski, Project Analyst

Martha J. Frisone, Assistant Chief  
Certificate of Need Section

GFY:MJF:mw

Attachment

cc: Medical Facilities Planning Section, DHSR  
Acute & Home Care Licensure & Certification Section, DHSR  
Construction Section, DHSR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of conditional approval on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Mr. Mike Raney  
2106 South 17<sup>th</sup> Street  
Wilmington, NC 28401  
Project I.D. # J-8819-12  
FID # 120226

I hereby certify that I have served the foregoing notice of disapproval on the following persons by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelopes addressed as follows:

Mr. Thomas A. Smith  
1417 West Pettigrew Street  
Durham, NC 27705  
Project I.D. # J-8813-12  
FID # 120220

Mr. Tim Brooks  
509 West Third Street  
Pembroke, NC 28372  
Project I.D. # J-8814-12  
FID # 120221

Mr. Russell Herring  
1003 Old Waterford Way, Suite 2C  
Leland, NC 28451  
Project I.D. # J-8817-12  
FID # 120223

Mr. Mike Kahm  
2601 Weston Parkway, Suite 203  
Cary, NC 27513  
Project I.D. # J-8821-12  
FID # 120227

This the 27<sup>th</sup> day of September, 2012.

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Gregory F. Yakaboski  
Project Analyst