



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Richard O. Brajer  
Secretary DHHS

Drexdal Pratt  
Division Director

**RESPONSE REQUIRED**

December 4, 2015

Hunter Diefes  
2334 S. 41st Street  
Wilmington, NC 28403

**Conditional Approval**

Project ID #: O-11070-15  
Facility: Carolina Bay of Wilmington at Autumn Hall  
Project Description: Change of scope for Project ID #O-10088-13 (develop 30 Policy NH-2 beds) by developing only 12 Policy NH-2 beds and developing 18 Policy LTC-1 beds  
County: New Hanover  
FID #: 130064

Dear Mr. Diefes:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, G.S. 131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, and Carolina Bay Healthcare Center of Wilmington, LLC shall materially comply with all representations made in the certificate of need application and supplemental information received November 10, 2015. In those instances where representations conflict, Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, and Carolina Bay



**Healthcare Planning and Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone 919-855-3873 • Fax 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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Healthcare Center of Wilmington, LLC shall materially comply with the last made representation.

2. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, and Carolina Bay Healthcare Center of Wilmington, LLC shall not construct or operate more than 12 Policy NH-2 nursing facility beds and 18 Policy LTC-1 adult care home beds as part of this project.
3. The 12 Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.
4. The 12 Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.
5. The 18 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.
6. The 18 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.
7. The 12 new Policy NH-2 nursing facility beds and 18 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.
8. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, and Carolina Bay Healthcare Center of Wilmington, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.

**Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.**

The conditional approval is valid only for a capital expenditure of \$0. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by G.S. 131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you 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 date of this 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).]

G.S. 150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the 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 Agency.

The certificate of need will not be issued before the completion of this 30 day period ending January 4, 2016. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

Completion of Construction \_\_\_\_\_ February 1, 2016  
Licensure of Facility \_\_\_\_\_ April 1, 2016

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

Hunter Diefes  
December 4, 2015  
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Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Julie Halatek  
Project Analyst

Martha J. Frisone  
Assistant Chief, Certificate of Need

Attachment

cc: Nursing Home Licensure & Certification Section, DHSR  
Kelli Fisk, Program Assistant, Healthcare Planning

**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:

Hunter Diefes  
2334 S. 41st Street  
Wilmington, NC 28403

Project ID #: O-11070-15  
FID #: 130064

This the 4<sup>th</sup> day of December, 2015.

\_\_\_\_\_  
Julie Halatek  
Project Analyst, Certificate of Need