



NC DEPARTMENT OF  
HEALTH AND  
HUMAN SERVICES

ROY COOPER • Governor  
MANDY COHEN, MD, MPH • Secretary  
MARK PAYNE • Director, Division of Health Service Regulation

**RESPONSE REQUIRED**

December 20, 2019

Jim Swann  
3390 Dunn Road  
Eastover, NC 28312

**Conditional Approval**

Project ID #: J-11739-19  
Facility: Fresenius Kidney Care West Johnston  
Project Description: Relocate no more than 2 dialysis stations from Southwest Wake County Dialysis (Wake County) pursuant to Policy ESRD-2 for a total of no more than 12 stations upon completion of this project and Project I.D. #J-11435-17 (develop FKC West Johnston by relocating 10 existing stations from FMC Stallings Station)  
County: Johnston  
FID #: 170520

Approved Capital Expenditure: \$15,000  
Conditions of Approval: See Attachment A  
Approved Timetable: See Attachment B  
Last Date to Appeal: January 21, 2020  
Required State Agency Findings: Will be mailed within five business days after the date of this letter

Dear Mr. Swann:

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 review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

The conditional approval is valid only for the approved capital expenditure shown above. If the capital cost will exceed the approved capital expenditure amount by more than 115%, the applicant must first obtain a new certificate of need.

**Response to the conditions in Attachment A 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 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 approved timetable for this project is found in Attachment B.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704  
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

**Note: The applicant shall not begin developing this project until after the certificate of need has been issued and the certificate of need will not be issued until the applicant has documented that all conditions that must be met prior to issuance of the certificate of need have been met. Furthermore, if the project requires that plans be submitted to the Construction Section, those plans will not be reviewed or approved until after the certificate of need has been issued.**

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. 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. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the OAH Clerk's Office (919-431-3000).

N.C. Gen. Stat. §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:

Lisa G. Corbett  
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 thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

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.

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

Sincerely,



Julie M. Faenza  
Project Analyst



Lisa Pittman  
Assistant Chief

Enclosures:

Attachment A: Conditions of Approval  
Attachment B: Approved Timetable

cc: Acute & Home Care Licensure & Certification Section, DHR

**Attachment A**  
**Conditions of Approval**

1. Bio-Medical Applications of North Carolina, Inc. shall materially comply with all representations made in the certificate of need application.
2. Pursuant to Policy ESRD-2, Bio-Medical Applications of North Carolina, Inc. shall relocate no more than 2 dialysis stations from Southwest Wake Dialysis (Wake County) to Fresenius Kidney Care West Johnston.
3. Bio-Medical Applications of North Carolina, Inc. shall install plumbing and electrical wiring through the walls for no more than 12 dialysis stations upon completion of this project and Project I.D. #J-11435-17, which shall include any isolation stations.
4. Upon completion of this project, Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify 2 dialysis stations at Southwest Wake County Dialysis for a total of no more than 32 dialysis stations at Southwest Wake County Dialysis.
5. Bio-Medical Applications of North Carolina, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.

**Attachment B**  
**Approved Timetable**

1. Drawings Completed \_\_\_\_\_ April 17, 2020
2. Construction/Renovation Contract(s) Executed \_\_\_\_\_ July 1, 2020
3. 25% of Construction/Renovation Completed \_\_\_\_\_ July 31, 2020
4. 50% of Construction/Renovation Completed \_\_\_\_\_ August 30, 2020
5. 75% of Construction/Renovation Completed \_\_\_\_\_ September 29, 2020
6. Construction/Renovation Completed \_\_\_\_\_ October 29, 2020
7. Equipment Ordered \_\_\_\_\_ September 29, 2020
8. Equipment Installed \_\_\_\_\_ December 13, 2020
9. Equipment Operational \_\_\_\_\_ December 27, 2020
10. Building/Space Occupied \_\_\_\_\_ December 27, 2020
11. Services Offered \_\_\_\_\_ December 31, 2020
12. Medicare and/or Medicaid Certification Obtained \_\_\_\_\_ December 31, 2020