



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

September 30, 2020

Robert Bashore
1025 Northeast Gateway Court NE
Concord, NC 28025

Conditional Approval

Project ID #: F-11906-20
Facility: Gateway Surgery Center
Project Description: Acquire and relocate no more than 2 ORs from Atrium Health Cabarrus to its existing ASF in Concord for a total of no more than 6 ORs
County: Cabarrus
FID #: 060202
Approved Capital Expenditure: \$3,818,295
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: October 30, 2020
Required State Agency Findings: Enclosed

Dear Mr. Bashore:

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 attached to emails addressed to the Project Analyst and the Co-signer no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency determining 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.

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.

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

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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).

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:

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

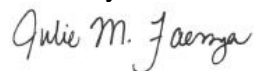
It is requested that a copy of the petition also be served on the Agency.

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
Julie.Faenza@dhhs.nc.gov



Lisa Pittman
Team Leader
Lisa.Pitman@dhhs.nc.gov

Enclosures:

Attachment A: Conditions of Approval
Attachment B: Approved Timetable
Required State Agency Findings

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

Attachment A
Conditions of Approval

- 1. Gateway Ambulatory Surgery Center, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Gateway Ambulatory Surgery Center, LLC shall relocate no more than two operating rooms from Atrium Health Cabarrus to Gateway Surgery Center.**
- 3. Upon completion of the project, Gateway Surgery Center shall be licensed for no more than six operating rooms and two gastrointestinal endoscopy procedure rooms; upon completion of the project, Atrium Health Cabarrus shall be licensed for no more than two dedicated C-Section operating rooms, two dedicated inpatient operating rooms, and 15 shared operating rooms.**
- 4. Gateway Ambulatory Surgery Center, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Sections F and Q of the application and that would otherwise require a certificate of need.**
- 5. For the first three years of operation following completion of the project, Gateway Ambulatory Surgery Center, LLC shall not increase charges more than 5% of the charges projected in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 6. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, Gateway Ambulatory Surgery Center, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**
- 7. Gateway Ambulatory Surgery Center, LLC 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**

Milestone		Date
1	Construction / Renovation Contract(s) Executed	02/04/2021
2	25% of Construction / Renovation Completed (25% of the cost is in place)	03/04/2021
3	50% of Construction / Renovation Completed	04/24/2021
4	75% of Construction / Renovation Completed	05/16/2021
5	Construction / Renovation Completed	06/6/2021
6	Equipment Ordered	08/29/2021
7	Equipment Installed	10/24/2021
8	Equipment Operational	11/29/2021
9	Building / Space Occupied	12/01/2021
10	Licensure Obtained	12/31/2021
11	Services Offered (required)	01/02/2022
12	Medicare and / or Medicaid Certification Obtained	01/02/2022
13	First Annual Report Due*	03/31/2023