



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

December 19, 2012

Erin Jochum Roberts
Smith Moore Leatherwood, LLP
PO Box 27525
Raleigh, NC 27611

Exempt from Review – Acquisition of Facility

Facility: High Country Health Care System
Acquisition by: Medical Services of America
County: Ashe
FID #: 923605/944314


Dear Ms. Roberts:

In response to your letter of December 10, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Medical Services of America may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,


Les Brown
Project Analyst


Craig R. Smith, Chief
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR





SMITH MOORE LEATHERWOOD

LES

December 10, 2012



VIA HAND DELIVERY

Mr. Craig Smith
Chief, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health and Human Services
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: Notice of Exemption: Acquisition of Existing Certified Home Health Hospice Agency operated by High Country Health Care System.

Dear Mr. Smith:

This letter constitutes prior written notice that Medical Services of America, a Virginia corporation ("MSA"), will be purchasing substantially all of the tangible and intangible assets of High Country Health Care System, a North Carolina nonprofit corporation ("HCHCS") used in connection with its Medicare-certified home health and hospice agency (the "Agency"), which transaction is exempt from certificate of need ("CON") review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

Licensure Information

The Agency is currently licensed by the Licensure and Certification Section to operate three (3) home health offices and three (3) hospice offices as follows: (1) home health services in Alleghany County under license number HC0478; (2) home health services in Ashe County under license number HC0479; (3) home health services in Watauga County under license number HC0477; (4) hospice services in Alleghany County under license number HOS1123; (5) hospice services in Ashe County under license number HOS1124; and (6) hospice services in Watauga County under license number HOS1122. See Exhibit A.

The Proposal

Effective on or about February 1, 2013, MSA will be acquiring substantially all of the assets of HCHCS with respect to the Agency. The real property associated with the Agency will be leased to MSA effective as of the closing of the transaction pursuant to separate lease agreements. MSA will also be submitting a change of ownership application to the North Carolina Department of Health and Human Services, Division of Health Service Regulation ("DHSR") to effectuate the transfer of the Agency's licenses.

Direct 919.755.8793 | Fax 919.838.3123 | erin.roberts@smithmoorelaw.com

Smith Moore Leatherwood LLP ■ Attorneys at Law

PO Box 27525 (27611) 2800 Two Hannover Square Raleigh, NC 27601 ■ 919.755.8700 ■ www.smithmoorelaw.com

Atlanta, GA ■ Charlotte, NC ■ Greensboro, NC ■ Greenville, SC ■ Raleigh, NC ■ Wilmington, NC

December 10, 2012

Page 2

Analysis

Under North Carolina law, a CON must be obtained before offering or developing a new institutional health service. N.C. Gen. Stat. § 131E-178(a). A “new institutional health service” is expressly defined in N.C. Gen. Stat. § 131E-176(16)l to include:

the purchase, lease, or acquisition of any health service facility, or portion thereof, or controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need pursuant to G.S. 131E-180.

“Health service facility” includes home health agency offices and hospice offices. N.C. Gen. Stat. § 131E-176(9b).

The CON Act enumerates certain situations, however, in which an applicant is exempt from CON review. MSA’s acquisition of the Agency fits squarely within N.C. Gen. Stat. § 131E-184(a)(8)’s exemption for the acquisition of “an existing health service facility, including equipment owned by the health service facility at the time of acquisition.” Pursuant to the terms of the agreement between HCHCS and MSA, MSA will purchase HCHCS’s assets used exclusively in the operation of the Agency, and will thereby assume ownership and operation of the Agency. Thus, given that the transaction involves the sale of an existing health service facility, it is exempt from CON review.

Conclusion

Based on the foregoing information, we hereby request the CON Section’s confirmation that the transaction described herein is exempt from CON review, under N.C. Gen. Stat. §131E-184(a)(8).

If you require additional information, please contact us at the above number. Thank you in advance for your review of this notice.

With kindest personal regards, I am

Very truly yours,

SMITH MOORE LEATHERWOOD LLP



Erin Jochum Roberts

EXHIBIT A

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 01, 2012, this license is issued to

High Country Health Care System

*to operate an agency known as
High Country Health Care System*

*located at 115 Atwood Street, Suite B
City of Sparta, North Carolina.*

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
midnight December 31, 2012.*

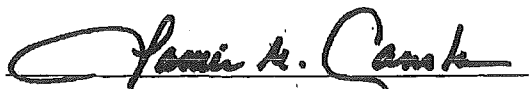
Facility ID: 923604

License Number: HC0478

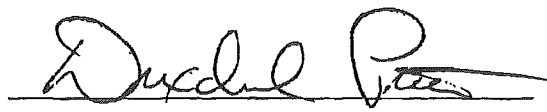
*Home Care Services: Nursing Care, Infusion Nursing, In-home Aide, Physical Therapy, Occupational Therapy,
Speech Therapy,*

This agency is authorized to provide Medicare-certified home health services.

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 01, 2012, this license is issued to

High Country Health Care System

*to operate an agency known as
High Country Health Care System*

*located at 1877 NC Hwy 163
City of West Jefferson, North Carolina.*

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
midnight December 31, 2012.*

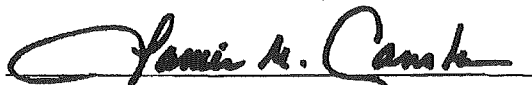
Facility ID: 923605

License Number: HC0479

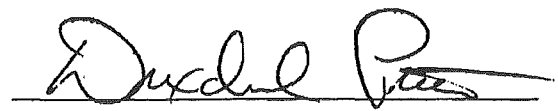
*Home Care Services: Nursing Care , Infusion Nursing , In-home Aide , Physical Therapy, Occupational Therapy,
Speech Therapy,*

This agency is authorized to provide Medicare-certified home health services.

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to
High Country Health Care System*

*to operate an agency known as
High Country Health Care System*

*located at 400 Shadowline Drive; Building 200, Suite 205
City of Boone, North Carolina.*

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
midnight December 31, 2012.*

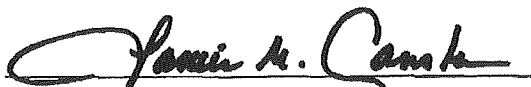
Facility ID: 943603

License Number: HC0477

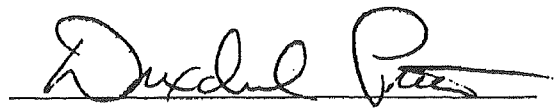
*Home Care Services: Nursing Care , Infusion Nursing , In-home Aide , Physical Therapy, Occupational Therapy,
Companion, Sitter, Respite*

This agency is authorized to provide Medicare-certified home health services.

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to
High Country Health Care System*

*to operate a hospice known as
High Country Health Care System*

*located at 81- A West Doughton Street
City of Sparta, North Carolina, Alleghany County.*

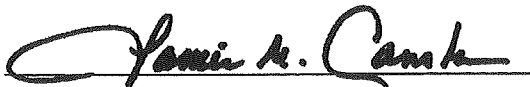
*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
Midnight, December 31, 2012.*

Facility ID: 944316

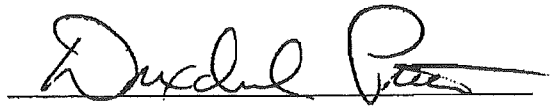
License Number: HOS1123

Hospice Services

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 01, 2012, this license is issued to

High Country Health Care System

to operate a hospice known as

High Country Health Care System

located at 392 Highway 88 East

City of Jefferson, North Carolina, Ashe County.

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
Midnight, December 31, 2012.*

Facility ID: 944314

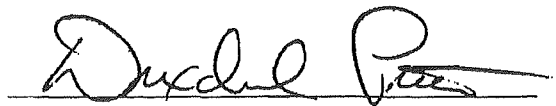
License Number: HOS1124

Hospice Services

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 01, 2012, this license is issued to

High Country Health Care System

to operate a hospice known as

High Country Health Care System

located at 136 Furman Road, Suite 4

City of Boone, North Carolina, Watauga County.

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire*

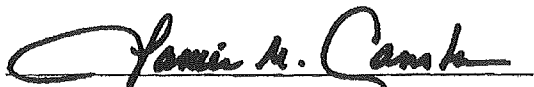
Midnight, December 31, 2012.

Facility ID: 944315

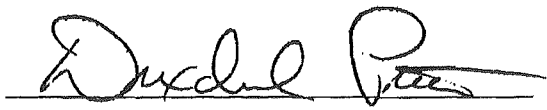
License Number: HOS1122

Hospice Services

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

Brown, Les

From: Erin Roberts [Erin.Roberts@smithmoorelaw.com]
Sent: Tuesday, December 18, 2012 11:07 AM
To: Brown, Les
Subject: RE: Exemption - Acquisition of High Country Health Care System

Les,

High Country Health Care System, Inc. is a separate North Carolina nonprofit corporation that provides home health and hospice services, and the Appalachian District Health Department and Ashe Memorial Hospital, Inc. are its member entities. After the closing of the proposed transaction, the Board of Directors of High Country Health Care System will take action to dissolve this entity, and its member entities will remain in existence. If you have additional questions, please do not hesitate to contact me. Thank you for your assistance with this important matter. Best regards, Erin

Erin Jochum Roberts
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Suite 2800
Raleigh, NC 27601
919.755.8793 (voice)
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www.smithmoorelaw.com



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From: Brown, Les [mailto:les.brown@dhhs.nc.gov]
Sent: Tuesday, December 18, 2012 10:33 AM
To: Erin Roberts
Subject: Exemption - Acquisition of High Country Health Care System

Erin,
Could you please confirm that High Country Health Care System includes only a certified home health agency and hospice, and that it is a separate entity from Appalachian District Health Department and Ashe Memorial Hospital?
I appreciate your assistance in this matter.
Best regards,
Les

Les Brown
CON Project Analyst
Division of Health Service Regulation
919-855-3873

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12/18/2012



Elaine F. Marshall
Secretary

North Carolina

DEPARTMENT OF THE
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

Date: 12/14/2012

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PC, PLLC, LP and Non-Profit entities are not required to file annual reports.

Corporation Names

Name	Name Type
NC HIGH COUNTRY HEALTH CARE SYSTEM	LEGAL

Non-Profit Corporation Information

SOSID:	0407493
Status:	Current-Active
Effective Date:	10/3/1996
Annual Report Due Date:	
Citizenship:	DOMESTIC
State of Inc.:	NC
Duration:	PERPETUAL

Registered Agent

Agent Name:	TUTTLE, CARL D
Office Address:	141 HEALTH CENTER DRIVE BOONE NC 28607
Mailing Address:	141 HEALTH CENTER DRIVE BOONE NC 28607

Principal Office

Office Address:	NO ADDRESS
Mailing Address:	141 HEALTH CENTER DRIVE WATAUGA COUNTY BOONE NC 28607

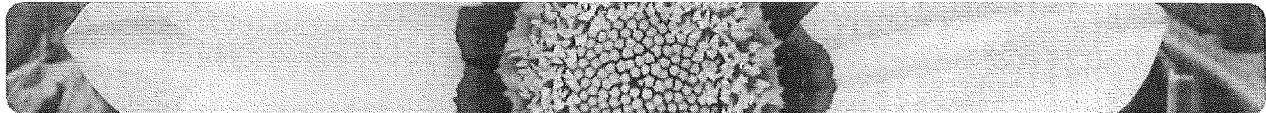
Officers

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Look up on
NC
Sec of State

400 Shadowline Drive, Suite 100-B
Boone, NC 28607
(828) 265-3926



HOME HEALTH

HOSPICE

TRANSITIONS

High Country Health Care System is a non-profit, private, community based, home health and hospice care organization that has been in the business of providing healthcare services to Alleghany, Ashe and Watauga counties for over 30 years.

The mission of High Country Health Care System is to provide comprehensive, quality health care in the least restrictive, most cost effective and most desirable setting - the home. We honor the traditions and values of those we serve, always striving to assist our patients and their families in celebrating life to its fullest!

400 Shadowline Drive Suite 100-B, Boone, NC 28607 • 1-800-834-9090 (toll free) • 828-264-9155 828-264-9154 (fax)

12/13

~~Craig~~

HCHCS only provides home health + hospice care. It looks like MSA is acquiring all of it.

What language should we use?

Thanks,

Les