



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

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

September 19, 2014

Franklin Scott Templeton
Nelson Mullins Riley & Scarborough LLP
380 Knollwood Street / Suite 530
Winston-Salem, North Carolina 27103

Exempt from Review – Acquisition of Facility

Facility: Craven County Health Department Home Health Agency
Type of Facility: Home Health Agency
Acquisition by: Pruitt Home Health, Inc.
County: Craven
FID #: 943850

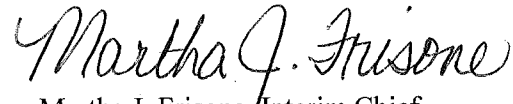
Dear Mr. Templeton:

In response to your letter of September 18, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, Pruitt Home Health, Inc. may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation (DHSR) to obtain instructions for changing ownership of the existing facility. Note that pursuant to 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,


Jane Rhoe-Jones
Project Analyst


Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR
Medical Facilities Planning Branch, DHSR

Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

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

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

An Equal Opportunity/ Affirmative Action Employer



Nelson Mullins

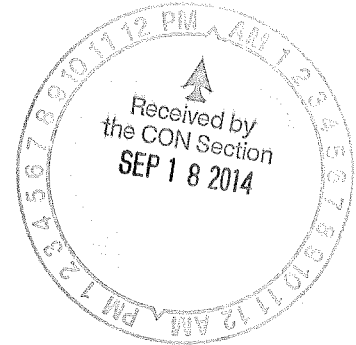
Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
380 Knollwood Street / Suite 530 / Winston-Salem, NC 27103
Tel: 336.774.3300 Fax: 336.774.3378
www.nelsonmullins.com

Franklin Scott Templeton
Tel: 336.774.3329
Fax: 336.774.3378
Scott.Templeton@nelsonmullins.com

September 18, 2014

By Overnight Delivery and Email
(Delivery Site Phone 919.855.3873)
(Martha.Frisone@dhhs.nc.gov)

Ms. Martha Frisone, Interim Section Chief
Certificate of Need Section / DHSR / DHHS
809 Ruggles Drive
Raleigh, NC 27603



RE: *Request for Expedited "No Review" Determination, and
Notice of Exempt Acquisition of an Existing Health Service Facility
PruittHealth Home Health, Inc. - Craven County Health Dept. Home Health Agency
License No. HC0493 - Facility ID 943850*

Dear Ms. Frisone:

I am writing on behalf of our client PruittHealth Home Health, Inc., to provide the agency with advance notice of its planned acquisition of the above-referenced North Carolina health service facility, *and to ask if you would please expedite confirmation that the proposed acquisition is not subject to Certificate of Need ("CON") review.*

As part of its growth in North Carolina, PruittHealth has been in discussions with Craven County government regarding the acquisition of the home health agency that has long been operated by the county health department. The parties have proceeded through the public notice and hearing process set forth in N.C. Gen. Stat. § 131E-13, and a proposed asset transaction was approved by the Craven County Board of Commissioners on September 15. There has been no public opposition to the transfer, and our understanding is that the only comments received at the related public hearings have been in favor of the home health agency being sold by the county.

As you may have already noted, this request is related to recent communications between Craven County attorney Jim Hicks and your office regarding this facility. As you may recall, Craven County has been operating its home health and hospice facilities under a combined license. The planned transaction, however, involves only the acquisition of the county's home health agency, and the county will continue to operate its hospice service. Yesterday afternoon the county received the enclosed determination from your office,

Ms. Martha Frisone, Interim Section Chief
September 18, 2014
Page 2

confirming that the county could obtain a separate license for its hospice service without CON review.

I spoke earlier this afternoon with Ms. Nancy Joyce of the Acute and Home Care License and Certification Section ("AHCLCS"). She stated that she is in the process of issuing separate licenses as requested by Craven County for its home health and hospice services, and expects those licenses to be issued September 19. She stated that the home health license and facility ID numbers will remain unchanged on the home health license now being processed; in other words, the license number and the facility ID of the home health facility to be acquired will not change, and are the numbers noted above.

As you may recall from Mr. Hick's August 29 letter, Craven County's home health agency started operations in 1970, and is therefore a "grandfathered" facility for which no CON is required or has ever been issued. The proposed transaction that is the subject matter of this letter involves only the home health agency. The proposed transaction does not involve any change of ownership in the hospice service, which will remain owned and operated by Craven County.

As you know, the CON Law provides that, upon receiving prior written notice, the CON Section shall exempt from CON review the acquisition of "*an existing health service facility, including equipment owned by the health service facility at the time of acquisition.*" N.C. Gen. Stat. § 131E-184(a)(8). The CON Law further provides that a home health agency office is a health service facility. Id. § 131E-176(9b).

Finally, the parties are trying to close this transaction on September 30, 2014. As noted above, we are in communication with AHCLCS regarding the licensure actions necessary to the planned transaction, and in that regard **it would be most helpful if you could expedite providing us with written confirmation that the acquisition of this existing health service facility, as described in this letter, is exempt from CON review.**

Please contact me if you have any questions, and thank you for your assistance.

Sincerely,
Nelson Mullins Riley & Scarborough LLP



Franklin Scott Templeton

Enclosure

cc: Ms. Nancy Joyce, AHCLCS
Jim Hicks, Esq.

Scott Templeton

From: Jimmie Hicks <jhicks@nclawyers.com>
Sent: Wednesday, September 17, 2014 2:52 PM
To: Scott Templeton
Subject: FW: No Review Craven County Health Department Hospice Sept182014
Attachments: No Review Craven County Health Department Hospice Sept182014.doc

Just received the attached.



Jimmie B. Hicks, Jr.
Attorney at Law

jhicks@nclawyers.com
Phone: (252) 633-3131; (800) 272-8369
Fax: (252) 633-3507
Cell: (252) 670-1208

Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
416 Pollock Street
PO Drawer 889
New Bern, North Carolina 28563

Vcard | www.nclawyers.com

From: rhoe-jones, jane e [<mailto:jane.rhoe-jones@dhhs.nc.gov>]
Sent: Wednesday, September 17, 2014 2:39 PM
To: Jimmie Hicks
Subject: No Review Craven County Health Department Hospice Sept182014

Mr. Hicks,
Please find attached the approval of the No Review for the above referenced request.

Jane Rhoe-Jones
Certificate of Need

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.



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

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

September 18, 2014

Jimmie B. Hicks, Jr.
SumrellSugg Attorneys at Law
P.O. Drawer 889
New Bern, North Carolina 28563

No Review

Facility or Business: Craven County Health Department
Project Description: Obtain Separate License for Hospice Home Care Services
County: Craven
FID #: 943850

Dear Mr. Hicks:

The Certificate of Need Section (CON Section) received your letter of August 29, 2014 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. Therefore, Craven County Health Department may proceed to obtain a separate license for its hospice home care services. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

Moreover, you need to contact the Acute and Home Care Licensure and Certification Section, of the Division of Health Service Regulation (DHSR) to determine if the Section has any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the



Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

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

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

An Equal Opportunity/ Affirmative Action Employer



Jimmie B. Hicks, Jr.
September 18, 2014
Page 2

original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D. # (FID) if the facility is licensed.

Sincerely,

Jane Rhoe-Jones, Project Analyst.

Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR
Medical Facilities Planning Branch, DHSR

rhoe-jones, jane e

From: Frisone, Martha
Sent: Thursday, September 18, 2014 4:54 PM
To: Evans, Stephanie; rhoe-jones, jane e
Subject: FW: Request for Expedited No Review Determination and Notice of Exempt Acquisition - PruittHealth - Craven County
Attachments: 2014 09 18 Request for No Review.pdf

FYI

Martha J. Frisone
N.C. Department of Health and Human Services
Interim Chief, CON Section - Division of Health Service Regulation
809 Ruggles Drive
Raleigh, NC 27603
(Office) 919-855-3873
martha.frisone@dhhs.nc.gov
www.ncdhhs.gov/dhsr

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this e-mail in error, please notify the sender immediately and delete all records of this e-mail.

From: Scott Templeton [mailto:Scott.Templeton@nelsonmullins.com]
Sent: Thursday, September 18, 2014 4:26 PM
To: Frisone, Martha
Cc: Joyce, Nancy; jhicks@nclawyers.com; Ross Sallade
Subject: Request for Expedited No Review Determination and Notice of Exempt Acquisition - PruittHealth - Craven County

Dear Ms. Frisone –
Attached please find a request for an expedited “no review” determination by your office, which is also being sent overnight via FedEx.
Please call should you have any questions, and thanks for your assistance and consideration.
Regards,
ST

Scott Templeton
Nelson Mullins Riley & Scarborough LLP
336.774.3329

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure.