



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

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Secretary DHHS

Mark Payne
Assistant Secretary for Audit and
Health Service Regulation

April 11, 2016

Gary S. Qualls
430 Davis Drive, Suite 400
Morrisville, NC 27560

Exempt from Review – Acquisition of Facility

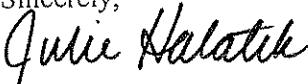
Record #: 1921
Facility Name: Hospice of the Carolina Foothills
Type of Facility: Home hospice office
FID #: 953880
Acquisition by: Hospice of Rutherford County, Inc.
Business #: 993
County: Polk

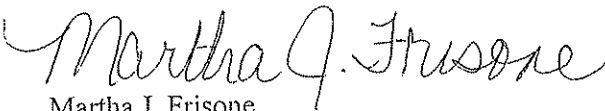
Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of April 5, 2016, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, Hospice of Rutherford County, Inc. may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section 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,


Julie Halatek
Project Analyst


Martha J. Frisone,
Assistant Chief, Certificate of Need

cc: Acute and Home Care Licensure and Certification Section, DHSR
Kelli Fisk, Program Assistant, Healthcare Planning, DHSR

Healthcare Planning and Certificate of Need Section

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April 5, 2016

VIA HAND DELIVERY

Ms. Martha Frisone, Assistant Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Exemption Notice for Hospice of Rutherford County, Inc. to acquire Hospice of the Carolina Foothills, Inc. / Polk County

Dear Martha:

Hospice of Rutherford County, Inc. ("Hospice of Rutherford County") is planning to acquire, by merger, the home hospice office (the "Columbus Office") currently owned and operated by Hospice of the Carolina Foothills, Inc. ("Hospice of the Carolina Foothills") in Columbus, Polk County, North Carolina.

The purpose of this letter is to provide prior notice of this acquisition, which is exempt from certificate of need ("CON") review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the "Agency"). Hospice of Rutherford County seeks confirmation that it is permitted to acquire the Columbus Office as described herein without CON Review, thus acquiring the rights to own that existing health service facility (as defined in the CON statute).

I. BACKGROUND

Hospice of the Carolina Foothills is the current owner of the Columbus Office, which is a Medicare certified hospice office. The Columbus Office is licensed as HOS0396. On or around May 15, 2016, Hospice of Rutherford County will acquire by merger all of the assets associated with the Columbus Office.

Ms. Martha Frisone, Assistant Chief
April 5, 2016
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II. EXEMPTION NOTICE

Under North Carolina law, a CON is required only prior to offering or developing a “new institutional health service.” “New institutional health service” includes the establishment of a new health service facility. See N.C. Gen. Stat. § 131E-176(16)(a). However, the North Carolina General Assembly saw fit to exempt certain types of proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt proposal is 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).

This project involves only the acquisition of an existing home hospice office, which falls within the purview of the statutory definition of “health service facility.” See N.C. Gen. Stat. § 131E-176(9b). Furthermore, Hospice of Rutherford County’s acquisition of the Columbus Office does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services. N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the transaction involves only the acquisition of an existing health service facility, it is exempt from CON review.

III. CONCLUSION

Based on the foregoing information, we hereby request the Agency’s confirmation that the proposal described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(a)(8), and thus Hospice of Rutherford County may acquire, through merger and without a CON, Hospice of the Carolina Foothills’ Columbus Office with all of its existing CON rights.

If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,


Gary S. Qualls