



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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

August 3, 2018

Noah H. Huffstetler III
4140 Parklake Avenue
GlenLake One, Second Floor
Raleigh, NC 27612

No Review

Record #: 2675
Business Name: Tryon Medical Partners, PLLC
Business #: 2854
Project Description: Establish a physician office in existing space
County: Mecklenburg

Dear Mr. Huffstetler:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letters of July 18, 2018 and July 30, 2018 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. 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.

However, you need to contact the Agency's Construction and Acute and Home Care Licensure and Certification Sections to determine if they have any requirements for development of the proposed project.

This determination is valid only as to the leasing and upfitting of space unrelated to any other new institutional health services. As your letters stated, the future plan to include medical equipment costing \$10,000 or more in the total sum of approximately \$955,859 is subject to certificate of need review. The application for this proposed diagnostic center, Project I.D. #F-11525-18, was received by the Agency on June 15, 2018.

It should be noted that this determination is binding only for the facts represented in your correspondence. 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 this office. Changes in a project include, but are not limited

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: 2701 Mail Service Center, Raleigh, NC 27699-2701
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3750 • FAX: 919-733-2757

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

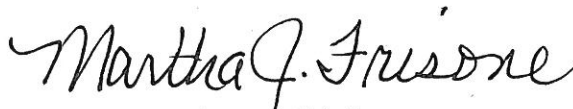
to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,



Julie M. Faenza
Project Analyst



Martha J. Frisone, Chief
Healthcare Planning and Certificate of Need Section

cc: Construction Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

Faenza, Julie M

From: Joy Beke <joy.beke@nelsonmullins.com> on behalf of Noah Huffstetler <noah.huffstetler@nelsonmullins.com>
Sent: Monday, July 30, 2018 2:33 PM
To: Martha.Frisone@ncmail.net
Cc: Faenza, Julie M
Subject: [External] Tryon Medical partners, PLLC
Attachments: 20180730142459008.pdf

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July 30, 2018

Via Electronic & Certified Mail – Return Receipt Requested

Martha Frisone, Assistant Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
N.C. Dept. of Health and Human Services
2704 Mail Service Center
Raleigh, NC 27699-2704

Dear Ms. Frisone:

I am writing on behalf of our client, Tryon Medical Partners, PLLC (“Tryon”), to supplement my correspondence of July 18, 2018, regarding certain of Tryon’s planned physician office buildings (“POBs”).

Waverly POB

Tryon has received updated information with respect to its expected construction costs, net of tenant improvement costs (“TIA”) for the multi-use facility at 11030 Golf Links Drive, Charlotte, North Carolina 28277. The updated expected costs are \$1.05 million, net of TIA.

Steele Creek POB

Tryon wishes to update the CON Section with respect to the physical address of its planned facility at Steele Creek. Tryon intends to lease 5,640 square feet of office space for an internal medicine practice located at 13557 Steelecreek Parkway, Charlotte, North Carolina 28278. No construction is necessary to upfit this space, thus there is no initial construction cost associated with this POB.

Tryon further notes that the total cost of all equipment costing \$10,000 or more necessary to provide care to its internal medicine patients at the Steele Creek POB is estimated to be \$330,000, which cost remains well below the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a).

Martha Frisone, Assistant Chief
July 30, 2018
Page 2

Matthews POB

The updated address for the Matthews POB will be 1450 Matthews Township Parkway, Suite 230, Matthew, North Carolina 28105. The POB will be housed in 3,169 square feet of space to be utilized for Tryon's internal medicine practice. The expected construction cost at this new space is \$170,000, net of TIA, substantially lower than originally projected.

South Park POB

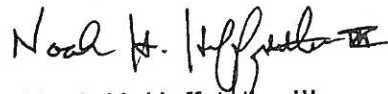
Tryon has received updated estimates of its construction costs for the SouthPark POB. Net of TIA, Tryon's expected construction cost for the 43,494 square feet of space on the sixth, seventh and eighth floors housing Tryon's internal medicine, sleep medicine, endocrinology, dermatology, gastroenterology and pulmonology practices, is approximately \$3.49 million.

Additionally, Tryon estimates that upfit costs for the tenth floor space of the SouthPark POB (14,498 square feet) will be approximately \$1.327 million, net of TIA.

Thank you for the opportunity to supplement Tryon's original submission with the foregoing updated information. Please do not hesitate to reach out with any questions you may have concerning these projects. I look forward to hearing back from you.

With best wishes, I am

Very truly yours,



Noah H. Huffstetler III

NHH:csf

cc: Julie M. Faenza

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July 18, 2018



Via Electronic & Certified Mail – Return Receipt Requested

Martha Frisone, Assistant Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
N.C. Dept. of Health and Human Services
2704 Mail Service Center
Raleigh, NC 27699-2704

Dear Ms. Frisone:

I am writing on behalf of our client, Tryon Medical Partners, PLLC ("Tryon"), formerly Mecklenburg Multispecialty Group, to provide the Agency with prior written notice of Tryon's planned establishment of medical offices in eight (8) physician office buildings ("POBs"), and set forth the details of each project below. Based on our understanding of the Certificate of Need Law and our previous consultations with your Agency, we believe that most of these projects are not within the definition of a "new institutional health service" and therefore do not require certificate of need review. As further explained below, our client is applying for three certificates of need for projects that we have determined are reviewable. By this letter, Tryon is requesting that the Agency issue either a no review determination or an exemption pursuant to N.C. Gen. Stat. § 131E-184(a)(9) as appropriate for the remainder of the projects listed in this letter.

1. Waverly POB

Tryon entered into a lease agreement effective on or about March 19, 2018, for two suites (nos. 100 and 203) in the Rea Building at 11030 Golf Links Drive, Charlotte, North Carolina 28277 (the "Waverly POB"). The building is a multi-use facility including physician office space. The two suites will occupy a combined total of 10,366 square feet. Tryon estimates that its construction costs will be approximately, \$373,000 net of TIA (tenant improvement costs), meaning the actual net cash spent by Tryon after receiving the tenant improvement allowance reimbursement from the landlord. The POB

will house medical equipment necessary for the provision of internal medicine services. The total cost of all such equipment costing \$10,000 or more is approximately \$225,000, far less than the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a). Moreover, none of the equipment for the Waverly POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o).

2. Uptown POB

Tryon will be leasing the 12th floor of The Charlotte Plaza located at 201 South College Street in Charlotte, North Carolina 28244, for use by its internal medicine and dermatology practice groups (the "Uptown POB"). The floor includes 25,109 square feet of space. Tryon signed a lease agreement noting its prior discussions with your department and understanding that this project does not trigger a CON requirement, on July 6, 2018. Tryon's estimated construction cost, net of TIA, will be approximately, \$1.571 million.

The Uptown POB will house medical equipment necessary for the provision of internal medicine and dermatology services. The total cost of all such equipment costing \$10,000 or more is approximately \$349,000, far less than the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a). Moreover, none of the equipment for the Uptown POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o).

3. Huntersville POB

Tryon will be leasing space for its sleep medicine and internal medicine practices at the Gilead Medical Center II, Suite 210, located at 9615 Kinsey Avenue, Huntersville, North Carolina 28078 (the "Huntersville POB"). Tryon signed a conditional lease with appropriate CON contingency language on May 25, 2018. The total space for this leased suite will be 10,134 square feet. Net of TIA, Tryon's estimated construction cost will be approximately, \$658,000.

The Huntersville POB will house medical equipment necessary for the provision of internal medicine and sleep medicine services. The total cost of all such equipment costing \$10,000 or more is approximately \$305,000, again, far less than the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a). Moreover, none of the equipment for the Huntersville POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o).

4. Steele Creek POB

Tryon intends to lease the first floor office space at Ayrley Town Center located at 9101 Kings Parade Boulevard, Charlotte, North Carolina 28273 (the "Steele Creek POB"). The Steele Creek POB suite will house an internal medicine practice and will have a total of 10,387 square feet of leased space. The total estimated construction cost for Tryon's upfit of this space, net of TIA, is \$825,000.

The Steele Creek POB will house certain equipment necessary to provide care to its internal medicine patients. The total cost of all such equipment costing \$10,000 or more is approximately \$305,000, which is well below the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a). Moreover, none of the equipment for the Steele Creek POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o).

5. Matthews POB

Tryon intends to enter into a lease for medical office space at the Township Town Center at 1730 Matthews Township Parkway, Suite D, Matthews, North Carolina 28105 (the "Matthews POB"). This 4,767 square foot space will be utilized for its internal medicine practices. Tryon expects that its construction cost will be approximately \$453,000, net of TIA for the Matthews POB location.

In addition, the Matthews POB will house certain medical equipment to support its internal medicine practice. The total cost of all such equipment costing \$10,000 or more is approximately \$60,000, which is significantly below the threshold for a diagnostic center pursuant to N.C. Gen. Stat. § 131E-176(7a). Moreover, none of the equipment for the Matthews POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o).

6. Pineville POB

Tryon will be entering into a short-term, six month lease agreement for POB space at Park Crossing Professional Center Condominium in Pineville (the "Pineville POB"). Specifically, Tryon intends to lease 7,159 square feet of medical office space at 10344 Park Road, Pineville, North Carolina 28134. This space includes Unit 10344-A and will be utilized for Tryon's internal medicine practice. Because the agreement is short-term, there will be no upfit or equipment costs incurred by Tryon at this time.

7. SouthPark POB

Tryon will be leasing medical office space to house a number of physician practice groups at One SouthPark Center located at 6060 Piedmont Row Drive South, Charlotte, North Carolina 28210 (the "SouthPark POB"). Tryon signed a conditional lease with appropriate CON contingency language on June 22, 2018. Tryon will lease the sixth, seventh and eighth floors of the SouthPark POB for its internal medicine, sleep medicine, endocrinology, dermatology, gastroenterology (examination rooms only, not endoscopy) and pulmonology practices, a total of approximately 43,494 square feet of space. The total estimated construction cost for this space, net of TIA, is approximated to be \$2.96 million.

Tryon also intends to lease an additional 14,498 square feet of space on the tenth floor of the SouthPark POB for its cardiology and pulmonology practices and to allow for future expansion. The anticipated upfit cost for construction of this space is estimated to total approximately \$830,000, net of TIA.

In addition, the total cost of all such medical equipment costing \$10,000 or more for the SouthPark POB is \$955,859. It was therefore determined that the medical equipment being acquired for this location triggers the definition of a "diagnostic center" at N.C. Gen. Stat. § 131E-176(7a). Accordingly, Tryon submitted an application for a diagnostic center CON for this project for review in the cycle commencing July 1, 2018. However, none of the equipment for the SouthPark POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o) as no single unit or single system of components with related functions costs more than \$750,000.

8. Ballantyne POB

Tryon intends to develop a physician office practice on two floors of a new medical office building, currently under construction at 16817 Marvin Road, Charlotte, North Carolina 28277 (the "Ballantyne POB"). This POB will house space for cardiology, dermatology, internal medicine and endoscopy suites for a total of 29,070 square feet of medical office space. The net of TIA construction cost is estimated to be \$2.429 million.

The total cost of all such medical equipment costing \$10,000 or more for the Ballantyne POB, exclusive of endoscopy equipment, is \$601,889. It was therefore determined that the medical equipment being acquired for this location triggers the definition of a "diagnostic center" at N.C. Gen. Stat. § 131E-176(7a). Accordingly, Tryon submitted an application for a diagnostic center CON for this project for review in the cycle commencing July 1, 2018. However, none of the equipment for the Ballantyne POB constitutes major medical equipment pursuant to N.C. Gen. Stat. § 131E-176(14o) as no single unit or single system of components with related functions costs more than \$750,000.

Tryon further anticipates that it will submit a CON application for the establishment of a gastrointestinal endoscopy room in the Ballantyne POB pursuant to N.C. Gen. Stat. § 131E-176(16)u. Tryon anticipates submitting the application for the review cycle commencing September 1, 2018.

Effective on or about February 15, 2018, Tryon entered into a lease agreement for the Ballantyne physician office space noted above. However, as we previously discussed, prior to the submission of this request, Tryon had not previously provided your Agency with notice of the development of the new Ballantyne POB pursuant to N.C. Gen. Stat. § 131E-184(a)(9). Tryon sincerely regrets any inadvertent failure to provide timely notice of the development of this medical office building, and wishes to correct any possible deficiency. We therefore request the Healthcare Planning and CON Section's consideration of accepting this letter as fulfilling the notice requirement for an exemption from CON review for this project.

As provided in N.C. Gen. Stat. § 131E-184(a)(9), upon prior written notice, the development or acquisition of a POB is exempt from certificate of need review, regardless of the cost, unless a new institutional health services other than defined in N.C. Gen. Stat. § 131E-176(16)b. is offered or developed in the building. Tryon will not offer or develop any new institutional health services as defined in N.C. Gen. Stat. § 131E-176(16)b. in the POBs, except as expressly noted therein with respect to the SouthPark and Ballantyne POBs.

In our discussions with your Agency, it was noted that Tryon was at that time in litigation with Atrium Health. As evidenced by the joint statement of the parties which is attached to this letter, that litigation has been amicably resolved. We do not at this time anticipate that there will be objection or opposition to the certificate of need applications referenced in this letter.

Tryon remains committed to being in full compliance with all provisions of the North Carolina Certificate of Need Law and the rules promulgated thereunder and is eager to commence with the development of the proposed POBs as outlined above. Please do not hesitate to contact me with any questions that you may have concerning the above-described projects.

With best wishes, I am

Very truly yours,


Noah H. Huffstetler III

NHH:csf
Enclosure
cc: Julie M. Faenza

Attachment 2 – Joint Statement

For the past several months, Atrium Health has been working with a group of physicians at Mecklenburg Medical Group who decided to leave and start a stand-alone medical practice, Tryon Medical Partners. During this transition, we – Atrium Health and the physicians who will form Tryon Medical Partners – have focused on our joint interest that our patients continue to receive the best care possible. Today, the physicians who will form Tryon Medical Partners have dismissed their lawsuit against Atrium Health. We are both committed to our patients and their choice in a health care provider. We will send letters to patients to provide the information they need to make decisions about their medical care following this transition. Atrium Health and Tryon Medical Partners have the same goal of providing patients the best medical care possible, care that is also affordable and convenient. We look forward to working together for the benefit of our patients and communities.