



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

May 17, 2019

Anderson Shackelford
Williams Mullen, PC
P.O. Box 1000
Raleigh NC 27607

Exempt from Review – Physician Office

Record #: 2943
Business Name: CGCCM Wakefield MOB, LLC
Business #: 3034
Project Description: Develop a physician office building at 11208 Common Oaks Drive in Raleigh
County: Wake

Dear Mr. Shackelford:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that based on your letter of April 26, 2019, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(a)(9). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

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

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 the Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Michael J. McKillip
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

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: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
www.ncdhhs.gov/dhsr • TEL: 919-855-3873

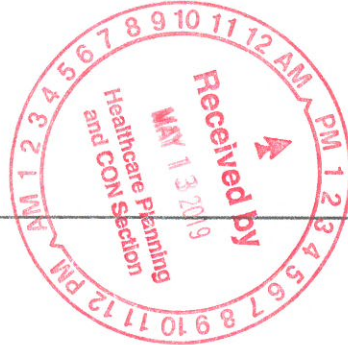
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Waller, Martha K

**Additional Document for: -
No Review Request of: May 3, 3019
(Anderson Shackelford - Williams Mullen)**

From: Frisone, Martha
Sent: Friday, May 10, 2019 4:25 PM
To: Waller, Martha K
Subject: Fwd: [External] RE: No-Review Request for a Medical Office Bldg. in Wake Co. [IWOV-IWOVRIC.FID2022055]

Get [Outlook for Android](#)



From: Shackelford, Anderson <ashackelford@williamsmullen.com>
Sent: Friday, May 10, 2019 11:06:11 AM
To: Frisone, Martha
Cc: Heath, Joy
Subject: [External] RE: No-Review Request for a Medical Office Bldg. in Wake Co. [IWOV-IWOVRIC.FID2022055]

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

Ms. Frisone,

I hope this finds you well. I am following up on the no-review request submitted on behalf of OrthoNC ASC, Inc. At your earliest convenience, would you please submit written confirmation that, other than the previously CON-approved ASC, the remainder of the MOB to be developed is not subject to CON review? I greatly appreciate your attention to this matter.

Best,

Anderson McCray Shackelford | Attorney | Williams Mullen
301 Fayetteville Street, Suite 1700 | P.O. Box 1000 (27602) | Raleigh, NC 27601
T 919.981.4312 | F 919.981.4300 | ashackelford@williamsmullen.com | www.williamsmullen.com

NOTICE: Information contained in this transmission to the named addressee is proprietary and is subject to attorney-client privilege and work product confidentiality. If the recipient of this transmission is not the named addressee, the recipient should immediately notify the sender and destroy the information transmitted without making any copy or distribution thereof.

From: Canaday, Debbie <dcanaday@williamsmullen.com> **On Behalf Of** Shackelford, Anderson
Sent: Friday, April 26, 2019 4:20 PM
To: Frisone, Martha <martha.frisone@dhhs.nc.gov>
Cc: Shackelford, Anderson <ashackelford@williamsmullen.com>
Subject: No-Review Request for a Medical Office Bldg. in Wake Co.

Ms. Frisone:

At Mr. Shackelford’s request, I am attaching a letter regarding the above-mentioned subject to you.

Debra Y. Canaday | Legal Administrative Assistant | Williams Mullen
301 Fayetteville Street, Suite 1700 | P.O. Box 1000 (27602) | Raleigh, NC 27601
T 919.862.4327 | F 919.981.4300 | dcanaday@williamsmullen.com | www.williamsmullen.com

WILLIAMS MULLEN

Direct Dial: 919.981.4312
ashackelford@williamsmullen.com 1295

April 26, 2019

VIA EMAIL AND U.S. MAIL

Ms. Martha Frisone
Chief, Healthcare Planning and Certificate of Need
N.C. Department of Health & Human Services
Division of Health Service Regulation
Healthcare Planning and Certificate of Need Section
809 Ruggles Drive
Raleigh, NC 27603
martha.frisone@dhhs.nc.gov



Re: No-Review Request for a Medical Office Building in Wake County

Dear Ms. Frisone:

I am writing on behalf of our client, OrthoNC ASC, Inc. (“OrthoNC”), regarding the construction of a medical office building (“MOB”) at 11208 Common Oaks Drive, Raleigh, NC 27614. You may recall that OrthoNC ASC is owned entirely by a subset of the physicians of Orthopaedic Specialists of North Carolina (“Orthopaedic Specialists”). By this letter, we respectfully request that the Agency issue a no-review determination for the construction of this MOB.

As indicated in OrthoNC’s CON Application for Project I.D. No. 11561-18, an unrelated developer, CGCCM Wakefield MOB, LLC (“Wakefield”), will construct the MOB on land it has leased from Rex CDP Ventures, LLC. Once constructed, Wakefield will lease the building to Orthopaedic Specialists, which will in turn sublease a portion of the building to OrthoNC. Orthopaedic Specialists will utilize most of the building for physician office space, but the MOB will also house the ambulatory surgery center (“ASC”) for which OrthoNC previously received CON approval (a copy of OrthoNC’s CON is attached). Other than this CON-approved ASC, no new institutional health services as defined in N.C. Gen. Stat. § 131E-176(16)a.-v. will be constructed, developed, established, or offered in the MOB.

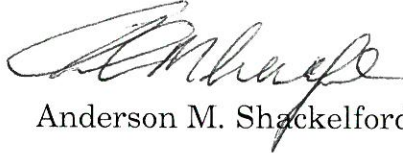
We would greatly appreciate the CON Section’s written confirmation that, other than the previously CON-approved ASC, the remainder of the MOB is not subject to CON review. If you should need additional information, please contact me at the address listed on the masthead.

WILLIAMS MULLEN

Martha Frisone
April 26, 2019
Page 2

Thank you for your time and attention to this request.

Sincerely,



Anderson M. Shackelford

cc: Joy Heath (jheath@williamsmullen.com)
Enclosure: Certificate of Need issued to OrthoNC ASC, Inc. for Project I.D. No. J-
11561-18

STATE OF NORTH CAROLINA

*Department of Health and Human Services
Division of Health Service Regulation*

CERTIFICATE OF NEED

for

Project ID #: J-11561-18

FID #: 180424

ISSUED TO: OrthoNC ASC, Inc.

Pursuant to N.C. Gen. Stat. § 131E-177(6), the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the "certificate holder") to develop the certificate of need project described below. The certificate holder shall develop the project in a manner consistent with the representations in the application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein, as documented by the periodic progress reports required by 10A NCAC 14C .0209. The certificate holder shall not exceed the maximum capital expenditure amount specified herein during the development of this project, except as provided by N.C. Gen. Stat. § 131E-176(16)e. The certificate holder shall not transfer or assign this certificate to any other person except as provided in N.C. Gen. Stat. § 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to N.C. Gen. Stat. § 131E-189 for any of the reasons provided in that section.

SCOPE: Develop a new ambulatory surgical facility with one operating room and one procedure room focused on orthopaedic and pain management procedures pursuant to the need determination in the 2018 SMFP for additional operating rooms/ Wake County

CONDITIONS: See Reverse Side

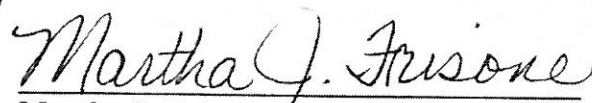
PHYSICAL LOCATION: Ortho NC ASC
11200 Governor Manly Way
Suite 309
Raleigh, NC 27614

MAXIMUM CAPITAL EXPENDITURE: \$3,895,599

TIMETABLE: See Reverse Side

FIRST PROGRESS REPORT DUE: September 30, 2019

This certificate is effective as of February 28, 2019


Martha J. Frisone, Chief

CONDITIONS:

1. OrthoNC ASC, Inc. shall materially comply with all representations made in the certificate of need application.
2. OrthoNC ASC, Inc. shall develop a new single-specialty ambulatory surgical facility by developing no more than one operating room and one procedure room.
3. Upon completion of the project, OrthoNC ASC, Inc. shall be licensed for no more than one operating room and one procedure room.
4. OrthoNC ASC, Inc. shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.
5. OrthoNC ASC, Inc. shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years following licensure of the facility.
6. For the first three years of operation following completion of the project, OrthoNC ASC, Inc. 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.
7. The procedure room shall not be used for procedures that should be performed only in an operating room based on current standards of practice.
8. Procedures performed in the procedure room shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the facility's license renewal application as procedures performed in an operating room.
9. OrthoNC ASC, Inc. shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.
10. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, OrthoNC ASC, Inc. 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.
11. OrthoNC ASC, Inc. 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.

A letter acknowledging acceptance of and agreeing to comply with all conditions stated in the conditional approval letter was received by the Agency on February 12, 2019.

TIMETABLE:

1. Drawings Completed _____ April 15, 2019
2. Construction/Renovation Contract(s) Executed _____ September 15, 2019
3. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ December 1, 2019
4. 50% of Construction/Renovation Completed _____ March 1, 2020
5. 75% of Construction/Renovation Completed _____ June 1, 2020
6. Construction/Renovation Completed _____ September 1, 2020
7. Licensure Obtained _____ October 1, 2020
8. Services Offered _____ October 1, 2020
9. Medicare and/or Medicaid Certification Obtained _____ October 1, 2020
10. Final Annual Report Due _____ January 1, 2024