February 9, 2022

Torrey K. Young
torrey.young@mfsllp.com

Exempt from Review – Acquisition of Facility

Record #: 3809
Date of Request: February 3, 2022
Facility Name: The Social at Cotswold
Type of Facility: Adult Care Home
FID #: 970113
Acquisition by: Charter Senior Living of Charlotte, LLC
Business #: 3521
County: Mecklenburg

Dear Ms. Young:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that the project described above is exempt from certificate of need (CON) review in accordance with G.S. 131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. The Agency’s determination is limited to the question of whether the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. 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.”

If the business listed above does acquire the facility, you should contact the Agency’s Adult Care Licensure Section to obtain instructions for changing ownership of the existing facility.

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 regarding whether a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Julie M. Faenza
Project Analyst

Micheala Mitchell
Chief

cc: Adult Care Licensure Section, DHSR
Micheala Mitchell, Esq., Chief  
Lisa Pittman, Assistant Chief  
N.C. Department of Health and Human Services  
Division of Health Service Regulation  
Certificate of Need Section  
809 Ruggles Drive  
Raleigh, N.C. 27603  
micheala.mitchell@dhhs.nc.gov  
Lisa.pittman@dhhs.nc.gov

January 21, 2021

Re: Notice of Exemption for Acquisition of Existing Home Health Agency

Dear Micheala and Lisa:

I'm writing on behalf of our client Charter Senior Living of Charlotte, LLC ("Charter") to provide the N.C. Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section ("the CON Section" or "the Agency") with prior written notice of Charter's intent to acquire the existing health service facility known as the Social at Cotswold as further described below ("the Project"). We believe that the Project is exempt from further CON Section Review and does not require that Charter obtain a CON before proceeding with the Project, pursuant to N.C. Gen. Stat. section 131E-184(a)(8).

Background and Project Description

Charter will enter into an asset purchase agreement with Columbia Pacific Advisors ("CPA") pursuant to which Charter will acquire the assets of the Social at Cotswold, located at 3610 Randolph Rd, Charlotte, NC 28211. The transaction is scheduled to close on or about March 1, 2022.

Applicable Legal Authorities

The CON Law includes a specific exemption for health-related expenditures where the purpose of the expenditure is "to acquire an existing health service facility, including any equipment owned by the health service facility at the time of the acquisition." N.C. Gen. Stat. section 131E-184(a)(8). Adult care homes are included in the definition of "health service facilities" at N.C. Gen. Stat. section 131E-176 (1). As such, the acquisition of an existing adult care home does not require a CON and is not subject to further CON Section review where the Agency receives advance written notice of the acquisition. N.C. Gen. Stat. section 131E-184(a)(8).

Since Charter is acquiring an existing adult care home, and thus an "existing health service facility," the acquisition of the Social at Cotswold is exempt from further CON Section review and Charter is not required to obtain a CON to proceed with the Project. Charter will coordinate with the DHSR Acute and Home Care Licensure Section to complete the required change of ownership licensure application.

Conclusion

For the reasons stated herein, the Project qualifies under the exemption from CON Section review set forth at N.C. Gen. Stat. section 131E-184(a)(8). Please allow this letter to serve as the advance written notice required by N.C. Gen. Stat. section 131E-184(a)(8). We would appreciate
the CON Section acknowledging at its earliest convenience that the Project, as described herein, is not subject to CON Section review and that Charter may proceed with the Project without first obtaining a CON.

Please let me know if you have questions or need additional information regarding this notice.

Very truly yours,

/s/ Torrey K. Young

Torrey K. Young, Partner
212-466-6409
Torrey.young@mfslp.com