

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION  
RALEIGH, NORTH CAROLINA**

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY ALLIANCE HEALTHCARE )  
SERVICES, INC. )           DECLARATORY RULING  
Project I.D. No. H-6706-02 )**

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Alliance Healthcare Services, Inc. (“Petitioner”) requests a declaratory ruling that the addition of one additional host site to the route of its mobile positron emission tomography (“PET”) scanner is consistent with the terms of the certificate of need (“CON”) previously issued to Petitioner. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Joy Heath of the Law Office of Joy Heath has requested this ruling on behalf of Petitioner and has provided the material facts upon which this ruling is based.

**STATEMENT OF THE FACTS**

On May 1, 2003, a CON was issued to Petitioner for Project I.D. # H-6706-02 to acquire a mobile PET scanner to provide mobile service locations in the eastern portion of the State. The locations named in the application included Albemarle Hospital, First Health Moore Regional Hospital, Nash Healthcare System, Southeastern Regional Medical Center, and Wayne Memorial

Hospital. Of the original host sites, only Albemarle Hospital, Southeastern Regional Medical Center, and Wayne Memorial Hospital currently provide mobile PET services. Between May 2003 and September 2010, the Department has issued six declaratory rulings stating that the addition of host sites would not constitute a material change in the physical location or scope of the project.

Currently, Petitioner serves the following hospital sites: Albemarle Hospital in Elizabeth City, Carteret General Hospital in Morehead, Duke Raleigh Hospital in Raleigh, Johnston Medical Center in Smithfield, Lenoir Memorial Hospital in Kinston, Onslow Memorial Hospital in Jacksonville, The Outer Banks Hospital in Nags Head, Scotland Memorial Hospital in Laurinburg, Southeastern Regional Medical Center in Lumberton, Wayne Memorial Hospital in Goldsboro, and Wilson Medical Center in Wilson.

In its current proposal, Petitioner proposes to add one additional host site, Maria Parham Medical Center in Henderson, to the list of sites it currently serves. Maria Parham Medical Center is located in the Eastern Planning Region (HSAs IV, V, and VI). Petitioner represents that the provision of mobile PET services at Maria Parham Medical Center would not require any new equipment, would not affect the scope of services offered, and would not affect the costs and charges to Petitioner or the public for the provision of mobile PET services.

### **ANALYSIS**

N.C.G.S. § 131E-181(a) provides that “[a] certificate of need shall be valid only for the defined scope, physical location, and person named in the application.” The recipient of the CON must also materially comply with the representations made in the CON application. N.C.G.S. § 131E-181(b). If Petitioner’s proposal were to represent a material change in the

physical location or scope of the project, the CON law would require a full review of the proposal. N.C.G.S. § 131E-181(a).

Petitioner states that the provision of mobile PET services to Maria Parham Medical Center would not increase the cost and charges to Petitioner or to patients for the provision of mobile PET services. Further, Petitioner states that the new host site would not affect Petitioner's material compliance with the representations made in its original CON application or in the conditions imposed upon its CON. According to Petitioner, addition of the host site will allow Alliance to more effectively and efficiently serve patients in Vance County, thereby furthering the purposes of the CON law.

The CON Law would require a full review of Petitioner's site proposals were they to represent a material change in the physical location or scope of the project. N.C. Gen. Stat. § 131E-181(a). Based upon the information provided by Petitioner, the proposed addition of Maria Parham Medical Center as an additional host site does not constitute a material change in the physical location or the scope of Project I.D. # H-6706-02.

### **CONCLUSION**

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that Petitioner's proposal will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the certificate of need in violation of N.C.G.S. § 131E-189(b).

This the \_\_\_\_\_ day of June, 2013.

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Drexdal Pratt, Director  
Division of Health Service Regulation  
N.C. Department of Health and Human Services

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing Declaratory Ruling upon the PETITIONERS by certified mail, return receipt requested, by causing a copy of same to be placed in the United States Mail, first-class, postage pre-paid envelope addressed as follows:

**CERTIFIED MAIL**

Joy Heath  
Ruth Levy  
Law Office of Joy Heath  
514 Daniels Street, #182  
Raleigh, North Carolina 27605

This the \_\_\_\_\_ day of June, 2013.

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Cheryl Ouimet  
Chief Operating Officer