

**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. AND UNIVERSITY)	DECLARATORY RULING
HEALTH SYSTEMS OF EASTERN)	
CAROLINA, INC.)	
Project I.D. No. Q-6884-03)	

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 to me by the Secretary of the Department of Health and Human Services.

Alliance Healthcare Services, Inc. (hereinafter “Alliance”) and University Health Systems of Eastern Carolina, Inc. (hereinafter “UHS) (collectively “Petitioners”) have requested a declaratory ruling allowing for a site addition for Project I.D. No. Q-6884-03 on the grounds that the change does not constitute a material change in scope or physical location or a failure to materially comply with the representations made by Petitioners in its Certificate of Need (“CON”) application for its project. N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entities requesting it, as long as the material facts stated herein are accurate. 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. David French of Strategic Health Consultants has requested this ruling on behalf of Petitioners and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

Effective July 22, 2004, for Project ID# Q-6884-03, Alliance UHS were issued a certificate of need to acquire a mobile magnetic resonance imaging scanner (MRI). The certificate of need identified the following host sites to be served by the MRI scanner: Chowan Hospital in Edenton (Chowan County); Heritage Hospital in Tarboro (Edgecombe County); The Outer Banks Hospital in Nags Head (Dare County); Roanoke-Chowan Hospital in Ahoskie (Hertford County); and Bertie Memorial Hospital in Windsor (Bertie County).

Based on previous declaratory rulings, the following host sites were added: Eastern Carolina Internal Medicine (Jones County); Duplin General Hospital (Duplin County); Cary Diagnostic Radiology in Cary (Wake County); Martin General Hospital (Martin County); Washington County Hospital (Washington County); and Vidant Pungo District Hospital which has closed (Beaufort County).

Services were discontinued at Chowan Hospital in Edenton (Chowan County) and Bertie Memorial Hospital in Windsor (Bertie County). The Outer Banks Hospital, Roanoke-Chowan Hospital and Heritage Hospital have been approved to acquire fixed MRI scanners and no longer use the Alliance mobile scanner services.

The scanner currently serves Martin General Hospital one day per week and Duplin General Hospital three days per week.

In this request, Alliance and UHS seek to add one new site – Pender Memorial Hospital.

Alliance and UHS requests a declaratory ruling that the addition of Pender Memorial Hospital in Burgaw (Pender County) is in material compliance with the representations in the certificate of need application and would not change the scope of the project.

ANALYSIS

The CON law would require a full review of Petitioners' proposed additional host site if that change were to represent a material change in the physical location or scope of the project. *See* N.C. Gen. Stat. §131E-181(a). The proposed addition of a host site does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

Pender County is located in Health Service Area (“HSA”) V. The certificate of need authorized host sites in HSAs IV, V and VI. Furthermore, the proposed Pender Memorial Hospital host site has the required mobile MRI pad, utility connections, and an agreement for mobile services with Alliance and UHS. Alliance and UHS represent that Pender Memorial Hospital will comply with the requirements for a mobile MRI host site.

There will be no additional capital costs, changes in the scope of the project or the costs to Alliance or UHS to add Pender Memorial Hospital as a host site. Furthermore, there will be no additional costs and charges to patients for the provision of mobile MRI services. The one additional host site will not affect the scope of services offered at other sites and will allow Alliance to serve one new site with the same equipment. Therefore, the addition of Pender Memorial Hospital as a mobile site is in material compliance with the representations in the certificate of need application.

North Carolina General Statutes Section 131E-189(b) allows the Department to withdraw Petitioners' CON if Petitioners fails to develop the service in a manner consistent with the representations made in the Application or with any conditions that were placed on the CON.

Petitioners will not be developing its project in a manner that is materially different from the representation made in its Application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were place on its CON.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude Alliance may include Pender Memorial Hospital in Burgaw (Pender County) as an additional host site for its mobile MRI Scanner, Project ID No. Q-6884-03, as this additional host site will not constitute a change in the scope or physical location of the Project; will not violate N.C. Gen. Stat. §131E-181; and will not constitute a failure to satisfy a condition of the CON in violation of N.C. Gen. Stat. §131E-189(b).

This the _____ day of April, 2015.

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

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official

depository of the United States Postal Service in first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

David French
Strategic Healthcare Consultants Inc.
P.O. Box 2154
Reidsville, NC 27323

This the _____ day of April, 2015.

Cheryl Ouimet
Chief Operating Officer