

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY CAROLINAS IMAGING) DECLARATORY RULING
SERVICES, LLC)
Project I.D. No. F-6868-03)**

I, Mark Payne, 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 Statutes § 150B-4 and 10A NCAC 14A .0103, under the authority granted me by the Secretary of the Department of Health and Human Services.

On July 24, 2016, Carolinas Imaging Services, LLC, a joint venture whose members are Charlotte Radiology, P.A., and The Charlotte Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System (hereinafter, “CIS”), requested a declaratory ruling allowing for the addition of five (5) host sites for a mobile MRI scanner for Project I.D. No. F-6868-03 (“Project”) on the grounds that the change does not constitute a material change in scope or a failure to materially comply with the representations made in the Certificate of Need (“CON”) application for the Project, pursuant to N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entity 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. Zach Rorabaugh, Director of Operations and Imaging for Charlotte Radiology and Carolinas Imaging Services, has requested this ruling on behalf of CIS and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

On October 5, 2004, the Certificate of Need Section issued a CON to CIS allowing CIS to provide mobile MRI services at four (4) sites in Anson, Burke, Lincoln, and Polk Counties. CIS now proposes to add the following as host sites for the mobile MRI scanner: West Stanly Imaging in Locust, North Carolina (Stanly County); Carolinas HealthCare System Cleveland (Stanly County); Carolinas HealthCare System NorthEast (Cabarrus County); Carolinas HealthCare System Harrisburg (Cabarrus County); and Carolinas HealthCare System Waxhaw (Union County).

ANALYSIS

The CON law would require a full review of CIS's addition of the host sites if the additions were to represent a material change in the scope of the Project. N.C.G.S. § 131E-181(a). The addition of the host sites does not constitute a material change in the scope of the Project because it will not affect the scope of the services currently offered. In addition, CIS states that there will be no capital costs associated with the addition of the host sites and the sites are ready to begin offering mobile MRI services. As a point of reference, the five (5) additional host sites are located in three (3) counties that are between the eastern and western most counties of the four (4) counties originally approved in the CON. Further, the addition of the host sites will provide the residents in these incremental markets with greater accessibility to MRI services.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw CIS's CON if CIS 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. CIS states that it will not operate the Project in a manner that is materially different from the representations made in the application or in a manner that is inconsistent with any of the conditions that were placed on the CON.

CONCLUSION

For the foregoing reasons, assuming the statement of facts and representations in the request to be true, I conclude that CIS's addition of West Stanly Imaging in Locust, North Carolina (Stanly County); Carolinas HealthCare System Cleveland (Stanly County); Carolinas HealthCare System NorthEast (Cabarrus County); Carolinas HealthCare System Harrisburg (Cabarrus County); and Carolinas HealthCare System Waxhaw (Union County) as host sites for the mobile MRI scanner will not constitute a material change in the scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON in violation of N.C.G.S. § 131E-189(b).

This the _____ day of October, 2016.

Mark Payne, 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 PETITIONER 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

Zach Rorabaugh
Charlotte Radiology & Carolinas Imaging Services
1701 East Boulevard
Charlotte, North Carolina 28203-5823

This the 12th day of October, 2016.

Cheryl Ouimet
Chief Operating Officer