

**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. d/b/a ALLIANCE IMAGING,) DECLARATORY RULING
INC.,)
Project I.D. No. G-7038-04)**

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 19, 2017¹, Alliance Healthcare Services, Inc. d/b/a Alliance Imaging, Inc. (hereinafter, “Alliance”), requested a declaratory ruling allowing for the addition of two (2) host sites for a mobile MRI scanner for Project I.D. No. G-7038-04 (“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. David J. French, a Consultant with Strategic Healthcare Consultants, Inc., has requested this ruling on behalf of Alliance and has provided the material facts upon which this ruling is based.

¹ Petitioner mistakenly dated the Request for Declaratory Ruling July 19, 2016.

STATEMENT OF THE FACTS

On February 25, 2005, the Certificate of Need Section issued a CON to Alliance allowing Alliance to provide mobile MRI services at three (3) sites in Davie, Forsyth, and Yadkin Counties, with no additional conditions as to which Health Service Areas or MRI service area locations the mobile MRI scanner could serve. A subsequent Declaratory Ruling approved additional host sites in Avery, Buncombe, Henderson, and Macon Counties. Beginning in July 2016, Alliance initiated MRI services at North Carolina Central Prison in Wake County, a State facility host site that does not require CON authorization to receive mobile MRI services. In addition, a Declaratory Ruling in November 2016 approved additional host sites in Alamance, Chatham, and Cleveland Counties. Alliance now proposes to add the following as host sites for the mobile MRI scanner: UNC Hospitals Imaging and Spine Center, located at 1350 Raleigh Road, Chapel Hill, North Carolina (Orange County); and UNC Hospitals Hillsborough Campus, located at 430 Waterstone Drive, Hillsborough, North Carolina (Orange County).

ANALYSIS

The CON law would require a full review of Alliance'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, Alliance states that each of the proposed new host sites already has the required mobile MRI docking pad and utility connections. Further, there will be no increase in charges to patients or changes to the existing service agreements between Alliance and the proposed new host sites other than the proposed change in the mobile MRI scanner that provides the services.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Alliance's CON if Alliance 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. Alliance states that it will not develop 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 Alliance's addition of UNC Hospitals Imaging and Spine Center, located at 1350 Raleigh Road, Chapel Hill, North Carolina (Orange County); and UNC Hospitals Hillsborough Campus, located at 430 Waterstone Drive, Hillsborough, North Carolina (Orange 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 September, 2017.

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

David J. French
Strategic Healthcare Consultants, Inc.
Post Office Box 2154
Reidsville, North Carolina 27323-2154

This the _____ day of September, 2017.

Diana Barbry
Executive Assistant to the Director
Division of Health Service Regulation