



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER  
GOVERNOR

MANDY COHEN, MD, MPH  
SECRETARY

MARK PAYNE  
DIRECTOR

**RESPONSE REQUIRED**

October 16, 2017

Hunter Diefes  
2334 South 41<sup>st</sup> Street  
Wilmington, NC 28403

**Conditional Approval**

Project ID #: J-11378-17  
Facility: Chatham County Rehabilitation Center  
Project Description: Relocate 25 NF beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center which is a change of scope for Project I.D. #J-10168-13 (develop a new 90-bed nursing facility in Chatham County) for a total of 115 NF beds upon completion of both projects  
County: Chatham  
FID #: 130367

Dear Mr. Diefes:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, N.C. Gen. Stat. §131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

1. Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with all conditions of approval on the certificate of need for Project ID #J-10168-13, except as specifically modified by the conditions of approval for this application, Project ID #J-11378-17.

**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**  
WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER



2. Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with all representations made in the certificate of need application and the supplemental information received October 5, 2017 and October 10, 2017. In those instances where representations conflict, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall materially comply with the last made representation.
3. Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall relocate no more than 25 NF beds from Legion Road Healthcare in Orange County to Chatham County Rehabilitation Center.
4. Chatham County Rehabilitation Center will be licensed for no more than 115 NF beds upon completion of this project and Project ID #J-10168-13.
5. Liberty Properties of Orange County, LLC shall take steps to de-certify 25 NF beds at Legion Road Healthcare.
6. The Medicaid per diem reimbursement rates for the new nursing facility beds shall be equal to the rates for the facility's existing beds as of the date on which the additional beds are certified.
7. The Chatham County Rehabilitation Center additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2020 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.
8. For the first two years of operation following completion of the project, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.
9. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:
  - a. Payor mix for the services authorized in this certificate of need.
  - b. Utilization of the services authorized in this certificate of need.
  - c. Revenues and operating costs for the services authorized in this certificate of need.
  - d. Average gross revenue per unit of service.

- e. Average net revenue per unit of service.
  - f. Average operating cost per unit of service.
10. Liberty Healthcare Properties of Chatham, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the of the certificate of need.

**Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.**

The conditional approval is valid only for a capital expenditure of **\$15,707,139**. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

N.C. Gen. Stat. §150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Lisa G. Corbett  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending **November 15, 2017**. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

- |   |                   |
|---|-------------------|
| 1. Drawings Completed   | May 1, 2018       |
| 2. Land Acquired  | November 1, 2017  |
| 3. Construction/Renovation Contract(s) Executed                           | September 1, 2018 |
| 4. 25% of Construction/Renovation Completed (25% of the cost is in place) | August 1, 2019    |
| 5. 50% of Construction/Renovation Completed                               | December 1, 2019  |
| 6. 75% of Construction/Renovation Completed                               | April 1, 2020     |
| 7. Construction/Renovation Completed                                      | August 1, 2020    |
| 8. Licensure Obtained   | September 1, 2020 |
| 9. Services Offered   | October 1, 2020   |
| 10. Medicare and/or Medicaid Certification Obtained                       | October 1, 2020   |
| 11. Final Annual Report Due   | December 30, 2023 |

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Celia C. Inman  
Project Analyst

Lisa Pittman  
Team Leader, Certificate of Need

Attachment

cc: Construction Section, DHSR  
Nursing Home Licensure and Certification Section, DHSR  
Sharetta Blackwell, Program Assistant Healthcare Planning, DHSR

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Hunter Diefes  
2334 South 41<sup>st</sup> Street  
Wilmington, NC 28403

This the 16<sup>th</sup> day of October, 2017.

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Celia C. Inman  
Project Analyst, Certificate of Need