



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

October 26, 2018

Raymond Noid
34 Granby Street
Asheville, NC 28801

Conditional Approval

Project ID #: B-11514-18
Facility: Asheville SurgCare
Project Description: Develop a new ASF with 5 ORs and 2 procedure rooms by relocating the 3 ORs at Orthopaedic Surgery Center of Asheville and developing the 2 ORs in the 2018 SMFP
County: Buncombe
FID #: 180266

Dear Mr. Noid:

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. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with N.C. Gen. Stat. §131E-186. 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 that can be satisfied before issuance of the certificate of need have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Orthopaedic Surgery Center of Asheville, LP shall materially comply with all representations made in the certificate of need application.**
- 2. Orthopaedic Surgery Center of Asheville, LP shall develop Asheville SurgCare, a new multispecialty ambulatory surgical facility, by developing the two operating rooms in the 2018 SMFP, developing two procedure rooms, and relocating the three existing operating rooms from Orthopaedic Surgery Center of Asheville.**

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2701 Mail Service Center, Raleigh, NC 27699-2701
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3750 • FAX: 919-733-2757

3. Upon completion of the project, Asheville SurgCare shall be licensed for no more than five operating rooms and two procedure rooms and shall be considered a multispecialty ambulatory surgical program.
4. Orthopaedic Surgery Center of Asheville, LP shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section F of the application and that would otherwise require a certificate of need.
5. Asheville SurgCare shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care, or a comparable accreditation authority within two years following licensure of the facility.
6. For the first three years of operation following completion of the project, Asheville SurgCare shall not increase charges more than 5% of the charges projected in Section Q 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.
7. The procedure rooms shall not be used for procedures that should be performed only in an operating room based on current standards of practice.
8. Procedures performed in the procedure rooms shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the facility's license renewal application as procedures performed in an operating room.
9. Upon project completion, Orthopaedic Surgery Center of Asheville, LP, shall take the steps necessary to delicense the three existing operating rooms at Orthopaedic Surgery Center of Asheville such that Orthopaedic Surgery Center of Asheville (License # AS0038) shall no longer be licensed as an ambulatory surgical facility.
10. Orthopaedic Surgery Center of Asheville, LP shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.
11. 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, Orthopaedic Surgery Center of Asheville, LP 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.**

12. Orthopaedic Surgery Center of Asheville, LP shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance 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 CON Section 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 \$9,238,973. 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, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447 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 MSC
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 26, 2018. 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. Financing Obtained _____ February 15, 2019
2. Drawings Completed _____ March 1, 2019
3. Land Acquired _____ February 28, 2019
4. Construction/Renovation Contract(s) Executed _____ April 15, 2019
5. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ August 1, 2019
6. 50% of Construction/Renovation Completed _____ December 1, 2019
7. 75% of Construction/Renovation Completed _____ April 1, 2020
8. Construction/Renovation Completed _____ August 15, 2020
9. Equipment Ordered _____ June 1, 2020
10. Equipment Installed _____ September 15, 2020
11. Equipment Operational _____ October 15, 2020
12. Building/Space Occupied _____ November 15, 2020
13. Licensure Obtained _____ December 1, 2020
14. Services Offered _____ January 1, 2021
15. Medicare and/or Medicaid Certification Obtained _____ January 15, 2021
16. Facility or Service Accredited _____ February 15, 2021
17. Final Annual Report Due _____ March 31, 2024


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 us if any clarification of this decision is required.

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

Sincerely,



Julie M. Faenza
Project Analyst



Fatimah Wilson
Team Leader



Martha J. Frisone
Chief, Certificate of Need

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR
Construction Section, 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:

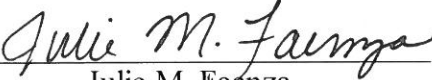
Raymond Noid
34 Granby Street
Asheville, NC 28801

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

Jimm Bunch
100 Hospital Drive
Hendersonville, NC 28792

Stefan Magura
129 McDowell Street
Asheville, NC 28801

This the 26th day of October, 2018.



Julie M. Faenza
Project Analyst, Certificate of Need

