



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

September 20, 2019

Jim Swann
3390 Dunn Road
Eastover, NC 28312

Conditional Approval

Project ID #: J-11736-19
Facility: Fresenius Kidney Care Eno River
Project Description: Relocate no more than 4 dialysis stations from FMC Dialysis Services of Briggs Avenue pursuant to Policy ESRD-2 for a total of no more than 14 stations upon project completion
County: Durham
FID #: 170324

Approved Capital Expenditure: \$15,000
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: October 21, 2019
Required State Agency Findings: Enclosed

Dear Mr. Swann:

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 review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

The conditional approval is valid only for the approved capital expenditure shown above. If the capital cost will exceed the approved capital expenditure amount by more than 115%, the applicant must first obtain a new certificate of need.

Response to the conditions in Attachment A 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 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 approved timetable for this project is found in Attachment B.

Note: The applicant shall not begin developing this project until after the certificate of need has been issued and the certificate of need will not be issued until the applicant has documented that all

conditions that must be met prior to issuance of the certificate of need have been met. Furthermore, if the project requires that plans be submitted to the Construction Section, those plans will not be reviewed or approved until after the certificate of need has been issued.

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. 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. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the 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 thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

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,



Julie M. Faenza
Project Analyst



Gloria C. Hale
Team Leader

Enclosures:

- Attachment A: Conditions of Approval
- Attachment B: Approved Timetable
- Required State Agency Findings

cc: Acute & Home Care Licensure & Certification Section, DHR

Attachment A
Conditions of Approval

1. **Bio-Medical Applications of North Carolina, Inc. shall materially comply with all representations made in the certificate of need application.**
2. **Pursuant to Policy ESRD-2, Bio-Medical Applications of North Carolina, Inc. shall relocate no more than four dialysis stations from FMC Dialysis Care of Briggs Avenue to Fresenius Kidney Care Eno River for a total of no more than 14 certified stations at Fresenius Kidney Care Eno River upon completion of this project and Project I.D. #J-11373-17 (develop a new 10-station facility by relocating four stations from FMC Dialysis Services of West Pettigrew and six stations from Freedom Lake Dialysis Unit).**
3. **Bio-Medical Applications of North Carolina, Inc. shall install plumbing and electrical wiring through the walls at Fresenius Kidney Care Eno River for no more than four additional stations for a total of no more than 14 stations upon completion of this project and Project I.D. #J-11373-17, which shall include any isolation stations.**
4. **Upon completion of this project, Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify four stations at FMC Dialysis Care of Briggs Avenue for a total of no more than 25 stations at FMC Dialysis Care of Briggs Avenue.**
5. **Bio-Medical Applications of North Carolina, Inc. 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.**

Attachment B
Approved Timetable

1. Drawings Completed _____ April 17, 2020
2. Construction / Renovation Contract(s) Executed _____ July 1, 2020
3. 25% of Construction / Renovation Completed _____
(25% of the cost is in place) _____ July 31, 2020
4. 50% of Construction / Renovation Completed _____ August 30, 2020
5. 75% of Construction / Renovation Completed _____ September 29, 2020
6. Construction / Renovation Completed _____ October 29, 2020
7. Equipment Ordered _____ September 29, 2020
8. Equipment Installed _____ December 13, 2020
9. Equipment Operational _____ December 27, 2020
10. Building / Space Occupied _____ December 27, 2020
11. Services Offered (required) _____ December 31, 2020
12. Medicare and / or Medicaid Certification Obtained _____ December 31, 2020