

North Carolina Department of Health and Human Services  
Division of Health Service Regulation  
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704

<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor  
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief  
Phone: (919) 855-3873  
Fax: (919) 733-8139

December 19, 2012

Erin Jochum Roberts  
Smith Moore Leatherwood, LLP  
PO Box 27525  
Raleigh, NC 27611

**Exempt from Review – Acquisition of Facility**

Facility: High Country Health Care System  
Acquisition by: Medical Services of America  
County: Alleghany  
FID #: 923604/944316

Dear Ms. Roberts:

In response to your letter of December 10, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Medical Services of America may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Les Brown  
Project Analyst

Craig R. Smith, Chief  
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR





# SMITH MOORE LEATHERWOOD

LES

December 10, 2012



**VIA HAND DELIVERY**

Mr. Craig Smith  
Chief, Certificate of Need Section  
Division of Health Service Regulation  
North Carolina Department of Health and Human Services  
809 Ruggles Drive  
Raleigh, North Carolina 27603

Re: Notice of Exemption: Acquisition of Existing Certified Home Health Hospice Agency operated by High Country Health Care System.

Dear Mr. Smith:

This letter constitutes prior written notice that Medical Services of America, a Virginia corporation ("MSA"), will be purchasing substantially all of the tangible and intangible assets of High Country Health Care System, a North Carolina nonprofit corporation ("HCHCS") used in connection with its Medicare-certified home health and hospice agency (the "Agency"), which transaction is exempt from certificate of need ("CON") review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

**Licensure Information**

The Agency is currently licensed by the Licensure and Certification Section to operate three (3) home health offices and three (3) hospice offices as follows: (1) home health services in Alleghany County under license number HC0478; (2) home health services in Ashe County under license number HC0479; (3) home health services in Watauga County under license number HC0477; (4) hospice services in Alleghany County under license number HOS1123; (5) hospice services in Ashe County under license number HOS1124; and (6) hospice services in Watauga County under license number HOS1122. See Exhibit A.

**The Proposal**

Effective on or about February 1, 2013, MSA will be acquiring substantially all of the assets of HCHCS with respect to the Agency. The real property associated with the Agency will be leased to MSA effective as of the closing of the transaction pursuant to separate lease agreements. MSA will also be submitting a change of ownership application to the North Carolina Department of Health and Human Services, Division of Health Service Regulation ("DHSR") to effectuate the transfer of the Agency's licenses.

Direct 919.755.8793 | Fax 919.838.3123 | erin.roberts@smithmoorelaw.com

Smith Moore Leatherwood LLP ■ Attorneys at Law

PO Box 27525 (27611) 2800 Two Hannover Square Raleigh, NC 27601 ■ 919.755.8700 ■ www.smithmoorelaw.com

Atlanta, GA ■ Charlotte, NC ■ Greensboro, NC ■ Greenville, SC ■ Raleigh, NC ■ Wilmington, NC

December 10, 2012

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**Analysis**

Under North Carolina law, a CON must be obtained before offering or developing a new institutional health service. N.C. Gen. Stat. § 131E-178(a). A “new institutional health service” is expressly defined in N.C. Gen. Stat. § 131E-176(16)l to include:

the purchase, lease, or acquisition of any health service facility, or portion thereof, or controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need pursuant to G.S. 131E-180.

“Health service facility” includes home health agency offices and hospice offices. N.C. Gen. Stat. § 131E-176(9b).

The CON Act enumerates certain situations, however, in which an applicant is exempt from CON review. MSA’s acquisition of the Agency fits squarely within N.C. Gen. Stat. § 131E-184(a)(8)’s exemption for the acquisition of “an existing health service facility, including equipment owned by the health service facility at the time of acquisition.” Pursuant to the terms of the agreement between HCHCS and MSA, MSA will purchase HCHCS’s assets used exclusively in the operation of the Agency, and will thereby assume ownership and operation of the Agency. Thus, given that the transaction involves the sale of an existing health service facility, it is exempt from CON review.

**Conclusion**

Based on the foregoing information, we hereby request the CON Section’s confirmation that the transaction described herein is exempt from CON review, under N.C. Gen. Stat. §131E-184(a)(8).

If you require additional information, please contact us at the above number. Thank you in advance for your review of this notice.

With kindest personal regards, I am

Very truly yours,

SMITH MOORE LEATHERWOOD LLP



Erin Jochum Roberts

# EXHIBIT A

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to*

*High Country Health Care System*

*to operate an agency known as  
High Country Health Care System*

*located at 115 Atwood Street, Suite B  
City of Sparta, North Carolina.*

*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire  
midnight December 31, 2012.*

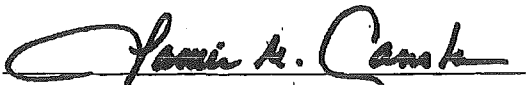
*Facility ID: 923604*

*License Number: HC0478*

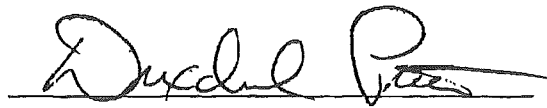
*Home Care Services: Nursing Care, Infusion Nursing, In-home Aide, Physical Therapy, Occupational Therapy,  
Speech Therapy,*

*This agency is authorized to provide Medicare-certified home health services.*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to*

*High Country Health Care System*

*to operate an agency known as  
High Country Health Care System*

*located at 1877 NC Hwy 163  
City of West Jefferson, North Carolina.*

*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire  
midnight December 31, 2012.*

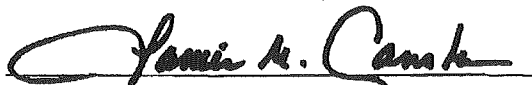
*Facility ID: 923605*

*License Number: HC0479*

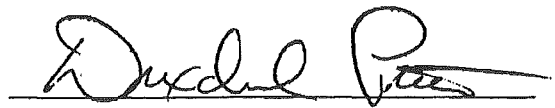
*Home Care Services: Nursing Care , Infusion Nursing , In-home Aide , Physical Therapy, Occupational Therapy,  
Speech Therapy,*

*This agency is authorized to provide Medicare-certified home health services.*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to  
High Country Health Care System*

*to operate an agency known as  
High Country Health Care System*

*located at 400 Shadowline Drive; Building 200, Suite 205  
City of Boone, North Carolina.*

*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire  
midnight December 31, 2012.*

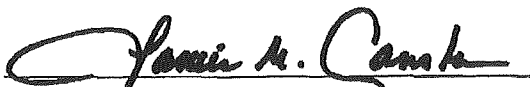
*Facility ID: 943603*

*License Number: HC0477*

*Home Care Services: Nursing Care , Infusion Nursing , In-home Aide , Physical Therapy, Occupational Therapy,  
Companion, Sitter, Respite*

*This agency is authorized to provide Medicare-certified home health services.*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to  
High Country Health Care System*

*to operate a hospice known as  
High Country Health Care System*

*located at 81- A West Doughton Street  
City of Sparta, North Carolina, Alleghany County.*

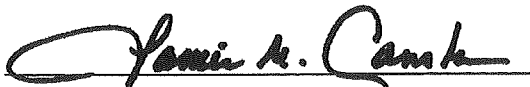
*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire  
Midnight, December 31, 2012.*

*Facility ID: 944316*

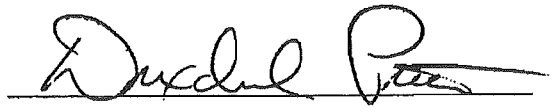
*License Number: HOS1123*

*Hospice Services*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation



# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to*

*High Country Health Care System*

*to operate a hospice known as*

*High Country Health Care System*

*located at 392 Highway 88 East*

*City of Jefferson, North Carolina, Ashe County.*

*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire  
Midnight, December 31, 2012.*

*Facility ID: 944314*

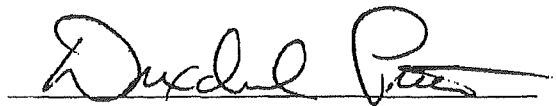
*License Number: HOS1124*

*Hospice Services*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services



Director, Division of Health Service Regulation

# State of North Carolina

Department of Health and Human Services  
Division of Health Service Regulation

*Effective January 01, 2012, this license is issued to*

*High Country Health Care System*

*to operate a hospice known as*

*High Country Health Care System*

*located at 136 Furman Road, Suite 4*

*City of Boone, North Carolina, Watauga County.*

*This license is issued subject to the statutes of the  
State of North Carolina, is not transferable and shall expire*

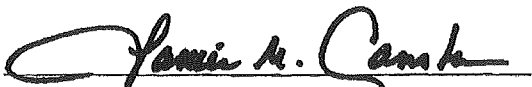
*Midnight, December 31, 2012.*

*Facility ID: 944315*

*License Number: HOS1122*

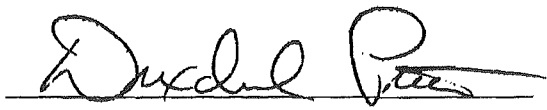
*Hospice Services*

Authorized by:



Secretary, N.C. Department of Health and  
Human Services





Director, Division of Health Service Regulation

**Brown, Les**

**From:** Erin Roberts [Erin.Roberts@smithmoorelaw.com]  
**Sent:** Tuesday, December 18, 2012 11:07 AM  
**To:** Brown, Les  
**Subject:** RE: Exemption - Acquisition of High Country Health Care System

Les,

High Country Health Care System, Inc. is a separate North Carolina nonprofit corporation that provides home health and hospice services, and the Appalachian District Health Department and Ashe Memorial Hospital, Inc. are its member entities. After the closing of the proposed transaction, the Board of Directors of High Country Health Care System will take action to dissolve this entity, and its member entities will remain in existence. If you have additional questions, please do not hesitate to contact me. Thank you for your assistance with this important matter. Best regards, Erin

Erin Jochum Roberts  
**Smith Moore Leatherwood LLP**  
 434 Fayetteville Street  
 Suite 2800  
 Raleigh, NC 27601  
 919.755.8793 (voice)  
 919.838.3123 (direct fax)  
[www.smithmoorelaw.com](http://www.smithmoorelaw.com)



SMITH MOORE  
 LEATHERWOOD®

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**From:** Brown, Les [mailto:les.brown@dhhs.nc.gov]  
**Sent:** Tuesday, December 18, 2012 10:33 AM  
**To:** Erin Roberts  
**Subject:** Exemption - Acquisition of High Country Health Care System

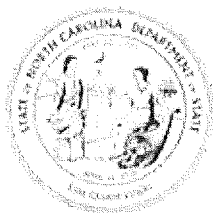
Erin,  
 Could you please confirm that High Country Health Care System includes only a certified home health agency and hospice, and that it is a separate entity from Appalachian District Health Department and Ashe Memorial Hospital?  
 I appreciate your assistance in this matter.  
 Best regards,  
 Les

*Les Brown*  
*CON Project Analyst*  
*Division of Health Service Regulation*  
 919-855-3873

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12/18/2012



*Elaine F. Marshall*  
Secretary

North Carolina

DEPARTMENT OF THE  
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

Date: 12/14/2012

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PC, PLLC, LP and Non-Profit entities are not required to file annual reports.

### Corporation Names

Name	Name Type
NC HIGH COUNTRY HEALTH CARE SYSTEM	LEGAL

### Non-Profit Corporation Information

<b>SOSID:</b>	0407493
<b>Status:</b>	Current-Active
<b>Effective Date:</b>	10/3/1996
<b>Annual Report Due Date:</b>	
<b>Citizenship:</b>	DOMESTIC
<b>State of Inc.:</b>	NC
<b>Duration:</b>	PERPETUAL

### Registered Agent

<b>Agent Name:</b>	TUTTLE, CARL D
<b>Office Address:</b>	141 HEALTH CENTER DRIVE BOONE NC 28607
<b>Mailing Address:</b>	141 HEALTH CENTER DRIVE BOONE NC 28607

### Principal Office

<b>Office Address:</b>	NO ADDRESS
<b>Mailing Address:</b>	141 HEALTH CENTER DRIVE WATAUGA COUNTY BOONE NC 28607

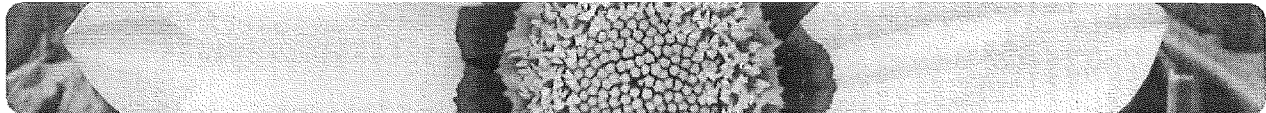
### Officers

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Look up on  
 NE  
 Sec of State

400 Shadowline Drive, Suite 100-B  
 Boone, NC 28607  
 (828) 265-3926



HOME HEALTH

HOSPICE

TRANSITIONS

High Country Health Care System is a non-profit, private, community based, home health and hospice care organization that has been in the business of providing healthcare services to Alleghany, Ashe and Watauga counties for over 30 years.

The mission of High Country Health Care System is to provide comprehensive, quality health care in the least restrictive, most cost effective and most desirable setting - the home. We honor the traditions and values of those we serve, always striving to assist our patients and their families in celebrating life to its fullest!

400 Shadowline Drive Suite 100-B, Boone, NC 28607 • 1-800-834-9090 (toll free) • 828-264-9155 828-264-9154 (fax)

12/13

~~Craig~~

HCHCS only provides home health + hospice care. It looks like MSA is acquiring all of it.

What language should we use?

Thanks,

Les