



North Carolina Department of Health and Human Services
Division of Health Service Regulation

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Secretary DHHS

Drexdal Pratt
Division Director

December 23, 2013

Erin Roberts
434 Fayetteville Street
Two Hannover Square Suite 2800
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility

Facility: TRH-Home Care
Acquisition by: Community CarePartners, Inc.
County: Transylvania
FID #: 923826

Dear Ms. Roberts:

In response to your letter of November 15, 2013, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Community CarePartners, Inc. 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,

Julie Halatek
Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

cc: Azzie Conley, Acute and Home Care Licensure and Certification Section, DHSR
Medical Facilities Planning, DHSR



Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

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





SMITH MOORE
LEATHERWOOD

Julie

November 15, 2013

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 Transylvania Regional Hospital, Inc.

Dear Mr. Smith:

This letter constitutes prior written notice that Community CarePartners, Inc., a North Carolina nonprofit corporation (“CarePartners”), will be purchasing substantially all of the tangible and intangible assets of Transylvania Regional Hospital, Inc., a North Carolina nonprofit corporation (“TRH”) used in connection with its Medicare-certified home health and hospice agency known as TRH-Home Care (the “Agency”), which transaction is exempt from certificate of need (“CON”) review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

Licensure Information & Proposal

The Agency is currently licensed by the North Carolina Department of Health and Human Services, Division of Health Service Regulation (“DHSR”), to operate in Transylvania County, North Carolina under license number HC0067. See Exhibit A. Effective on or about January 1, 2014, CarePartners will be acquiring substantially all of the assets of TRH with respect to the Agency. To effectuate the transfer of the Agency’s license, CarePartners will be submitting a change of ownership application to DHSR.

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.



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“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. CarePartners’ 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 TRH and CarePartners, CarePartners will purchase TRH’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, 2013, this license is issued to

Transylvania Regional Hospital, Inc.

to operate an agency known as

TRH -Home Care

located at 1266 Asheville Hwy., Suite 5

City of Brevard, 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, 2013.*

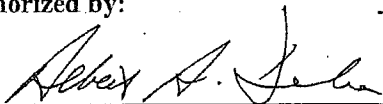
Facility ID: 923826

License Number: HC0067

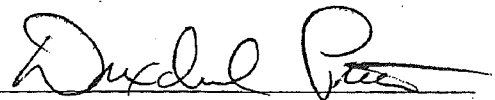
*Home Care Services: Nursing Care, Infusion Nursing, In-home Aide, Medical Social Services, Physical Therapy,
Occupational Therapy, Speech Therapy, Hospice Services, Companion, Sitter, Respite*

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

Authorized by:



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



Director, Division of Health Service Regulation