



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

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

May 28, 2014

Denise M. Gunter
380 Knollwood Street, Suite 530
Winston-Salem, NC 27103

Withdrawal of No Review Letter

Facility: FirstHealth Moore Regional Hospital – Hoke Campus
Project Description: Temporarily utilize vacant acute care bedrooms for Emergency Department patients
County: Hoke
FID #: 100390

Dear Ms. Gunter:

In light of the May 6, 2014 withdrawal of the February 11, 2014 request for a determination that the project described above is not a new institutional health service which requires a certificate of need, the Certificate of Need Section hereby withdraws its March 21, 2014 No Review letter.

Please do not hesitate to contact this office, if you have any further questions or concerns.

Sincerely,

Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: June Ferrell, Attorney General's Office



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

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

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Secretary DHHS

Drexdal Pratt
Division Director

May 7, 2014

Denise M. Gunter
380 Knollwood Street, Suite 530
Winston-Salem, NC 27103

Acknowledgment of Withdrawal of No Review Request

Project ID#: N-8497-10
Facility: FirstHealth Moore Regional Hospital – Hoke Campus
Project Description: Temporarily Utilize Acute Care Beds as Emergency Department Treatment
Beds
County: Hoke
FID #: 100390

Dear Ms. Gunter:

The Agency has received your May 6, 2014 letter withdrawing FirstHealth Moore Regional Hospital's Request for No Review with regard to temporarily utilizing the Hoke Campus hospital's acute care beds as emergency department treatment beds.

Please do not hesitate to contact this office, if you have any further questions or concerns.

Sincerely,

Tanya S. Rupp
Project Analyst

Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: June S. Ferrell, Attorney General's Office



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Frisone, Martha

From: Denise Gunter <denise.gunter@nelsonmullins.com>
Sent: Tuesday, May 06, 2014 1:50 PM
To: Frisone, Martha; Rupp, Tanya
Cc: Ferrell, June (jferrell@ncdoj.gov); Qualls, Gary (Gary.Qualls@klgates.com)
Subject: FirstHealth Hoke No Review Request
Attachments: 201405061328.pdf

Please see attached correspondence.

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Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
380 Knollwood Street / Suite 530 / Winston-Salem, NC 27103
Tel: 336.774.3300 Fax: 336.774.3372
www.nelsonmullins.com

Denise M. Gunter
Tel: 336.774.3322
Fax: 336.774.3372
denise.gunter@nelsonmullins.com

May 6, 2014

VIA EMAIL AND FIRST CLASS MAIL


Martha J. Frisone, Interim Chief
Tanya S. Rupp, Project Analyst
Certificate of Need Section
North Carolina Department of Health and Human Services
Division of Health Service Regulation
2704 Mail Service Center
Raleigh, North Carolina 27699-2704

Re: FirstHealth Moore Regional Hospital – Hoke Campus
Project Description: Temporarily Utilize Acute Care Beds as Emergency Department
Treatment Beds
County: Hoke
FID: 100390

Dear Ms. Frisone and Ms. Rupp:

FirstHealth Moore Regional Hospital – Hoke Campus hereby withdraws its February 11, 2014 no review request concerning the above-referenced subject matter.

Sincerely,



Denise M. Gunter

cc: June S. Ferrell, Esq. (via email only)
Gary S. Qualls, Esq. (via email only)



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

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

March 21, 2014

Amy Graham
P.O. Box 3000
Pinehurst, NC 28374

No Review

Facility: FirstHealth Moore Regional Hospital – Hoke Campus
Project Description: Temporarily Utilize Acute Care Beds as Emergency Department
Treatment Beds
County: Hoke
FID #: 100390

Dear Ms. Graham:

The Certificate of Need Section (CON Section) received your letter of February 11, 2014 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

Moreover, you need to contact the Construction and Nursing Home Licensure and Certification Sections of the Division of Health Service Regulation to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Certificate of Need Section

www.ncdhhs.gov

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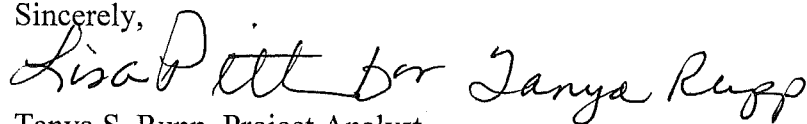
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Amy Graham
March 21, 2014
Page 2

Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D. # (FID) if the facility is licensed.

Sincerely,



Tanya S. Rupp, Project Analyst



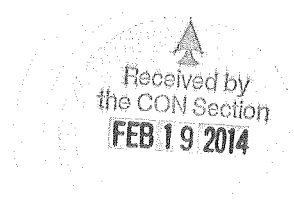
Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: Medical Facilities Planning Branch, DHSR
Construction Section, DHSR
Acute Care Licensure and Certification Section, DHSR

Troy

February 11, 2014

Ms. Martha Frisone
Section Chief, Certificate of Need Section
NC Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704



RE: Request for Ability to Use Acute Care Bed Patient Rooms for Emergency Department Treatment Rooms at FirstHealth Moore Regional Hospital – Hoke Campus / Hoke County

Dear Ms. Frisone:

FirstHealth intends to use acute care bed inpatient rooms at FirstHealth Moore Regional Hospital – Hoke Campus as Emergency Department treatment rooms.

Statement of Facts

The FirstHealth Moore Regional Hospital – Hoke Campus Emergency Department (Emergency Department) treats patients in eight (8) treatment rooms. In the approved 2010 CON application, FirstHealth projected first year Emergency Department visits at 9,155 visits or 25 visits per day (9,155 / 365 = 25.1) (Attachment 1). Since the Emergency Department began treating patients in October 2013, its daily Emergency Department visits have never been below 30 visits and have increased from a peak of 61 visits on October 31, 2013 to a peak of 91 visits on December 25, 2013 (Attachment 2). The Emergency Department visit volumes have maintained their levels in 2014; however, the Emergency Department has experienced an increase in patients “leaving without being seen” because wait times can be long due to only operating eight treatment rooms and experiencing Emergency Department visit volumes nearly 4 times higher than originally projected.

Adjacent to the Emergency Department treatment rooms are eight (8) acute care beds (inpatient rooms), which serve the inpatient needs of the hospital; however, daily average census for the acute care beds has been below four (4) inpatients since October 2013.

FirstHealth intends to use the available inpatient rooms as Emergency Department treatment rooms while the need to decrease the number of Emergency Department patients “leaving without being seen” exists. This action will be temporary while FirstHealth considers other long-term actions to address the dramatic increase in Emergency Department visits.

Requested Action

FirstHealth requests that the Certificate of Need Section make a determination that the proposal to use of acute care bed inpatient rooms at FirstHealth Moore Regional Hospital – Hoke Campus as Emergency Department treatment rooms is within the internal actions available to FirstHealth to address the dramatic increase in Emergency Department visits and should not require any additional regulatory review.

If you require additional information concerning this request, please contact me at 910-715-1981.

Sincerely,

A handwritten signature in black ink, appearing to be 'Amy Graham', written in a cursive style.

Amy Graham
Director of Business Development

Attachments: Attachment 1 – Year 1 ED Projections
Attachment 2 – ED Daily Visits in 2013

Cc: Ms. Azzie Conley, Section Chief, Acute & Home Care Licensure & Certificate Section

Step 11.

The following table summarizes Table 2 from Step 10:

**FHCH Emergency Department
 Observation, Inpatient, and Discharge Volumes Summary
 FY2013 – FY2015**

	2013	2014	2015
Total ED Visits	9,155	9,428	9,704
ED Observation Patients	246	253	261
ED Inpatients	1,426	1,469	1,512
ED Discharges	7,482	7,706	7,932

FirstHealth has determined that it can relocate eight (8) acute care beds from FMRH to the proposed FHCH without impacting the patients who remain at FMRH. In order to accommodate the projected ED Inpatients, specifically those patients who may have higher acuities, FirstHealth assumes that 50.0 percent of the ED Inpatients will be admitted to the inpatient unit and the remaining 50.0 percent will be held in the four observation beds, located on the inpatient unit, until they can be transferred to either FMRH or to CFVMC.

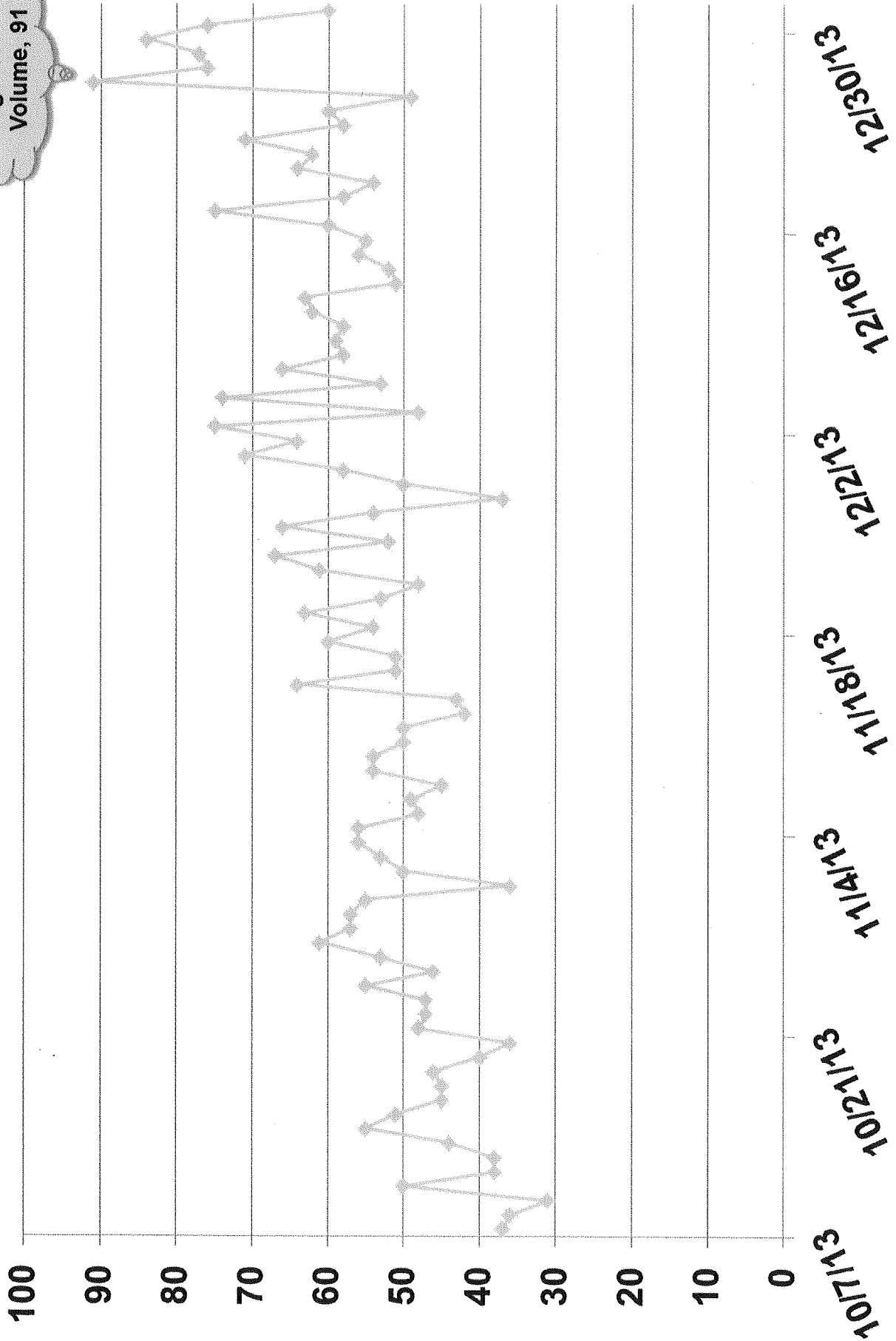
The following table presents the number of adjusted observation patients, which is equal to the number of projected ED Observation Patients plus 50.0 percent of the projected ED Inpatients, and the number of adjusted inpatients, which is equal to 50.0 percent of the projected ED Inpatients.

**FHCH Emergency Department
 Adjusted Observation, Adjusted Inpatient, and Discharge Volumes Summary
 FY2013 – FY2015**

	2012	2013	2014
Total ED Visits	9,155	9,428	9,704
ED Observation Patients	959	988	1,017
ED Inpatients	713	734	756
ED Discharges	7,482	7,706	7,932

ED Patient Volume - First Quarter

Highest Volume, 91



Rupp, Tanya

From: Qualls, Gary [Gary.Qualls@klgates.com]
Sent: Friday, March 14, 2014 12:55 PM
To: Frisone, Martha; Rupp, Tanya
Subject: Comments by Cape Fear Valley Opposing FirstHealth's Feb. 11, 2014 Request
Attachments: 001.PDF

Martha and Tanya:

Please find a set of comments which my client, Cape Fear Valley, is filing today with the CON Section opposing FirstHealth's February 11, 2014 Request.

As I mention in my cover letter, please provide me with notice when the CON Section makes a decision on FirstHealth's Request.

Thanks

Gary

K&L GATES

Gary S. Qualls
Partner
K&L Gates LLP
430 Davis Drive, Suite 400
Morrisville, NC 27560
Phone: 919-466-1182
Fax: 919-516-2072
gary.qualls@klgates.com
www.klgates.com

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3/18/2014

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March 14, 2014

VIA HAND DELIVERY

Martha Frisone,
Chief, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health &
Human Services
809 Ruggles Drive
Raleigh, North Carolina 27603

Tanya Rupp, Analyst
Division of Health Service
Regulation
North Carolina Department of
Health & Human Services
809 Ruggles Drive
Raleigh, North Carolina 27603

RE: Comments by Cumberland County Hospital System, Inc. d/b/a Cape
Fear Valley Health System ("Cape Fear")

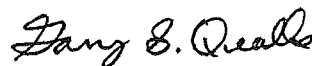
Dear Ms. Frisone and Ms. Rupp:

On behalf of my client Cumberland County Hospital System, Inc. d/b/a
Cape Fear Valley Health System ("Cape Fear"), enclosed please find Comments
Opposing FirstHealth's February 11, 2014 Request, which is attached as Exhibit 1 to
our Comments.

Please provide me with notice when the Agency makes a decision on
FirstHealth's Request.

Should you have any questions or concerns, please do not hesitate to contact
me.

Sincerely,


Gary S. Qualls

Enclosure

**Comments By Cape Fear Valley Opposing FirstHealth's February 11, 2014
Request to Convert FirstHealth Hoke Beds to ED Treatment Rooms**

Cumberland County Hospital Systems, Inc. d/b/a Cape Fear Valley Health System ("Cape Fear Valley") files these comments with the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the "Agency").

Cape Fear Valley's comments oppose the February 11, 2014 request filed by FirstHealth of the Carolinas, Inc. ("FirstHealth") to materially change the scope of FirstHealth Hoke Community Hospital in Hoke County ("FirstHealth Hoke") so as to convert some or all of FirstHealth Hoke's eight (8) CON approved acute care beds to Emergency Department ("ED") Treatment Rooms (the "ED Treatment Room Request"). See copy of ED Treatment Room Request attached as Exhibit 1.

This ED Treatment Room Request is an admission by FirstHealth that:

- (1) FirstHealth does not need the 8 acute care beds it was awarded in Project I.D. No. N-8497-10 (the "FirstHealth 8-Bed Project"); and
- (2) FirstHealth certainly does not need the 28 additional acute care beds it was awarded by the Agency in Project I.D. No. N-8838-12 (the "FirstHealth 28-Bed Project"), which is now being defended by FirstHealth and the Agency at the North Carolina Court of Appeals.

If the Agency approves this ED Treatment Room Request, it will likewise be an admission by the Agency that:

- (1) FirstHealth does not need the FirstHealth 8-Bed Project; and
- (2) FirstHealth certainly does not need the FirstHealth 28-Bed Project.

I. Summary of Prior FirstHealth Projects

A. 8-Bed Review

In April 2012, FirstHealth received a CON for the FirstHealth 8-Bed Project. The 8-Bed Hospital opened on October 3, 2013. Since then, according to the ED Treatment Room Request, FirstHealth has struggled to sufficiently utilize the 8 beds. Thus, the ED Treatment Room Request asks for permission to use a number of such beds as ED Treatment Rooms instead of acute care beds.

B. 28-Bed Review

On June 15, 2012, Cape Fear Valley and FirstHealth each filed competitive CON Applications for the 28 acute care bed need determination for the Cumberland/Hoke Service Area in the 2012 SMFP. The Cape Fear Valley 28-Bed Application proposed to add 28 acute care beds to its existing Cumberland County campus. The FirstHealth 28-Bed Application proposed to add 28 acute care beds to its approved 8-Bed FirstHealth Hoke.

On November 27, 2012, the Agency issued its Decision denying the Cape Fear Valley 28-Bed Application and approving the FirstHealth 28-Bed Application instead. On September 17, 2013, the ALJ affirmed the Agency's 28-Bed Decision. On October 16, 2013, Cape Fear Valley appealed the ALJ's 28-Bed Decision to the North Carolina Court of Appeals.

II. FirstHealth's ED Treatment Room Request Confirms That FirstHealth Never Needed the 28 Acute Care Beds At FirstHealth Hoke.

A. FirstHealth Originally Failed To Show Need for the 28 Beds

First, recall that the 28-Bed need determination was generated by high inpatient volumes at Cape Fear Valley. Thus, it was Cape Fear Valley, not FirstHealth, that generated the Cumberland/Hoke 28-Bed need determination in the first place. It was also Cape Fear, not FirstHealth, that demonstrated a need for the Cumberland/Hoke Service Area in the competitive review.

Cape Fear Valley has maintained all along that FirstHealth never demonstrated a need for the 28 acute care beds. The FirstHealth 28-Bed Application failed to show need based upon numerous, independent bases. Those bases include (but are not limited to):

- The FirstHealth 28-Bed Application failed to alleviate the 2012 SMFP's need for 28 acute care beds in the SMFP-defined Cumberland/Hoke Service Area.
- Rather, the FirstHealth 28-Bed Application based its utilization projections on a proposal to shift 7,929 existing, historical patient days at FirstHealth Moore.
- The FirstHealth 28-Bed Application inappropriately included tertiary level services in its utilization assumptions for a community hospital, thus overstating the number of patients who might shift from FirstHealth Moore to FirstHealth Hoke, irrespective of patient origin.
- FirstHealth did not propose to serve any significant numbers of new patients from either Cumberland or Hoke Counties.

B. Manipulative Timing of FirstHealth's Request

The timing of FirstHealth's ED Treatment Room Request is quite manipulative:

- The Record on Appeal was settled on January 22, 2014. Settlement of the Record on Appeal defines the scope of evidence for the Court of Appeals to consider.
- The Court of Appeals issued the printed Record on February 11, 2014.
- That same day -- February 11, 2014 -- FirstHealth filed this ED Treatment Room Request.

FirstHealth never needed those 28 beds in Hoke County and, now that the ALJ has made his decision and the appellate record is closed, FirstHealth is disclosing what Cape Fear Valley has been telling the Agency all along -- FirstHealth has no need for the additional 28 beds at FirstHealth Hoke because FirstHealth cannot even sufficiently utilize the 8 beds.

III. The Agency Should Deny FirstHealth's ED Treatment Room Request.

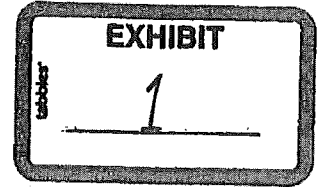
If the Agency is continuing to defend its approval of FirstHealth's 28-Bed Application, the Agency must deny this ED Treatment Room Request because the two are inconsistent.

Tung

February 11, 2014

Ms. Martha Frisone
Section Chief, Certificate of Need Section
NC Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704

Received by
the CON Section
FEB 19 2014



RE: Request for Ability to Use Acute Care Bed Patient Rooms for Emergency Department Treatment Rooms at FirstHealth Moore Regional Hospital – Hoke Campus / Hoke County

Dear Ms. Frisone:

FirstHealth intends to use acute care bed inpatient rooms at FirstHealth Moore Regional Hospital – Hoke Campus as Emergency Department treatment rooms.

Statement of Facts

The FirstHealth Moore Regional Hospital – Hoke Campus Emergency Department (Emergency Department) treats patients in eight (8) treatment rooms. In the approved 2010 CON application, FirstHealth projected first year Emergency Department visits at 9,155 visits or 25 visits per day ($9,155 / 365 = 25.1$) (Attachment 1). Since the Emergency Department began treating patients in October 2013, its daily Emergency Department visits have never been below 30 visits and have increased from a peak of 61 visits on October 31, 2013 to a peak of 91 visits on December 25, 2013 (Attachment 2). The Emergency Department visit volumes have maintained their levels in 2014; however, the Emergency Department has experienced an increase in patients "leaving without being seen" because wait times can be long due to only operating eight treatment rooms and experiencing Emergency Department visit volumes nearly 4 times higher than originally projected.

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FirstHealth intends to use the available inpatient rooms as Emergency Department treatment rooms while the need to decrease the number of Emergency Department patients "leaving without being seen" exists. This action will be temporary while FirstHealth considers other long-term actions to address the dramatic increase in Emergency Department visits.

Requested Action

FirstHealth requests that the Certificate of Need Section make a determination that the proposal to use of acute care bed inpatient rooms at FirstHealth Moore Regional Hospital – Hoke Campus as Emergency Department treatment rooms is within the internal actions available to FirstHealth to address the dramatic increase in Emergency Department visits and should not require any additional regulatory review.

If you require additional information concerning this request, please contact me at 910-715-1981.

Sincerely,

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Amy Graham
Director of Business Development

Attachments: Attachment 1 – Year 1 ED Projections
Attachment 2 – ED Daily Visits in 2013

Cc: Ms. Azzie Conley, Section Chief, Acute & Home Care Licensure & Certificate Section

Step 11.

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FirstHealth has determined that it can relocate eight (8) acute care beds from FMRH to the proposed FHCH without impacting the patients who remain at FMRH. In order to accommodate the projected ED Inpatients, specifically those patients who may have higher acuities, FirstHealth assumes that 50.0 percent of the ED Inpatients will be admitted to the inpatient unit and the remaining 50.0 percent will be held in the four observation beds, located on the inpatient unit, until they can be transferred to either FMRH or to CFVMC.

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