



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

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Mark Payne, Director
Health Service Regulation

November 29, 2016

Catharine W. Cummer
Regulatory Counsel, Strategic Planning
Duke University Health System
3100 Tower Blvd, Suite 1300
Durham, NC 27707

No Review

Record #: 2106
Facility Name: Same Day Surgery Center Franklin
FID #: 090435
Business Name: Same Day Surgery Center Franklin, LLC
Business #: 640
Project Description: Acquisition of Novant Health, Inc.'s membership interest in the LLC
County: Franklin

Dear Ms. Cummer:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter of November 22, 2016 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.

However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section 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 in your correspondence. 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 this office. 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



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

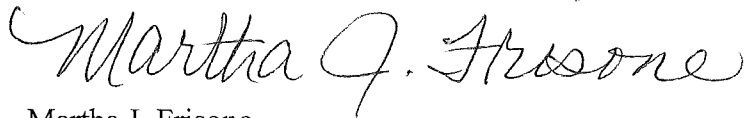
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original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,

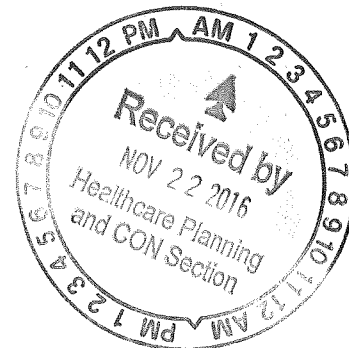
A handwritten signature in cursive script that reads "Martha J. Frisone". The signature is written in black ink and is positioned above the printed name and title.

Martha J. Frisone
Assistant Chief, Certificate of Need

cc: Acute and Home Care Licensure and Certification Section, DHR
Paige Bennett, Assistant Chief, Healthcare Planning, DHR

 **Duke University Health System**

Catharine W. Cummer
Regulatory Counsel, Strategic Planning



November 22, 2016

Via Electronic Mail

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

Re: Notice of Acquisition of Membership Interest in Same Day Surgery Center Franklin

Dear Ms. Frisone:

The Duke University Health System hereby provides notice of its intent (directly or through an affiliated and wholly-owned entity) to purchase 100% of the membership interest in Same Day Surgery Center Franklin, LLC. Same Day Surgery Center Franklin, LLC, is a limited liability company that holds two certificates of need for the development of a new ambulatory surgery center in Youngsville, North Carolina (Project I.D. No. K-8357-09 and Project I.D. No. K-10229-13, attached to this letter), which are still under development. In addition, DUHS (again directly or through an affiliated and wholly-owned entity) intends to purchase approximately fifty acres of land in Youngsville from Louisburg/Novant, LLC, for the site currently identified by Same Day Surgery Center Franklin, LLC for the approved ambulatory surgery center. We seek confirmation that the proposed transactions do not constitute new institutional health services requiring a CON.

We also request confirmation that this proposed acquisition is in material compliance with the CONs held by Same Day Surgery Center Franklin, LLC. DUHS represents that after the proposed acquisition of the membership interest, the project will continue to be developed consistent with the material representations in those applications and subsequent material compliance determinations, and subject to any conditions placed on those projects. The proposed timetable may need to be adjusted to reflect this development, however, and DUHS will update the proposed timetable in future progress reports if the transaction is approved and finalized.

We do not believe that this transaction creates a transfer of the CONs, as it is only the membership interest in the holder, not the entity holding the certificate of need, which will change. However, if it is determined that this would create a transfer of those CONs, we alternatively request a determination of good cause for such transfer. As you know, Franklin

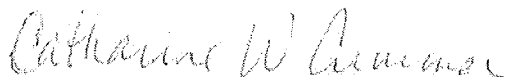
Ms. Martha Frisone
November 22, 2016

County currently has no surgery services since Franklin Medical Center closed. DLP Healthcare, LLC, is separately working with the county regarding the provision of hospital services in the county, focused on emergency and mental health services. Allowing Same Day Surgery Center Franklin, LLC to continue to develop the proposed ASC to develop and offer surgery services in Franklin County after this transaction will benefit patients in this area.

The parties will separately be seeking confirmation from Franklin County regarding the transfer and relocation of one operating room from Franklin Medical Center as contemplated by the CONs.

If you have questions about this information, please let me know.

Very truly yours,



Catharine W. Cummer

Enclosure

STATE OF NORTH CAROLINA

Department of Health and Human Services
Division of Health Service Regulation

CERTIFICATE OF NEED

for

Project Identification Number #K-10229-13

FID #090435

ISSUED TO: Same Day Surgery Center Franklin, LLC
3600 Country Club Road, Suite 201
Winston-Salem, NC 27103

Pursuant to N.C. Gen. Stat. § 131E-175, et. seq., the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the "certificate holder") to develop the certificate of need project identified above. The certificate holder shall develop the project in a manner consistent with the representations in the project application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein, as documented by the periodic progress reports required by 10A NCAC 14C 0209. The certificate holder shall not exceed the maximum capital expenditure amount specified herein during the development of this project, except as provided by N.C. Gen. Stat. § 131E-176(16)e. The certificate holder shall not transfer or assign this certificate to any other person except as provided in N.C. Gen. Stat. § 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to N.C. Gen. Stat. § 131E-189 for any of the reasons provided in that law.

SCOPE: Relocate no more than one operating room from Novant Health Franklin Medical Center for a total of no more than two operating rooms at Same Day Surgery Center Franklin which is a change of scope for Project ID #K-8357-09 (develop ASC with one OR)/ Franklin County

CONDITIONS: See Reverse Side

PHYSICAL LOCATION: Same Day Surgery Center Franklin
1111 US Highway 1
Youngsville, NC 27596

MAXIMUM CAPITAL EXPENDITURE: \$6,264,921

TIMETABLE: See Reverse Side

FIRST PROGRESS REPORT DUE: September 30, 2015

This certificate is effective as of the 3rd day of December, 2014

Martha J. Trisone
Interim Chief, Certificate of Need Section
Division of Health Service Regulation

CONDITIONS:

1. Same Day Surgery Center Franklin shall materially comply with all representations made in this certificate of need application and in Project ID #K-8357-09. In those instances in which representations conflict, Same Day Surgery Center Franklin shall materially comply with the last-made representation.
2. Same Day Surgery Center Franklin shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VIII of the application and that would otherwise require a certificate of need.
3. Same Day Surgery Center Franklin shall construct an ambulatory surgical facility that shall be licensed for no more than two ambulatory surgical operating rooms and one procedure room.
4. Same Day Surgery Center Franklin shall meet all criteria to receive accreditation of the ambulatory surgical facility from JCAHO, AAAHC or a comparable accreditation authority within two years following completion of the facility.
5. Upon relocation of the existing operating room to the new location, Novant Health Franklin Regional Medical Center shall reduce the number of licensed operating rooms in the hospital by 1, such that the hospital shall not be licensed for more than two shared operating rooms.
6. Same Day Surgery Center Franklin shall acknowledge acceptance of and agree to comply with all conditions stated herein in writing to the Certificate of Need Section prior to the issuance of the certificate of need.

A letter acknowledging acceptance of and agreeing to comply with all conditions stated in the conditional approval letter was received by the Certificate of Need Section on May 23, 2014.

TIMETABLE:

Approval of Site _____	June 17, 2015
Contract Award _____	September 17, 2015
25% Completion of Construction _____	January 1, 2016
50% Completion of Construction _____	May 15, 2016
75% Completion of Construction _____	September 1, 2016
Completion of Construction _____	January 15, 2017
Occupancy/Offering of Service _____	February 15, 2017
Licensure of Facility _____	February 15, 2017