



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**

ROY COOPER • Governor  
MANDY COHEN, MD, MPH • Secretary  
MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

February 23, 2021

Gary S. Qualls  
[Gary.qualls@klgates.com](mailto:Gary.qualls@klgates.com)

**Exempt from Review – Acquisition of Facility**

**Record #:** 3490  
**Date of Request:** February 11, 2021  
**Facility Name:** Amorem Palliative Care Center (formerly Burke Palliative Care Center)  
**Type of Facility:** Hospice Inpatient Facility  
**FID #:** 980645  
**Acquisition by:** Caldwell Hospice & Palliative Care, Inc.  
**Business #:** 327  
**County:** Burke

Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that the project described above is exempt from certificate of need (CON) review in accordance with G.S. 131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. The Agency's determination is limited to the question of whether the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. Note that pursuant to 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.*"

If the business listed above does acquire the facility, you should contact the Agency's Acute and Home Care Licensure and Certification Section to obtain instructions for changing ownership of the existing facility.

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 regarding whether a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Ena Lightbourne  
Project Analyst

Lisa Pittman  
Assistant Chief, Certificate of Need

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

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION**  
**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704  
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER



February 11, 2021

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**Via Email to [disraeliza.flores@dhhs.nc.gov](mailto:disraeliza.flores@dhhs.nc.gov)**

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

Re: Exemption Notice for Caldwell Hospice and Palliative Care, Inc.'s Acquisition, By Merger, of Burke Hospice & Palliative Care, Inc.'s Health Service Facilities

Dear Ms. Frisone:

We are writing to notify you concerning an upcoming transaction between our client, Caldwell Hospice and Palliative Care, Inc. d/b/a Amorem (“Caldwell Hospice”), and Burke Hospice & Palliative Care, Inc. (“Burke Hospice”). The purpose of this letter is to provide notice to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “CON Section” or “Agency”) of Caldwell Hospice’s acquisition, via merger, of Burke Hospice, which acquisition is exempt from certificate of need (“CON”) review under N.C. Gen. Stat. § 131E-184(a)(8).

**I. THE PROPOSAL**

Effective on or about May 1, 2021, Burke Hospice will merge into Caldwell Hospice, with Caldwell Hospice being the surviving corporation. Currently, Burke Hospice has two licensed health service facilities, both of which are located in Burke County.

1. **Home Hospice Office:** The first CON-regulated health service facility is Burke Hospice and Palliative Care, a hospice office (License #HOS0364), which is located at 1721 Enon Road, Valdese, Burke County.
2. **Inpatient and Residential Hospice Facility:** The second CON-regulated health service facility is Burke Palliative Care Center, a hospice inpatient and residential facility with 11 inpatient beds and three (3) residential beds (License # HOS1670), which is located at 1715 Enon Road, Valdese, Burke County.

After the merger, the former Burke Hospice home hospice office and inpatient/residential facility will each retain their respective independent licensed status, subject to CHOW measures. The parties will submit the appropriate applications to the Licensure and Certification Section to effectuate transfer of these licenses. The Burke County facilities will assume the Amorem name effective May 1, 2021.

## **II. EXEMPTION NOTICE**

Under North Carolina law, a CON is required only prior to offering or developing a “new institutional health service.” “New institutional health service” includes a variety of services and activities, including the establishment of a hospice office, hospice inpatient facility, or hospice residential facility.<sup>1</sup> Furthermore, the General Assembly has exempted certain types of services or proposals from CON review under N.C. Gen. Stat. §131E-184, including the acquisition of an existing health service facility, including equipment owned at the time of acquisition.<sup>2</sup>

This project involves only the acquisition, via merger, of two existing health service facilities. After the merger, the facilities will continue to operate as a hospice office and inpatient/residential facility, respectively. Furthermore, Caldwell Hospice’s acquisition of Burke Hospice does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14)(o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services.<sup>3</sup> Thus, given that the transaction involves only the acquisition of existing health service facilities, it is exempt from CON review.

## **III. CONCLUSION**

Based on the foregoing information, we hereby request the Agency’s confirmation that the proposal described above 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 as soon as possible.

Sincerely,

*/s/ Gary S. Qualls*

Gary S. Qualls

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<sup>1</sup> See N.C. Gen. Stat. §§ 131E-176(9b) and 176(16)(n).

<sup>2</sup> See N.C. Gen. Stat. § 131E-184(a)(8).

<sup>3</sup> See N.C. Gen. Stat. §131E-176(16)(f).