



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

June 3, 2021

Tyler Gilbert  
[tyler.gilbert@wallerlaw.com](mailto:tyler.gilbert@wallerlaw.com)

**No Review**

**Record #s:** 3583, 3584, 3585  
**Date of Request:** May 28, 2021  
**Facility Name:** See Attachment A  
**FID #:** See Attachment A  
**Business Name:** See Attachment A  
**Business #:** See Attachment A  
**Project Description:** Change in indirect ownership  
**County:** See Attachment A

Dear Mr. Gilbert:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your correspondence regarding the project described above. Based on the CON law **in effect on the date of this response to your request**, the project as described is not governed by, and therefore, does not currently require a certificate of need. 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.

This determination is binding only for the facts represented in your correspondence. If changes are made in the project or in the facts provided in the correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by this office.

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

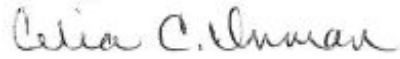
LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704  
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Mr. Gilbert  
June 4, 2021  
Page 2

Please do not hesitate to contact this office if you have any questions.

Sincerely,



Celia C. Inman  
Project Analyst



for  
Lisa Pittman  
Acting Chief, Certificate of Need

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

**Attachment A**

<b>No Review Record</b>	<b>Facility Name</b>	<b>FID</b>	<b>County</b>	<b>Owner/Operator</b>	<b>Bus. ID</b>
3583	Brookdale Home Health Raleigh	954205	Durham	Innovative Senior Care Home Health of Durham, LLC	3391
3584	Brookdale Home Health Winston	953899	Guilford	Innovative Senior Care Home Health of High Point, LLC	2537
3585	Brookdale Home Health Charlotte	953857	Mecklenburg	Innovative Senior Care Home Health of Charlotte, LLC	3392



Waller Lansden Dortch & Davis, LLP  
511 Union Street, Suite 2700  
P.O. Box 198966  
Nashville, TN 37219-8966

615 244 6380 main  
615 244 6804 fax  
wallerlaw.com

W. Tyler Gilbert  
615 850.8903 direct  
Tyler.Gilbert@wallerlaw.com

May 28, 2021

**VIA EMAIL AND OVERNIGHT COURIER**

Lisa Pittman, Assistant Chief  
Healthcare Planning and Certificate of Need Section  
2704 Mail Service Center  
Raleigh, NC 27699-2704  
[Lisa.Pittman@dhhs.nc.gov](mailto:Lisa.Pittman@dhhs.nc.gov)

Re: Request for No Review Determination- Brookdale Home Health Raleigh;  
Brookdale Home Health Winston; and Brookdale Home Health Charlotte

Dear Ms. Pittman:

I write to inform you of a pending transaction involving the three licensed home health agencies<sup>1</sup> listed in Attachment A (collectively, the “Agencies”). The Agencies are currently owned and operated by indirect wholly-owned subsidiaries of Brookdale Senior Living, Inc. (“Brookdale”).

Anticipated to be effective July 1, 2021, H3OT Corp., LLC (“Buyer”) intends to acquire 80% of the equity in a newly formed joint venture (the “JV Entity”) that will own Brookdale’s health care services segment. As a result of their joint ownership in the JV Entity, Buyer and Brookdale will become indirect owners of the Agencies. The transaction is not expected to result in any substantive changes to the operations, policies, procedures or administrative staff, nor will the transaction result in any changes to the federal tax identification numbers, National Provider Identifiers, Medicare provider numbers, or legal entities that own the assets of the Agencies.

We believe that the above mentioned transaction is not a “new institutional health service” within the meaning of N.C. Gen. Stat. § 131E-176(16), because the legal entities that are currently licensed by the Division of Health Service Regulation to operate the Agencies will remain in place and continue to hold all applicable facility licenses and provider agreements following the transaction. However, even if the Healthcare Planning and Certification of Need Section (“CON Section”) were to conclude that the transaction is a reviewable acquisition of an existing health service facility, then please accept this letter as a notice of exemption pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

We respectfully request that the CON Section to provide a letter confirming that our interpretation of the CON law and applicable rules is correct and that the proposed transaction is not a new institutional health service, or in the alternative, that the proposed transaction

---

<sup>1</sup> (4) “Home health agency” means a home care agency which is certified to receive Medicare and Medicaid reimbursement. N.C. Gen. Stat. § 131E-136; A home health agency office is a “health service facility.” *Id.* at § 131E-176(9b).

May 28, 2021

Page 2

is exempt from CON review pursuant to N.C. Gen. Stat. § 131E-184(a)(8). Should you have any questions or require additional information about the proposed transaction, please contact me at (615) 850-8903 or by email at [tyler.gilbert@wallerlaw.com](mailto:tyler.gilbert@wallerlaw.com).

Very truly yours,

  
W. Tyler Gilbert

WTG: enclosure

Attachment A

<b>License Number</b>	<b>Facility Name</b>	<b>FID Number</b>	<b>Pre-Closing Operating Entity</b>	<b>Address</b>	<b>County</b>	<b>Post-Closing Operating Entity</b>
HC0327	Brookdale Home Health Raleigh	954205	Innovative Senior Care Home Health of Durham, LLC	1005 Slater Road, Suite 330 Durham, NC 27703	Durham	Innovative Senior Care Home Health of Durham, LLC
HC0395	Brookdale Home Health Winston	953899	Innovative Senior Care Home Health of High Point LLC	7900 Triad Center Drive, Suite 250 Greensboro, NC 27409	Guilford	Innovative Senior Care Home Health of High Point LLC
HC0369	Brookdale Home Health Charlotte	953857	Innovative Senior Care Home Health of Charlotte, LLC	9300 Harris Corners Parkway, Ste. 410 Charlotte, NC 28269	Mecklenburg	Innovative Senior Care Home Health of Charlotte, LLC

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

**3. GETTING YOUR SHIPMENT TO UPS**

**Customers with a Daily Pickup**  
Your driver will pickup your shipment(s) as usual.

**Customers without a Daily Pickup**  
Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.  
Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.  
Hand the package to any UPS driver in your area.

UPS Access Point™  
THE UPS STORE  
1831 12TH AVE S  
NASHVILLE, TN 37203

UPS Access Point™  
THE UPS STORE  
2817 W END AVE  
NASHVILLE, TN 37203

UPS Access Point™  
ADVANCE AUTO PARTS STORE 3958  
505 LIGON DR  
NASHVILLE, TN 37204

FOLD HERE

JEANNIE VANLANDINGHAM/WTG 615-850-8591 WALLER LANSDEN DORTCH & DAVIS, 511 UNION STREET, SUITE 2700 NASHVILLE TN 37219		0.1 LBS LTR	1 OF 1
<b>SHIP TO:</b> LISA PITTMAN, ASSISTANT CHIEF HEALTHCARE PLANNING/CERTIF. OF NEED 2704 MAIL SERVICE CENTER <b>RALEIGH NC 27699-2700</b>			
	<b>NC 276 9-01</b> 		
<b>UPS NEXT DAY AIR</b>		<b>1</b>	
TRACKING #: 1Z 3X7 355 24 9414 5893			
			
BILLING: P/P SIGNATURE REQUIRED			
Reference #1: 009974 Client-Matter #: 003200-06867			
<small>CS 22.0.13. WNTNV50 45.0A 04/2021*</small>			

**From:** [Pittman, Lisa](#)  
**To:** [Waller, Martha K](#); [Mckillip, Mike](#)  
**Subject:** Fwd: [External] Request for No Review Determination- Brookdale Home Health Raleigh; Brookdale Home Health Winston; and Brookdale Home Health Charlotte  
**Date:** Friday, May 28, 2021 5:29:42 PM  
**Attachments:** [image001.png](#)  
[NC Certificate of Need Notice 4826-0056-5996 v7 \(002\).pdf](#)

---

Get [Outlook for Android](#)

---

**From:** Tyler Gilbert <Tyler.Gilbert@wallerlaw.com>  
**Sent:** Friday, May 28, 2021 5:23:44 PM  
**To:** Pittman, Lisa <lisa.pittman@dhhs.nc.gov>  
**Cc:** Kevin Page <Kevin.Page@wallerlaw.com>  
**Subject:** [External] Request for No Review Determination- Brookdale Home Health Raleigh; Brookdale Home Health Winston; and Brookdale Home Health Charlotte

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Ms. Pittman,

Please see the attached notice of a pending transaction involving Innovative Senior Care Home Health of Durham, LLC d/b/a Brookdale Home Health Raleigh; Innovative Senior Care Home Health of High Point, LLC d/b/a Brookdale Home Health Winston; and Innovative Senior Care Home Health of Charlotte, LLC d/b/a Brookdale Home Health Charlotte.

We respectfully request that the CON Section provide a letter confirming that the proposed transaction is not a “new institutional health service,” or in the alternative, that the proposed transaction is exempt from CON review. Thank you in advance for your time and attention to this matter.

Best,

waller

**W. Tyler Gilbert**

Associate

o: (615) 850-8903

511 Union St., Suite 2700

Nashville, TN 37219

[Twitter](#) | [LinkedIn](#) | [Bio](#) | [Email](#)



The information contained in this message and any attachments is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this message in error, you are prohibited from copying, distributing, or using the information. Please contact the sender immediately by return e-mail and delete the original message.

---

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.