



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER • Governor
KODY H. KINSLEY • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

July 20, 2023

Joy Heath, Williams Mullin
jheath@williamsmullin.com

Exempt from Review – Acquisition of Facility

Record #: 4242
Date of Request: July 12, 2023
Facility Name: Carolina Breast Imaging Specialist
Type of Facility: Diagnostic Center
FID #: 150501
Acquisition by: Solis North Carolina Diagnostic Imaging & Breast Center Management, Inc.
Business #: 2336
County: Pitt

Dear Ms. Heath:

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 & (Section Name) 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,

[Handwritten signature of Michael J. McKillip]

Michael J. McKillip, Team Leader

[Handwritten signature of Micheala Mitchell]

Micheala Mitchell, Chief

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
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# WILLIAMS MULLEN

Direct Dial: 919.981.4001  
jheath@williamsmullen.com

July 12, 2023

## Via Email Only

Micheala Mitchell, Chief  
Greg Yakaboski, Project Analyst  
Healthcare Planning & Certificate of Need Section  
[Micheala.mitchell@dhhs.nc.gov](mailto:Micheala.mitchell@dhhs.nc.gov)  
[Greg.yakaboski@dhhs.nc.gov](mailto:Greg.yakaboski@dhhs.nc.gov)

Re: Prior Written Notice of Proposed Acquisition

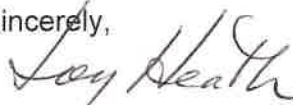
Dear Ms. Mitchell and Mr. Yakaboski:

Our law firm represents Solis North Carolina Diagnostic Imaging & Breast Center Management, Inc. ("Solis") and, on its behalf, we are writing to provide prior written notice of a proposed transaction involving Solis' acquisition of the Carolina Breast Imaging, LLC ("CBI") diagnostic center in Greenville, Pitt County, North Carolina. We are requesting that the Healthcare Planning and Certificate of Need Section (the "Agency") confirm that this transaction is exempt from review pursuant to N.C. Gen. Stat. §131E-184(a)(8).

You may recall that CBI received CON approval for operation of its diagnostic center in 2016 (Project ID # Q-11111-15/FID # 150501). As you know, the CON Law exempts certain otherwise reviewable events from review, including the acquisition of a health service facility, along with the equipment owned by the health service facility at the time of the acquisition. See N.C. Gen. Stat. §131E-184(a)(8). Under N.C. Gen. Stat. §131E-176(9b), a diagnostic center is a "health service facility." Solis will be acquiring the CBI diagnostic center (and its equipment) as an existing "health service facility." The center will remain in operation after the proposed transaction and will continue to operate in accordance with the conditions on its CON.

Based on the foregoing information, we hereby request the Agency confirm that this transaction is exempt from CON review under N.C. Gen. Stat. §131E-184(a)(8). CBI is represented by Ward & Smith, P.A., and counsel for CBI has authorized submission of this letter and will receive a copy as well. Solis and CBI anticipate closing this transaction in July 2023 and will appreciate advance receipt of the Agency's response. Please do not hesitate to contact me if you have any questions or need additional information. Thank you, as always, for your assistance.

Sincerely,



Joy Heath

cc: Timothy Mueller, General Counsel, Solis Mammography  
J. Michael Fields, Ward & Smith, P.A.

**From:** [Mitchell, Micheala L](#)  
**To:** [Stancil, Tiffany C](#)  
**Cc:** [Waller, Martha K](#); [Yakaboski, Greg](#); [Mckillip, Mike](#)  
**Subject:** Fw: [External] Prior Written Notice of Proposed Acquisition [WMIMAN-IWOVRIC.FID755092]  
**Date:** Wednesday, July 12, 2023 11:03:24 PM  
**Attachments:** [3913\\_001.pdf](#)

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Tiffany can you log this as an exemption request and assign to Cindy? (Greg is going on vacation and this one is time sensitive.)

Thank you!

Micheala Mitchell, JD  
[NC Department of Health and Human Services](#)  
[Division of Health Service Regulation](#)  
Section Chief, Healthcare Planning and CON Section  
809 Ruggles Drive, Edgerton Building  
2704 Mail Service Center  
Raleigh, NC 27699-2704  
Office: [919 855 3879](tel:9198553879)  
[Micheala.Mitchell@dhhs.nc.gov](mailto:Micheala.Mitchell@dhhs.nc.gov)

Don't wait to vaccinate. Find a COVID-19 vaccine location near you at [MySpot.nc.gov](https://www.myspot.nc.gov).  
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**From:** Heath, Joy <[jheath@williamsmullen.com](mailto:jheath@williamsmullen.com)>  
**Sent:** Wednesday, July 12, 2023 5:46 PM  
**To:** Mitchell, Micheala L <[Micheala.Mitchell@dhhs.nc.gov](mailto:Micheala.Mitchell@dhhs.nc.gov)>; Yakaboski, Greg <[greg.yakaboski@dhhs.nc.gov](mailto:greg.yakaboski@dhhs.nc.gov)>  
**Cc:** Timothy Mueller <[Timothy.Mueller@solismammo.com](mailto:Timothy.Mueller@solismammo.com)>; [jmf@wardandsmith.com](mailto:jmf@wardandsmith.com) <[jmf@wardandsmith.com](mailto:jmf@wardandsmith.com)>; Waller, Martha K <[martha.waller@dhhs.nc.gov](mailto:martha.waller@dhhs.nc.gov)>  
**Subject:** [External] Prior Written Notice of Proposed Acquisition [WMIMAN-IWOVRIC.FID755092]

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Dear Ms. Mitchell & Mr. Yakaboski:

Please find attached Prior Written Notice of a proposed acquisition pursuant to which my client, Solis North Carolina Diagnostic Imaging & Breast Center Management, Inc., intends to acquire an existing diagnostic center (and its equipment) in Greenville, Pitt County, North Carolina. Details of the proposed transaction are set forth in the letter and we will appreciate your review and response. The parties seek to close this transaction in July 2023, so we thank you in advance for

your consideration in this matter.

If I may respond to any questions or provide anything further, please do not hesitate to let me know.

Thanks again,

Joy



**Joy Heath** (she/her)

*Attorney*

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