

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF FACILITY SERVICES
RALEIGH, NORTH CAROLINA

IN RE: REQUEST FOR DECLARATORY)
RULING BY ST. JOSEPH) DECLARATORY RULING
OF THE PINES, INC.)

I hereby issue this Declaratory Ruling to St. Joseph of the Pines, Inc. (“St. Joseph”) pursuant to N.C. Gen. Stat. § 150B-4 and 10A NCAC 14A .0103, and the authority granted to me by the Secretary of the Department of Health and Human Services. St. Joseph is seeking an interpretation of Policy LTC-1 of the State Medical Facilities Plan (“SMFP”) as it pertains to the location of beds at St. Joseph’s two continuing care retirement communities (“CRCC”). This ruling is binding on the agency and the person requesting it if the material facts stated in the request are accurate and no material facts have been omitted from the request. The ruling applies only to this request. Except as provided by N.C. Gen. Stat. § 150B-4, the agency reserves the right to change the conclusions which are contained in this ruling. Jake Bell, Director of Health Services for St. Joseph, has requested this ruling on behalf of same and has provided the *material* facts upon which this ruling is based.

STATEMENT OF THE FACTS

St. Joseph currently operates Belle Meade Retirement Resort (“Belle Meade”) and St. Joseph of the Pines Retirement Villas, located in Southern Pines, North Carolina, and licensed as CCRCs by the North Carolina Department of Insurance.

The Belle Meade CCRC campus has two separately licensed facilities: The Coventry, which has 40 licensed Adult Care Home (“ACH”) beds, and St. Joseph of the Pines Health Center, which has 176 nursing home beds. The two facilities now serve residents of both the

Belle Meade community; St. Joseph's other CCRC, St. Joseph of the Pines Retirement Villa; and the Moore County community.

St. Joseph is also currently developing a third independent living option at The Overlook at Pine Knoll, on the same campus as the St. Joseph of the Pines Retirement Villa. However, St. Joseph does not propose to develop ACH services on this campus. Rather, St. Joseph plans to offer ACH Services for the residents of The Overlook at Pine Knott, at The Coventry, which is on the campus of Belle Meade. St. Joseph is requesting that The Coventry be considered an appropriate location for development of ACH services to serve CCRC residents on both campuses. The two campuses are located approximately two miles apart and St. Joseph is proposing to add 42 ACH-beds at The Coventry that would be used exclusively to meet the needs of CCRC residents of both campuses.

ANALYSIS

The 2005 contains Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities—Adult Care Home Beds. This policy provides:

Qualified continuing care retirement communities may include from the outset, or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:

- (A) Will only be developed concurrently with, or subsequent to, construction **on the same site of independent living accommodations** (apartments and homes) for persons who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats houses, cottages, and rooms.
- (B) Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the N.C. Department of Insurance.
- (C) Will be exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and rules) who have lived in a non-nursing or adult care unit of the

continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling moves into a non-nursing or adult care unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.

- (D) Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional adult care home care.
- (E) Will not participate in the Medicaid program or serve State-County Special Assistance recipients.

(2005 SMFP, pp. 24-25) (Emphasis added.)

St. Joseph is requesting an exception under Policy LTC-1 to allow it to develop 42 additional ACH-beds at The Coventry on the Belle Meade campus to serve the CCRC residents who live at either the St. Joseph of the Pines Retirement Villas campus or the Belle Meade campus.

St. Joseph is the owner of both the Belle Meade Retirement Resort and St. Joseph of the Pines Retirement Villas. The Coventry is a licensed 40 bed-ACH on the Belle Meade campus, and is located two miles from the St. Joseph of the Pines Retirement Villas. The existing ACH-beds at The Coventry currently serve the CCRC residents of both Belle Meade and St. Joseph Retirement Villas. The 42 additional adult care home beds to be located at The Coventry would also serve residents of both CCRCs. The location of all ACH-beds in one facility to serve two campuses in close proximity is cost effective due to economies of scale. I find that St. Joseph has demonstrated the two campuses should be considered the same site for purposes of Policy LTC-1.

CONCLUSION

For all the foregoing reasons, assuming the statements of fact in the request to be true, I hereby determine that Policy LTC-1 of the 2005 SMFP, shall be interpreted to

allow St. Joseph to develop 42 additional ACH-beds on the Belle Meade campus (The Coventry) to serve those CCRC residents who live on the St. Joseph campus.

This is the _____ day of December, 2005.

Robert J. Fitzgerald, Director
Division of Facility Services