



## STATEMENT OF THE FACTS

Effective November 13, 2004, the CON Section issued a certificate of need (“CON”) for Project I.D. No. G-7065-04 authorizing Petitioners to acquire a mobile MRI scanner. The five original host sites were Mountainview Medical in King, Winston-Salem Health Care in Winston-Salem, Northern Hospital of Surry County in Mount Airy, Central Triad Imaging in Kernersville and Thomasville Medical Center in Thomasville (the “Original sites”). (Northern Hospital of Surry County and Thomasville Medical Center were identified as “backup sites” in the CON application.) Through a declaratory ruling obtained in 2006, Petitioners were allowed to locate the mobile MRI at Medical Associates of Davie in Davie County (the “Davie site”) on Sundays. In 2009, Petitioners were approved to offer mobile service at Mecklenburg Diagnostic Imaging, LLC, in Mooresville (the “Mooresville site”). Subsequently, all of the host sites, except the Mooresville site, were dropped because mobile services were no longer needed.

In a 2010 declaratory ruling, Forsyth Medical Center Imaging - Maplewood, 3155 Maplewood Avenue, Winston-Salem, NC 27103 (the “Maplewood site”) was added as a host site. In this request, Petitioners seek approval to add Kernersville Medical Center (“KMC”) as an additional host site for the mobile MRI scanner. KMC, a Novant-owned hospital that will be licensed under Forsyth Medical Center, is scheduled to open in March 2011 (Project I.D. #G-7604-06). The CON application represented that KMC would have mobile MRI service. As such, a mobile pad and electrical hook-up are included in the capital cost and will be constructed as part of the KMC project. Thus, Petitioners will not incur any additional capital costs to serve KMC with the mobile MRI scanner.

Petitioners state that the mobile MRI scanner will serve KMC six days a week and the Maplewood site on Saturdays. Petitioners intend to replace the days at the Mooresville site with

a “grandfathered” unit. There will be no change in the scope of services originally proposed. Petitioners represent that the service agreement for KMC will be substantially similar to the agreement with the Mooresville and Maplewood sites. Petitioners further represent that they will satisfy all the requirements and representations regarding the host sites in their original CON application. There will be no increases in costs or charges to Petitioners or the public for the provision of services as a result of the route change.

### **ANALYSIS**

The CON law would require a full review of Petitioners’ proposed site addition if it were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed change does not constitute a material change in the physical location or the scope of the Project. The addition of KMC as a host site is in material compliance with the original CON, which permitted Petitioners to serve sites in Forsyth County, among other locations. Furthermore, the CON that was issued for the mobile MRI scanner requires Petitioners to serve at least two host sites per week, so allowing Petitioners to serve KMC will help enable them to fulfill the conditions on the CON. There will be no increase in costs or charges for the provision of services, and there will not be any change in the scope of services as a result of the site addition.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Petitioners’ certificate of need if they fail to develop the Project in a manner consistent with the representations made in their application or with any conditions that were placed on their CON. They will not be developing the Project in a manner that is materially different from the representations made in their application, nor will they be developing the Project in a manner that is inconsistent with any of the conditions that were placed on their CON.

## **CONCLUSION**

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the addition of Kernersville Medical Center as a host site for Project I.D. No. G-7065-04, will not constitute a material change in the physical location or scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON in violation of N.C.G.S. § 131E-189(b).

This the \_\_\_\_\_ day of January, 2011.

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Drexdal Pratt, Director  
Division of Health Service Regulation  
N.C. Department of Health and Human Services

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in first-class, postage pre-paid envelope addressed as follows:

**CERTIFIED MAIL**

Denise M. Gunter  
Nelson Mullins Riley & Scarborough LLP  
380 Knollwood Street, Suite 530  
Winston-Salem, NC 27103

This the \_\_\_\_\_ day of January, 2011.

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Jeff Horton  
Chief Operating Officer