

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION
RALEIGH, NORTH CAROLINA**

IN RE: REQUEST FOR DECLARATORY)	
RULING BY CARTERET COUNTY)	
GENERAL HOSPITAL CORPORATION)	DECLARATORY RULING
d/b/a CARTERET GENERAL HOSPITAL)	
Project I.D. No. P-8834-12)	

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Carteret General Hospital Corporation, d/b/a Carteret General Hospital (hereinafter “Carteret Hospital”) has requested a declaratory ruling allowing for a change in site for Project I.D. No. P-8834-12 on the grounds that the change does not constitute a material change in scope or physical location or a failure to materially comply with the representations made by Carteret Hospital in its Certificate of Need (“CON”) application for its project. N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entity requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Richard A. Brvenik of Carteret Hospital has requested this ruling on behalf of Carteret Hospital and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

On November 21, 2012 the CON Section conditionally approved Carteret Hospital's CON application to replace a linear accelerator and develop a multidisciplinary cancer center at 201 Penny Lane, Morehead City, NC 28557.

On January 4, 2013 the CON Section issued a CON for Carteret Hospital's project.

New plans for the main campus now make it feasible to locate the cancer center at the hospital (alternative site), avoid costs of relocation, and avoid duplication of support services.

The alternative site at 3500 Arendell Street, Morehead City, North Carolina 28557, is located adjacent to the primary site on Penny Lane, was named in the original CON application, and will not affect the population to be served or the services to be provided as proposed in Carteret Hospital's CON application.

ANALYSIS

The CON law would require a full review of Carteret Hospital's site relocation if that relocation were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed site relocation does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

The alternative site is the main site of the hospital, the current location of cancer services, and was named in the CON application.

The alternative site will not affect the population to be served or the services to be provided as proposed in Carteret Hospital's CON application.

The alternative site will enable the hospital to avoid capital costs of relocating equipment and operating costs of duplicating support services.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Carteret Hospital's CON if Carteret Hospital fails to develop the service in a manner consistent with the representations made in the application or with any conditions that were placed on the CON. Carteret Hospital will not be developing its project in a manner that is materially different from the representations made in its application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were placed on its CON.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that Carteret Hospital's request to change the site of its multidisciplinary cancer center from 201 Penny Lane, Morehead City, NC 28557 to 3500 Arendell Drive, Morehead City, NC 28557, for Project I.D. No. P-8834-12, 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 April, 2013.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing correspondence upon the PETITIONERS by certified mail, return receipt requested, by causing a copy of same to be placed in the United States Mail, first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Richard A. Brvenik, CEO
Carteret County General Hospital Corp.
3500 Arendell Street
Morehead City, NC 28557

This the _____ day of April, 2013.

Cheryl Ouimet
Chief Operating Officer