

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY WAKEMED) DECLARATORY RULING
Project I.D. No. J-7013-04)**

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.

WakeMed (“Petitioner”) has requested a declaratory ruling allowing it to operate its mobile MRI scanner at an additional host site. 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. Ms. Kathleen K. Gormley, Executive Vice President, Operations and Ambulatory Development of WakeMed, has requested this ruling on behalf of Petitioner and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

Petitioner was awarded a CON on February 28, 2005 allowing it to acquire a mobile MRI scanner. The original host sites for Project I.D. No. J-7013-04 were: Community Family Medicine and Obstetrics; Sampson Regional Medical Center; Carteret General Hospital; Bladen County Hospital; and Lillington Family Medical Center. Prior declaratory rulings issued by the Department have allowed Petitioner to add various sites and Petitioner has discontinued

operations at various sites. Petitioner has added the following sites: WakeMed North Healthplex; Central Regional Hospital-Raleigh; Central Regional Hospital-Butner; WakeMed Brier Creek Healthplex; WakeMed Raleigh Medical Park. Petitioner has discontinued mobile operations at the following sites: Community Family Medicine and Obstetrics; Lillington Family Medical Center; Sampson Regional Medical Center; Carteret General Hospital; Central Regional Hospital-Raleigh; Bladen County Hospital; and WakeMed Brier Creek Healthplex.

Petitioner currently operates the equipment at the following three sites: WakeMed North Healthplex, Central-Regional Hospital-Butner, and WakeMed Raleigh Medical Park. Petitioner now proposes to operate the mobile MRI scanner at an additional site known as WakeMed Garner Healthplex (“WakeMed Garner”), located at 400 U.S. Highway 70 East, Garner, North Carolina in Wake County.

Petitioner represents that it can provide mobile MRI services to the sites at which it currently operates, in addition to the WakeMed Garner location, without any compromise in services, or changes in cost and charges. Petitioner represents that operating the mobile MRI scanner at the newly proposed site is consistent with the representations made in its original CON application.

ANALYSIS

N.C.G.S. § 131E-181(a) provides that “[a] certificate of need shall be valid only for the defined scope, physical location, and person named in the application.” The recipient of the CON must also materially comply with the representations made in the CON application. N.C.G.S. § 131E-181(b). If Petitioner’s proposal were to represent a material change in the physical location or scope of the project, the CON law would require a full review of Petitioner’s proposal. N.C.G.S. § 131E-181(a).

Based on the facts as presented by Petitioner, Petitioner's proposal does not constitute a material change in the physical location or scope of the project and is allowable. The new site will not change the population served by the mobile MRI scanner, will not negatively impact the quality, scope, or availability of services provided by the mobile diagnostic program, and will not increase costs or charges.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that Petitioner's proposal 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 certificate of need in violation of N.C.G.S. § 131E-189(b).

This the _____ day of October, 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 Declaratory Ruling 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

Kathleen K. Gormley
Executive Vice President
Operations & Ambulatory Development
WakeMed
300 New Bern Avenue
Raleigh, North Carolina 27610

This the _____ day of October, 2013.

Cheryl Ouimet
Chief Operating Officer