

February 10, 2012

Jim Swann, Director
Market Development and Certificate of Need
3725 National Drive, Suite 130
Raleigh, NC 27612

RE: Disapproval /Project I.D. # F-8755-11/ Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Cabarrus County Home Dialysis Program/ Relocate existing certified dialysis station(s) from BMA Charlotte to establish a new freestanding home dialysis training and support center for peritoneal dialysis and home hemodialysis / Cabarrus County
FID #: 110805

Dear Mr. Swann:

The Certificate of Need Section, Division of Health Service Regulation, Department of Health and Human Services has disapproved the above referenced certificate of need application. This decision was made after review of your application submitted for this cycle and after consideration of the G.S. 131E-175 et. seq., and regulations promulgated thereunder, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application.

A legal proponent or any person aggrieved by this decision may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

If you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Emery Milliken
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 Mail Service Center
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Certificate of Need Section.

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Please be advised that in accordance with G.S. 131E-188, as a condition precedent to proceeding with a contested case hearing on the approval of an applicant for a certificate of need, the petitioner shall deposit a bond with the clerk of superior court where the new institutional health service that is the subject of the petition is proposed to be located. The bond shall be secured by cash or its equivalent in an amount equal to five percent (5%) of the cost of the proposed new institutional health service that is the subject to the petition, but may not be less than five thousand dollars (\$5,000) and may not exceed fifty thousand dollars (\$50,000). Moreover, the applicant who received approval for the new institutional health service that is the subject of the petition may bring an action against a bond filed under this subsection in the superior court of the county where the bond was filed. Upon finding the petition for a contested case was frivolous or filed to delay the applicant, the court may award the applicant part or all of the bond filed.

Please refer to the Project I.D. # and Facility I.D. # (FID) in all correspondence.

Sincerely,

Paula Quirin, Project Analyst

Martha J. Frisone, Assistant Chief
Certificate of Need Section

PQ:MJF:mw

Attachment

cc: Medical Facilities Planning Section, DHSR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of disapproval on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Jim Swann, Director
Market Development and Certificate of Need
3725 National Drive, Suite 130
Raleigh, NC 27612

Project I.D. # F-8755-11
FID # 110805

This the 10th day of February, 2012.

Paula Quirin
Project Analyst