

RESPONSE REQUIRED

February 27, 2012

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

RE: Conditional Approval/ Project I.D. # J-8767-11/ Carolina Dialysis, LLC d/b/a Carolina Dialysis-Lee County/ Establish a new 13-station dialysis facility in Sanford by relocating thirteen stations from Carolina Dialysis-Sanford/ Lee County
FID #: 110959

Dear Mr. Swann:

The Certificate of Need (CON) Section, Division of Health Service Regulation, Department of Health and Human Services has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, 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. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Department shall not issue the certificate of need until all applicable conditions of approval that can be satisfied before issuance of the certificate of need have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Carolina Dialysis, LLC d/b/a Carolina Dialysis-Lee County shall materially comply with all representations made in its certificate of need application.
2. Carolina Dialysis, LLC d/b/a Carolina Dialysis-Lee County shall develop and operate no more than thirteen (13) dialysis stations at Carolina Dialysis - Lee County, which shall include any isolation stations.

3. Carolina Dialysis, LLC d/b/a Carolina Dialysis–Lee County shall install plumbing and electrical wiring through the walls for no more than thirteen (13) dialysis stations which shall include any isolation stations.
4. Carolina Dialysis, LLC d/b/a Carolina Dialysis–Lee County shall not offer or develop home hemodialysis training services as part of this project.
5. Upon completion of the project, Carolina Dialysis, LLC shall take the necessary steps to decertify thirteen (13) stations at the Carolina Dialysis-Sanford facility for a total of no more than twenty-six (26) stations at Carolina Dialysis-Sanford.
6. Carolina Dialysis, LLC d/b/a Carolina Dialysis–Lee County shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

Response to the above conditions should be submitted to the CON Section no later than 35 days from the date of the decision. Failure to respond within this time period may result in the CON Section making a determination not to issue a certificate of need for the project referenced above.

The conditional approval is valid only for a capital expenditure of \$1,634,298. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by G.S. 131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need Law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you 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 date of this 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).]

G.S. 150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, 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.

Jim Swann
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The certificate of need will not be issued before the completion of this 30 day period March 28, 2012. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the CON Section because the review period was extended. The timetable for this project is as follows:

Contract Award	_____	October 16, 2012
50% completion of construction	_____	February 28, 2013
Completion of construction	_____	May 29, 2013
Occupancy/Offering of Services	_____	July 1, 2013
Certification of facility	_____	July 1, 2013

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact us if any clarification of this decision is required.

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

Sincerely,

Lisa Pittman, Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

LP:CRS:mw

Attachment

cc: Medical Facilities Planning Section, DHSR
Acute & Home Care Licensure & Certification Section, DHSR
Construction Section, DHSR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of **conditional approval** 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
Fresenius Medical Center
3725 National Drive, Suite 130

Project I.D. # J-8767-11
FID #110959

This the 27th day of February, 2012.

Lisa Pittman
Project Analyst