



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Aldona Z. Vos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

**RESPONSE REQUIRED**

April 10, 2013

Jim Swann  
3717 National Drive, Suite 206  
Raleigh, NC 27612

**Conditional Approval**

Project I.D. #: L-10079-13  
Facility: BMA Roanoke Rapids (lessee) and Bernardo’s LLC (lessor)  
Project Description: Construct additional space at BMA Roanoke Rapids to add 11 previously approved stations without transferring 10 stations to FMC Weldon as a change of scope for Project I.D. # L-8295-09 (Addition of 8 additional dialysis stations) and Project I.D. # L-8644-11 (Addition of 3 additional dialysis stations) for a total of 46 certified dialysis stations  
County: Halifax  
FID #: 956044

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. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo’s LLC (lessor) shall materially comply with all representations made in this certificate of need application, and the certificate of need applications for Project I.D. # L-8295-09 and Project I.D. # L-8644-11 as amended by this project. In those instances in

**Certificate of Need Section**

www.ncdhhs.gov

Telephone 919-855-3873 Fax 919-733-8139

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which any of these representations conflict, Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo's LLC (lessor) shall materially comply with the last-made representations.

2. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo's LLC (lessor) shall develop and operate no more than 11 additional dialysis stations for a total of 46 certified stations which shall include any home hemodialysis training or isolation stations.
3. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo's LLC (lessor) shall install plumbing and electrical wiring through the walls for 11 additional dialysis stations for a total of 46 dialysis stations which shall include any isolation stations.
4. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) shall surrender the certificates of need for Project I.D. # L-8289-09 (transfer of 10 stations from BMA Roanoke Rapids to FMC Weldon) and Project I.D. # L-8665-11 (Cost Overrun of Project I.D. # L-8289-09) with the applicants' letter of acceptance of these conditions prior to the issuance of the certificate of need.
5. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo's LLC (lessor) shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditure in Section VIII of the application and that would otherwise require a certificate of need.
6. Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Roanoke Rapids (lessee) and Bernardo's LLC (lessor) shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to the 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 \$2,264,912. 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

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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.

The certificate of need will not be issued before the completion of this 30 day period ending May 10, 2013. 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:

Complete Preliminary Drawings_____	September 30, 2013
25% Completion _____	January 15, 2014
75% Completion _____	April 15, 2014
Completion of Construction _____	May 31, 2014
Occupancy/Offering of Service _____	June 30, 2014
Certification of Stations _____	June 30, 2014

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, Team Leader

Craig R. Smith, Chief  
Certificate of Need Section

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LP:CRS:llp

Attachment

cc: Construction Section, DHSR  
Medical Facilities Planning Section, DHSR  
Acute & Home Care Licensure & Certification 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  
3717 National Drive, Suite 206  
Raleigh, NC 27612

Project I.D. # L-10079-13

FID #956044

This the 10<sup>th</sup> day of April, 2013

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Lisa Pittman, Team Leader