



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

Pat McCrory
Governor

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

Drexdal Pratt
Division Director

RESPONSE REQUIRED

February 28, 2013

Elizabeth Kirkman
2709 Water Ridge Parkway, Suite 200
Charlotte, NC 28217

Conditional Approval

Project I.D. #: F-10059-12
Facility: University Radiation Therapy Center
Project Description: Relocate existing radiation therapy center and replace existing linear accelerator and CT simulator
County: Mecklenburg
FID #: 120524

Dear Ms. Kirkman:

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. University Radiation Therapy Center, LLC shall materially comply with all representations made in the certificate of need application.
2. University Radiation Therapy Center, LLC shall acquire no more than one linear accelerator and one CT simulator to replace the existing linear accelerator and CT simulator for a total of no more than one linear accelerator and one CT simulator upon project completion.
3. University Radiation Therapy Center, LLC 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 which would otherwise require a certificate of need.



Certificate of Need Section

www.ncdhhs.gov

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

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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4. University Radiation Therapy Center, LLC shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicants' representations in the written statement as described in paragraph one of Policy GEN-4.
5. Prior to issuance of the certificate of need, University Radiation Therapy Center, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein in writing to the Certificate of Need Section.

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 \$9,755,255. 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.

The certificate of need will not be issued before the completion of this 30 day period ending April 1, 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.

Elizabeth Kirkman

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The timetable for this project is as follows:

Obtaining Funds _____	April 29, 2013
Completion of Final Drawings and Specifications Submitted to the Construction Section, DHSR _____	May 23, 2013
Approval of Final Drawings and Specification by the Construction Section, DHSR _____	June 27, 2013
Ordering Equipment _____	July 1, 2013
Approval of Site by Construction Section, DHSR _____	July 15, 2013
Contract Award _____	July 15, 2013
25% Completion of Construction _____	October 26, 2013
50% Completion of Construction _____	January 3, 2014
Arrival of Equipment _____	March 1, 2014
75% Completion of Construction _____	March 15, 2014
Completion of Construction _____	May 23, 2014
Operation of Equipment _____	June 1, 2014
Occupancy/Offering of Service _____	July 1, 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,

Fatimah Wilson, Project Analyst

Martha J. Frisone, Assistant Chief
Certificate of Need Section

FW:MJF: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:

Elizabeth Kirkman
2709 Water Ridge Parkway, Suite 200
Charlotte, NC 28217

Project I.D. # F-10059-12

FID #120524

This the 28th day of February, 2013.

Fatima Wilson, Project Analyst