



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**

June 25, 2013

David Anderson  
PO Box 5003  
Monroe, NC 28111

**Conditional Approval**

Project I.D. #: F-10101-13  
Facility: Carolinas Medical Center-Union  
Project Description: Replace existing Varian 2100CD linear accelerator located at the Edwards Cancer Center  
County: Union  
FID #: 923515

Dear Mr. Anderson:

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. Union Memorial Regional Medical Center, Inc. d/b/a Carolinas Medical Center-Union and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Union shall materially comply with all representations made in the certificate of need application.
2. Union Memorial Regional Medical Center, Inc. d/b/a Carolinas Medical Center-Union and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Union shall acquire no more than one linear accelerator to replace the existing Varian 2100CD linear accelerator for a total of no more than two linear accelerators upon completion of this



**Certificate of Need Section**

[www.ncdhhs.gov](http://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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project and Project I.D. #F-7525-06 involving the relocation of one linear accelerator from Carolinas Medical Center to Carolinas Medical Center-Union.

3. Union Memorial Regional Medical Center, Inc. d/b/a Carolinas Medical Center-Union and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Union shall dispose of the Varian 2100CD linear accelerator by removing it from North Carolina.
4. Union Memorial Regional Medical Center, Inc. d/b/a Carolinas Medical Center-Union and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Union 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.
5. Union Memorial Regional Medical Center, Inc. d/b/a Carolinas Medical Center-Union and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Union 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 \$3,017,025. 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.

David Anderson

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The certificate of need will not be issued before the completion of this 30 day period ending July 25, 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:

|                                  |       |                   |
|----------------------------------|-------|-------------------|
| Contract Award                   | _____ | December 17, 2013 |
| 50% Completion of Construction   | _____ | February 4, 2014  |
| Completion of Construction       | _____ | March 18, 2014    |
| Occupancy/Offering of Service(s) | _____ | April 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,

Gloria C. Hale, Project Analyst

Martha J. Frisone, Assistant Chief  
Certificate of Need Section

GCH: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:

David Anderson  
PO Box 5003  
Monroe, NC 28111

Project I.D. # F-10101-13  
FID #923515

This the 25<sup>th</sup> day of June, 2013.

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Gloria C. Hale  
Project Analyst