



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**

October 28, 2014

Daniel B. Murrey  
4601 Park Road, Suite 250  
Charlotte, NC 28209

**Conditional Approval**

Project I.D. #: F-10287-14  
Facility: OrthoCarolina Ballantyne  
Project Description: Acquire one fixed MRI scanner  
County: Mecklenburg  
FID #: 140188

Dear Mr. Murrey:

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 there under, the State Medical Facilities Plan, and other applicable information. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with G.S. 131E-186. 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. OrthoCarolina, PA shall materially comply with all representations made in the certificate of need application.
2. Prior to issuance of the certificate of need, OrthoCarolina, PA shall provide documentation of the availability of sufficient funds for the capital cost of the project.



**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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3. OrthoCarolina, PA 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.
4. OrthoCarolina, PA shall acquire no more than one fixed MRI scanner for a total of no more than one fixed MRI scanner at OrthoCarolina Ballantyne.
5. OrthoCarolina, PA shall obtain accreditation from The Joint Commission, the American College of Radiology, or a comparable accreditation authority as determined by the Certificate of Need Section, for magnetic resonance imaging within two years following operation of the proposed MRI scanner.
6. OrthoCarolina, PA 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 \$2,421,147. 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, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447 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 MSC  
Raleigh, North Carolina, 27699-2001

Daniel B. Murrey

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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 December 1, 2014. 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	_____	May 1, 2015
50% Completion of Construction	_____	August 15, 2015
Completion of Construction	_____	November 15, 2015
Occupancy/Offering of Service(s)	_____	January 1, 2016

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, Interim Chief  
Certificate of Need Section

GCH:MJF:mw

Attachment

Cc: Medical Facilities Planning Branch, 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:

Daniel B. Murrey  
4601 Park Road, Suite 250  
Charlotte, NC 28209

Project I.D. # F-10287-14  
FID # 140188

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:

Laura MacFadden  
3600 Country Club Drive, Suite 201  
Winston-Salem, NC 27103

Project I.D. # F-10292-14  
FID # 060857

This the 28<sup>th</sup> day of October, 2014.

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Gloria C. Hale  
Project Analyst