



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

RESPONSE REQUIRED

April 28, 2017

James Shafer
1801 South Seventeenth Street
Wilmington, NC 28401

Conditional Approval

Project ID #: O-11272-16
Facility: Wilmington SurgCare
Project Description: Add three operating rooms and one minor procedure room for a total of ten operating rooms and one minor procedure room
County: New Hanover
FID #: 923566

Dear Mr. Shafer:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) 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, N.C. Gen. Stat. §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 N.C. Gen. Stat. §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 Agency 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 N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

1. Wilmington Surgery Center L.P. shall materially comply with all representations made in the certificate of need application.
2. Wilmington Surgery Center L.P. shall develop no more than three new operating rooms in the existing Wilmington SurgCare facility for a total of no more than ten operating rooms.

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER



3. Wilmington Surgery Center L.P. 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. Wilmington Surgery Center L.P. shall take the steps necessary to delicense its three existing GI/endoscopy rooms at Wilmington SurgCare such that Wilmington SurgCare shall be licensed for no GI/endoscopy rooms.
5. Procedures performed in the minor procedure rooms shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the facility's license renewal application as procedures performed in an operating room.
6. Wilmington Surgery Center L.P. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.

Response to the above conditions should be submitted to the Agency 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 **\$5,600,388**. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §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 N.C. Gen. Stat. §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).]

N.C. Gen. Stat. §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:

Lisa G. Corbett
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 MSC
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending **May 30, 2017**. 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 Agency because the review period was extended. The timetable for this project is as follows:

Completion of Preliminary Drawings	August 15, 2017
Obtaining Funds Necessary to Undertake Project	September 30, 2017
Approval of Final Drawings and Specifications by the Construction Section, DHSR	February 15, 2018
Contract Award (Notice to Proceed)	March 15, 2018
25% Completion of Construction (25% of Dollar Value of the Contract in Place)	June 15, 2018
50% Completion of Construction	December 1, 2018
75% Completion of Construction	July 15, 2019
Completion of Construction	November 30, 2019
Licensure of Facility for Additional ORs	December 15, 2019
Occupancy/Offering of Services	January 1, 2020

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 ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Gregory F. Yakaboski
Project Analyst

Fatimah Wilson
Team Leader

Martha J. Frisone
Assistant Chief, Certificate of Need

Attachment

cc: Construction Section, DHSR
Acute & Home Care Licensure & Certification Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, 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:

James Shafer
1801 South Seventeenth Street
Wilmington, NC 28401

Chasity Chace
1202 Medical Center Drive
Wilmington, NC 28401

This the 28th day of April, 2017.

Gregory F. Yakaboski
Project Analyst, Certificate of Need