



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER  
GOVERNOR

MANDY COHEN, MD, MPH  
SECRETARY

MARK PAYNE  
DIRECTOR

**RESPONSE REQUIRED**

March 24, 2017

Jeffrey Shovelin  
P.O. Box 6028  
Greenville, NC 27835-6028

**Conditional Approval**

Project ID #: Q-11292-17  
Facility: Vidant Radiation Oncology Center at VMC  
Project Description: Replace and relocate four existing linear accelerators, two from NC Radiation Therapy Center and two from Leo Jenkins Cancer Center and relocate one existing linear accelerator from Leo Jenkins Cancer Center to a cancer center at Vidant Medical Center that is currently under construction for a total of five linear accelerators upon project completion  
County: Pitt  
FID #: 170020

Dear Mr. Shovelin:

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. 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 Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

1. Vidant Radiation Oncology, LLC shall material comply with all representation made in the certificate of need application.
2. Vidant Radiation Oncology, LLC shall acquire no more than four linear accelerators, including a CyberKnife, to replace four of the existing five linear accelerators being relocated to Vidant Radiation Oncology Center at Vidant Medical Center. The applicant

**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

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shall dispose of the four existing linear accelerators being replaced by removing them from North Carolina.

3. Vidant Radiation Oncology, LLC shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditures in Section F of the application and that would otherwise require a certificate of need.
4. Vidant Radiation Oncology, 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.
5. Vidant Radiation Oncology, LLC 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 Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency 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 **\$24,159,964**. 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, 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).]

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 Mail Service Center  
Raleigh, North Carolina, 27699-2001

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

Jeffrey Shovelin

March 24, 2017

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The certificate of need will not be issued before the completion of this 30 day period ending **April 24, 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:

Phase 1 (Replace and Relocate Four Linear Accelerators, Including the CyberKnife)

Equipment Ordered _____	August 5, 2017
Construction Contract Executed/Contract Award _____	November 1, 2017
25% Completion of Construction _____	December 1, 2017
50% Completion of Construction _____	January 1, 2018
75% Completion of Construction _____	February 1, 2018
Completion of Construction _____	March 15, 2018
Occupancy/Offering of Services _____	April 1, 2018

Phase 2 (Relocate the Fifth Linear Accelerator)

Construction Contract Executed/Contract Award _____	May 1, 2019
25% Completion of Construction _____	June 1, 2019
50% Completion of Construction _____	July 1, 2019
75% Completion of Construction _____	August 1, 2019
Completion of Construction _____	September 1, 2019
Occupancy/Offering of Services _____	October 1, 2019

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 this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Celia C. Inman  
Project Analyst

Fatimah Wilson  
Team Leader, 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:

Jeffrey Shovelin  
P.O. Box 6028  
Greenville, NC 27835-6028  
Project ID #: Q-11292-17  
FID #: 170020

This the 24<sup>th</sup> day of March, 2017.

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Celia C. Inman  
Project Analyst, Certificate of Need