



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

RESPONSE REQUIRED

October 16, 2017

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

Conditional Approval

Project ID #: F-11348-17
Facility: Union West Surgery Center
Project Description: Add a third OR pursuant to the need determination in the 2017 SMFP and one procedure room for a total of three ORs and one procedure room
County: Union
FID #: 050752

Dear Ms. Kirkman:

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. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall materially comply with all representations made in the certificate of need application.
2. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall develop no more than one operating room for a total of no more than three operating rooms and one procedure room in its ambulatory surgical facility upon

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



- completion of this project.
3. Upon completion of this project, Union West Surgery Center shall be licensed for no more than three operating rooms and one procedure room.
 4. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority 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. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditures in Section VII of the application and that would otherwise require a certificate of need.
 6. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Union West Surgery Center shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:
 - a. Payor mix for the services authorized in this certificate of need.
 - b. Utilization of the services authorized in this certificate of need.
 - c. Revenues and operating costs for the services authorized in this certificate of need.
 - d. Average gross revenue per unit of service.
 - e. Average net revenue per unit of service.
 - f. Average operating cost per unit of service.
 7. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.
 8. For the first three years of operation following completion of the project, Union West Surgery Center shall not increase charges more than 5% of the charges projected in Section XI of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.
 9. The procedure room shall not be used for procedures that should be performed only in an operating room based on current standards of practice.
 10. Procedures performed in the procedure room 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.

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 **\$4,100,000**. 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.

The certificate of need will not be issued before the completion of this 30 day period ending **November 15, 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:

- | | |
|--|--------------------|
| 1. Drawings Completed | January 31, 2018 |
| 2. Construction/Renovation Contract(s) Executed | August 1, 2018 |
| 3. 25% of Construction/Renovation Completed
(25% of the cost is in place) | September 30, 2018 |
| 4. 50% of Construction/Renovation Completed | October 31, 2018 |

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|----|--|-------------------|
| 5. | 75% of Construction/Renovation Completed | November 30, 2018 |
| 6. | Construction/Renovation Completed | January 31, 2019 |
| 7. | Building/Space Occupied | March 1, 2019 |
| 8. | Services Offered | March 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,

Tanya S. Rupp
Project Analyst

Lisa Pittman
Team Leader, Certificate of Need

Attachment

cc: Construction Section, DHSR
Acute & Home Care Licensure & Certification Section, DHSR
Sharetta Blackwell, Program Assistant 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:

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

This the 16th day of October, 2017.

Tanya S. Rupp
Project Analyst, Certificate of Need