



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

August 15, 2018

Bob Gilliam
130 Edinburgh South Drive, Suite 208
Cary, NC 27511

Conditional Approval

Project ID #: A-11499-18
Facility: Murphy Rehabilitation & Nursing
Project Description: Relocate 134 existing nursing facility beds to a new replacement facility
County: Cherokee
FID #: 180207

Dear Mr. Gilliam:

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. Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Murphy Healthcare Properties, LLC and Murphy Rehabilitation, Inc. shall materially comply with the last made representation.**
- 2. Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. shall construct a replacement facility for Murphy Rehabilitation & Nursing's 134 existing nursing facility beds, including 14 existing special care unit beds.**

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2701 Mail Service Center, Raleigh, NC 27699-2701
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3750 • FAX: 919-733-2757

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

3. **Upon completion of the project, Murphy Rehabilitation & Nursing shall be licensed for no more than 134 nursing facility beds, including 14 special care unit beds.**
4. **For the first two years of operation following completion of the project, Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. shall not increase private pay charges more than five percent of the projected private pay charges provided in Section Q 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.**
5. **Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. 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.**
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, Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. 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. **Murphy Healthcare Properties, LLC, and Murphy Rehabilitation, Inc. 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.**

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 **\$5,850,000**. 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 **September 14, 2018**. 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. Financing Obtained _____ October 1, 2018
2. Construction/Renovation Contract(s) Executed _____ September 1, 2018
3. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ December 1, 2018
4. 50% of Construction/Renovation Completed _____ March 1, 2019
5. 75% of Construction/Renovation Completed _____ June 1, 2019
6. Construction/Renovation Completed _____ September 1, 2019
7. Equipment Ordered _____ May 1, 2019
8. Equipment Installed _____ September 15, 2019
9. Equipment Operational _____ September 30, 2019
10. Building/Space Occupied _____ October 1, 2019
11. Licensure Obtained _____ October 1, 2019
12. Services Offered _____ October 1, 2019
13. Medicare and/or Medicaid Certification Obtained _____ October 15, 2019
14. Final Annual Report Due _____ December 31, 2022

Bob Gilliam
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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,

Julie M. Faenza
Project Analyst

Gloria C. Hale
Team Leader

Attachment

cc: Construction Section, DHSR
Nursing Home Licensure and Certification Section, DHSR
Melinda Boyette, Administrative 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:

Bob Gilliam
130 Edinburgh South Drive, Suite 208
Cary, NC 27511

This the 15th day of August, 2018.

Julie M. Faenza
Project Analyst, Certificate of Need