



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**  
Division of Health Service Regulation

**ROY COOPER** • Governor  
**MANDY COHEN, MD, MPH** • Secretary  
**MARK PAYNE** • Director

## **RESPONSE REQUIRED**

June 6, 2018

Jim Swann  
3390 Dunn Road  
Eastover, NC 28312

### **Conditional Approval**

Project ID #: J-11474-18  
Facility: FMC South Durham  
Project Description: Add two dialysis stations for a total of 20 dialysis stations upon project completion  
County: Durham  
FID #: 080098

Dear Mr. Swann:

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. Bio-Medical Applications of North Carolina, Inc. d/b/a Fresenius Medical Care South Durham Dialysis shall materially comply with all representations made in the certificate of need application as conditioned.**
- 2. Pursuant to the facility need determination in the January 2018 SDR, Bio-Medical Applications of North Carolina, Inc. shall develop no more than 2 additional dialysis stations for a total of no more than 20 certified stations at Fresenius Medical Care South Durham Dialysis upon project completion which shall include any home hemodialysis training or isolation stations.**

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: 2704 Mail Service Center, Raleigh, NC 27699-2704  
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

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3. **Bio-Medical Applications of North Carolina, Inc. d/b/a Fresenius Medical Care South Durham Dialysis shall install plumbing and electrical wiring through the walls for no more than two additional dialysis stations, which shall include any isolation or home hemodialysis training stations.**
4. **Bio-Medical Applications of North Carolina, Inc. d/b/a Fresenius Medical Care South Durham Dialysis 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 **\$124,661**. 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 **July 6, 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 \_\_\_\_\_ March 15, 2018
2. Drawings Completed \_\_\_\_\_ December 2, 2018
3. Construction/Renovation Contract(s) Executed \_\_\_\_\_ March 2, 2019
4. 25% of Construction/Renovation Completed  
(25% of the cost is in place) \_\_\_\_\_ April 16, 2019
5. 50% of Construction/Renovation Completed \_\_\_\_\_ May 31, 2019
6. 75% of Construction/Renovation Completed \_\_\_\_\_ July 15, 2019
7. Construction/Renovation Completed \_\_\_\_\_ August 29, 2019
8. Equipment Ordered \_\_\_\_\_ September 28, 2019
9. Equipment Installed \_\_\_\_\_ December 10, 2019
10. Equipment Operational \_\_\_\_\_ December 20, 2019
11. Building/Space Occupied \_\_\_\_\_ December 20, 2019
12. Services Offered \_\_\_\_\_ December 31, 2019
13. Medicare and/or Medicaid Certification Obtained \_\_\_\_\_ December 31, 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,

Bernetta Thorne-Williams  
Project Analyst

Fatimah Wilson  
Team Leader, Certificate of Need

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHSR  
Amy Craddock, 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:

Jim Swann  
3390 Dunn Road  
Eastover, NC 28312

This the 6<sup>th</sup> day of June, 2018.

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Bernetta Thorne-Williams  
Project Analyst, Certificate of Need