



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 26, 2018

Catharine Cummer  
3100 Tower Boulevard, Suite 1300  
Durham, NC 27707

**Conditional Approval**

Project ID #: J-11426-17  
Facility: Duke University Hospital  
Project Description: Add 90 acute care beds pursuant to the Durham Caswell acute care bed service area need determination in the 2017 SMFP for a total of 1,028 acute care beds  
County: Durham  
FID #: 943188

Dear Ms. Cummer:

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. Duke University Health System, Inc. d/b/a Duke University Hospital shall materially comply with all representations made in the certificate of need application.
2. Duke University Health System, Inc. d/b/a Duke University Hospital shall acquire shall develop no more than 90 additional acute care beds for a total of 1,028 acute care beds.
3. Duke University Health System, Inc. d/b/a Duke University Hospital as part of this project, shall not acquire 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.

**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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4. 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, Duke University Health System, Inc. d/b/a Duke University Hospital 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.
5. Duke University Health System, Inc. d/b/a Duke University Hospital 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. Duke University Health System, Inc. d/b/a Duke University Hospital 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 **\$29,100,000**. 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 **April 25, 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 \_\_\_\_\_ May 1, 2018
2. Drawings Completed \_\_\_\_\_ October 1, 2018
3. Construction/Renovation Contract(s) Executed \_\_\_\_\_ December 1, 2021
4. 25% of Construction/Renovation Completed (25% of the cost is in place) \_\_\_\_\_ April 1, 2022
5. 50% of Construction/Renovation Completed \_\_\_\_\_ July 1, 2022
6. 75% of Construction/Renovation Completed \_\_\_\_\_ October 1, 2022
7. Construction/Renovation Completed \_\_\_\_\_ December 31, 2022
8. Licensure Obtained \_\_\_\_\_ December 15, 2021
9. Services Offered
  - a) 22 additional beds (960 total AC beds) \_\_\_\_\_ July 1, 2018
  - b) 34 additional beds (994 total AC beds) \_\_\_\_\_ January 1, 2022
  - c) 17 additional beds (1,011 total AC beds) \_\_\_\_\_ July 1, 2022
  - d) Relocate 51 beds (1,011 total AC beds) \_\_\_\_\_ January 1, 2023
  - e) 17 additional beds (1,028 total AC beds) \_\_\_\_\_ July 1, 2023
10. Final Annual Report Due \_\_\_\_\_ September 30, 2026

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  
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:

Catharine Cummer  
3100 Tower Boulevard, Suite 1300  
Durham, NC 27707

This the 26<sup>th</sup> day of March, 2018.

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Celia C. Inman  
Project Analyst, Certificate of Need