



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section

2704 Mail Service Center ■ Raleigh, North Carolina 27699-2704

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

www.ncdhhs.gov/dhsr

Craig R. Smith, Section Chief
Phone: 919-855-3875
Fax: 919-733-8139

February 6, 2012

Susan K. Hackney
K & L Gates, LLP
P. O. Box 14210
Research Triangle Park NC 27709-4210

RE: No Review /Meadowview Assisted Living Center/Convert 24 general adult care home (ACH) beds to a special care unit with no change in the total number of ACH beds/Johnston County
FID #: 980347

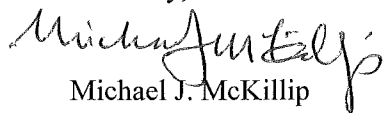
Dear Ms. Hackney:

The Certificate of Need (CON) Section received your letter of January 17, 2012 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

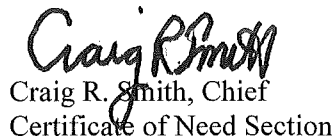
It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

In addition, you should contact the Adult Care Licensure Section to determine if they have any requirements for development of the proposed project. Please contact the CON Section if you have any questions.

Sincerely,


Michael J. McKillip

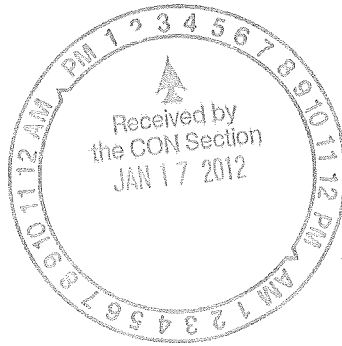
Project Analyst


Craig R. Smith, Chief
Certificate of Need Section

cc: Adult Care Licensure Section, DHSR



January 17, 2012



Mike
K&L Gates LLP
Post Office Box 14210
Research Triangle Park, NC 27709-4210
430 Davis Drive, Suite 400
Morrisville, NC 27560
T 919.466.1190 www.klgates.com

Mr. Craig Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

RE: No Review Request for Conversion of 24 Generalized Adult Care Home Beds to Special Care Unit Adult Care Home Beds at Meadowview Assisted Living Center – HAL 051-025

Dear Craig:

Our clients, Meadowview AL Investors, LLC (“Meadowview Investors”) and Meadowview AL Operations, LLC (“Meadowview AL Operations”) seek a determination from the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the “Agency”) that the conversion of 24 generalized adult care beds to special care unit (“SCU”) adult care beds at Meadowview Assisted Living Center, a “grandfathered” adult care home facility, does not require Certificate of Need (“CON”) review.

By way of background, Meadowview Investors plans to acquire an adult care home located in Smithfield, Johnston County, North Carolina known as Meadowview Assisted Living Center (hereafter “the Facility”). Contemporaneously with this no review request, our client is filing an exemption notice requesting confirmation that it is permitted to acquire the Facility without CON Review. Through an Operations Transfer Agreement and after approval of a Change of Licensure by the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section, Meadowview Operations will become the licensee.

The Facility is listed in the 2012 State Medical Facilities Plan as having 60 licensed adult care home beds. See Exhibit A. The Facility was not developed pursuant to a CON since adult care homes were not reviewable by the CON Section at the time of its development. Therefore, the Facility is “grandfathered” and not operating pursuant to a CON.

We believe the conversion of 24 of the 60 generalized adult care beds to SCU adult care beds is not reviewable for the following reasons:

Mr. Craig Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
January 17, 2012
Page 2

Not a New Institutional Health Service

Meadowview Investors and Meadowview Operations are not required to obtain a CON because there is no statute, rule or regulation that prevents them from converting generalized adult care home beds to SCU beds. N.C. Gen. Stat. § 131E-178(a) provides that “[n]o person shall offer or develop a new institutional health service without first obtaining a certificate of need...” Pursuant to N.C. Gen. Stat. § 131E-176(16)(d), a “new institutional health service” includes “[a]ny change in bed capacity as defined in G.S. 131E-176(5).

A “change in bed capacity” is defined, in part, in as “any redistribution of health service facility bed capacity among the categories of health service facility bed as defined in G.S. 131E-176(9c). N.C. Gen. Stat. § 131E-176(5)(ii). However, the “health service facility bed” definition does not include SCU beds. N.C. Gen. Stat. § 131E-176(9c). Rather, they are merely a subset of the category of health service facility beds defined as “adult care home beds.” Therefore, converting generalized adult care beds to SCU adult care beds is not a “redistribution of health service facility bed capacity” pursuant to N.C. Gen. Stat. § 131E-176(5).

Another definition of “change in bed capacity” is “any increase in the number of health service facility beds.” N.C. Gen. Stat. § 131E-176(5)(iii). Meadowview Investors and Meadowview Operations are not proposing to increase the total number of adult care beds. Instead, they propose to maintain the same total of 60 adult care beds.

Further, the conversion is not a new institutional health service requiring a capital expenditure exceeding two million dollars. N.C. Gen. Stat. § 131E-176(16)(b). In fact, the conversion to SCU adult care beds is anticipated to be less than \$250,000 in capital expenditure.

Grandfathered

As previously mentioned herein, the Facility at issue is grandfathered. As a result, there are no conditions or limitations placed on the operation of the Facility pursuant to a CON.

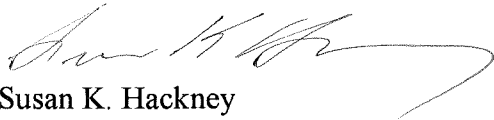
Conclusion

Based on the foregoing information, we hereby request the Agency’s confirmation that Meadowview Investors’ and Meadowview Operations’ conversion of generalized adult care beds to SCU adult care beds at the Facility is not subject to CON review or otherwise prohibited. If

Mr. Craig Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
January 17, 2012
Page 3

you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan K. Hackney", with a long, sweeping flourish extending to the right.

Susan K. Hackney