



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  
<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor  
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief  
Phone: (919) 855-3873  
Fax: (919) 733-8139

September 7, 2012

Marcus C. Hewitt  
Williams Mullen  
PO Box 1000  
Raleigh, NC 27602

**Exempt from Review - Replacement Equipment**

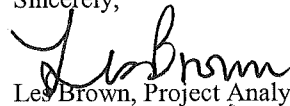
Facility: InSight Health Corp.  
Project Description: Replace MRI Scanner and Lease Temporary Interim MRI Scanner  
County: Buncombe  
FID #: 020752

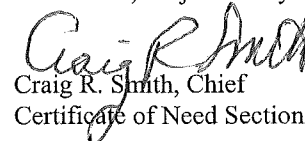
Dear Mr. Hewitt:

In response to your letter of August 23, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(7). Therefore, you may proceed to acquire, without a certificate of need, the Siemens 1.5T Espree MRI scanner to replace the existing General Electric 1.5T EchoSpeed MRI scanner, serial number R941. The proposal also includes the lease and use of an interim MRI scanner in a mobile coach, to be removed from North Carolina upon completion of the project. This determination is based on your representations that the existing fixed MRI scanner will be removed from North Carolina and will not be used again in the State without first obtaining a certificate of need. Further please be advised that as soon as the replacement equipment is acquired, you must provide the CON Section and the Medical Facilities Planning Branch with the serial number of the new equipment to update the inventory, if not already provided.

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

  
Les Brown, Project Analyst

  
Craig R. Smith, Chief  
Certificate of Need Section

cc: Medical Facilities Planning Branch, DHSR



Please see attached correspondence.

-Marc Hewitt

Marcus Hewitt  
Attorney  
Williams Mullen  
301 Fayetteville Street, Suite 1700  
P.O. Box 1000 (27602)  
Raleigh, NC 27601  
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## Smith, Craig

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**From:** Hewitt, Marcus [mhewitt@williamsmullen.com]  
**Sent:** Thursday, September 06, 2012 12:01 PM  
**To:** Smith, Craig  
**Cc:** Hedrick, Elizabeth S.  
**Subject:** RE: Supplemental Information - InSight Health Corp. Request for Exemption (B-6643-02) [WILLIAMS MULLEN-IWOVRIC.FID601197]  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Mr. Smith,

One note to follow up on our letter from yesterday afternoon: . It is my understanding from our conversation last Thursday, August 30, that no declaratory ruling is necessary for the relocation of the fixed MRI and diagnostic center as described in our exemption request. Therefore, earlier this week we withdrew the request for declaratory ruling for the change of site of the fixed MRI, which was filed with DHSR concurrently with the request for exemption.

Please let us know if you would like to discuss, and thank you again for your attention to this matter.

-Marc Hewitt

Marcus Hewitt  
Attorney  
Williams Mullen  
301 Fayetteville Street, Suite 1700  
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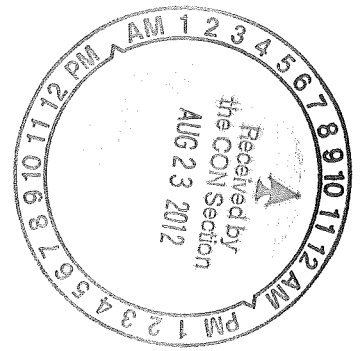
**From:** Hewitt, Marcus  
**Sent:** Wednesday, September 05, 2012 6:00 PM  
**To:** (craig.smith@dhhs.nc.gov)  
**Cc:** lcranson@insighthealth.com; JWESTERHOLT@insighthealth.com; Hedrick, Elizabeth S.  
**Subject:** Supplemental Information - InSight Health Corp. Request for Exemption (B-6643-02) [WILLIAMS MULLEN-IWOVRIC.FID601197]

Mr. Smith,

9/6/2012



WILLIAMS MULLEN



Marcus C. Hewitt  
Direct Dial: 919.981.4308  
mhewitt@williamsmullen.com

23 August 2012

**HAND-DELIVERY**

Craig R. Smith, Chief  
N.C. Department of Health & Human Services  
Division of Health Service Regulation  
Certificate of Need Section  
The Edgerton Building  
809 Ruggles Drive  
Raleigh, NC 27603

Re: Request by InSight Health Corp. for Exemption for Replacement  
MRI Scanner and Temporary Interim MRI Scanner  
Project ID No. B-6643-02  
Our File No. 400663.0014

Dear Mr. Smith:

We are writing on behalf of our client, InSight Health Corp. (“InSight”), in connection with the planned replacement of an existing fixed magnetic resonance imaging (“MRI”) scanner in Buncombe County, which is designated by the Certificate of Need Section as Project ID No. B-6643-02. A true copy of the CON is attached for your reference as Attachment A. InSight plans to replace and relocate the MRI scanner in order to provide MRI services to Marquis Diagnostic Imaging of North Carolina, LLC (“the Practice”) in Asheville, NC,<sup>1</sup> beginning upon the expiration of the Practice’s current service contract with another MRI provider, on approximately 15 September 2012. In addition, since the new replacement MRI scanner cannot be obtained in time for the anticipated start date, InSight also requests approval for the use of a temporary interim MRI scanner from the time the existing MRI scanner is removed from service until the new replacement MRI scanner can be delivered and made operational.

**Replacement MRI Scanner**

The existing equipment is a twelve year-old GE EchoSpeed 1.5T MRI scanner, serial no. R941, designated internally by InSight as Unit G1238A (“Existing Scanner”). The Existing Scanner is located at:

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<sup>1</sup> The planned relocation of the fixed MRI scanner is the subject of a concurrently-filed request for declaratory ruling, as discussed herein.

August 23, 2012

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Asheville Orthopaedic Associates, PA  
111 Victoria Road  
Asheville, NC 28801

The Existing Scanner is installed in a mobile coach, VIN 1LH152UHX1011061. However, it is a fixed MRI scanner for purposes of the CON law. The CON under which the project was developed is for a fixed MRI scanner (See Attachment A), and the Existing Scanner and its predecessors have served only the same Victoria Road site since the development of the project. InSight now plans to replace the existing equipment with a Siemens Magnetom Espree 1.5T MRI scanner, installed in a new mobile coach (the "Replacement Scanner"). Instead of placing the Replacement Scanner at the previous site on Victoria Road in Asheville, it will be placed at the Practice's offices, located at:

Marquis Diagnostic Imaging of North Carolina, LLC  
1000 Centre Park Drive  
Asheville, NC 28805

At the time InSight begins providing MRI services to the Practice at the new location, InSight will remove the Existing Scanner from the state of North Carolina.

We hereby request a determination from the Certificate of Need Section that InSight's planned replacement of the Existing Scanner is exempt from review under the Certificate of Need ("CON") Law, pursuant to the replacement equipment exemption in N.C.G.S. § 131E-184(a)(7); see also N.C.G.S. § 131E-176(22a); 10A N.C.A.C. 14C.0303. In support of this request, a completed Equipment Comparison Chart and a Proposed Capital Cost form are attached hereto as Attachment B and Attachment C, respectively. As set forth in Attachment C, the total cost of the new equipment is \$1,973,413.00; which consists of \$1,544,828.00 for the new scanner and \$428,585.00 for the new mobile coach. These costs fall below the limit of \$2,000,000 for replacement equipment pursuant to G.S.131E-176(22a).

The Replacement Scanner is comparable medical equipment with respect to the Existing Scanner. Both the Replacement and Existing Scanners are 1.5 T MRI scanners. They are thus functionally similar and employ the same technology and are used for the same diagnostic and treatment purposes. The Replacement Scanner will not be used to provide a new health service. Acquisition of the Replacement Scanner will not change the amount paid to InSight by its host site for the MRI scanner, and will therefore not result in more than ten percent (10%) increase in patient charges within the first twelve months after the replacement equipment is acquired. Likewise, the acquisition of the Replacement Scanner will not result in more than ten percent (10%) increase in operating expense per procedure within the first twelve months after the replacement equipment is acquired.

**Relocation of Fixed MRI Scanner:**

As stated above, InSight proposes to relocate the MRI scanner that is the subject of its CON from its current site to the Practice's offices, which are also located in Asheville,

Buncombe County, NC. Pursuant to N.C. Gen. Stat. § 131E-181(a), a CON is only valid for the scope, physical location, and person named in the application. Therefore, concurrently with the submission of this exemption request, InSight submits a request for declaratory ruling to the Director, N.C. Department of Health and Human Services, Division of Health Service Regulation, seeking confirmation that the relocation of the fixed MRI scanner to the Practice's offices at 1000 Centre Park Drive, Asheville, NC is in material compliance with the representations in the CON application and the conditions imposed on InSight's CON. A true copy of the Request for Declaratory Ruling is attached for your reference as Attachment D.

### **Temporary MRI Scanner**

The ordering and delivery of a new MRI scanner and mobile coach will take several months to complete, and the Practice will need MRI services following the expiration of its current MRI service contract on 15 September 2012. Therefore, InSight needs to provide interim service to the Practice until the new replacement MRI scanner can be delivered, using an MRI scanner similar to the planned replacement unit. Accordingly, InSight also requests the CON Section's approval to provide MRI service at the Practice using a temporary interim MRI scanner that InSight will rent from another company (the "Temporary Scanner"). InSight will lease the Temporary Scanner from 15 September 2012 until the purchase of the Siemens scanner can be completed and the Siemens scanner can be delivered and implemented.

Like the Replacement Scanner, the Temporary Scanner is a Siemens Magnetom Espree 1.5T MRI Scanner installed in a mobile coach. Because the Temporary Scanner would be rented via a short-term lease from another company,<sup>2</sup> there is no capital expenditure associated with obtaining the Temporary Scanner. Further, since the Temporary Scanner is installed in a mobile coach, and the Practice's offices are already configured for use of a mobile MRI scanner, there will be no construction or renovation cost associated with use of the Temporary Scanner.

The Temporary Scanner will only be used in North Carolina for the interim time period between removal of the Existing Scanner and the completion of the purchase and delivery of the Replacement Scanner. The Temporary Scanner will be used for the same diagnostic purposes as both the Existing Scanner and the Replacement Scanner, and will not be used to provide a new health service. The use of the Temporary Scanner will not result in more than ten percent (10%) increase in patient charges within the first twelve months after it is acquired, or more than a ten percent (10%) increase in operating cost per procedure within the first twelve months after it is put into operation.

At such time as the Temporary Scanner is made operational, InSight will cease providing services in North Carolina with the Existing Scanner, which shall be removed from the State. Likewise, at such time as the Replacement Scanner is made operational, InSight will cease providing services in North Carolina with the Temporary Scanner, which shall be removed from the State. Accordingly, at no time will InSight's acquisition of the Replacement Scanner or use

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<sup>2</sup> The rental cost to InSight for the Temporary Scanner is \$45,000 per month. However, since the Temporary Scanner would be obtained via a short-term operating lease, there is no capital expenditure.

August 23, 2012

Page 4

of the Temporary Scanner result in an increase in the number of MRI scanners in the Buncombe county inventory.

InSight is eager to implement the Temporary Scanner and proceed with the acquisition of the proposed Replacement Scanner as soon as possible. Because InSight would like to have the Temporary Scanner in place by mid-September, we respectfully request an expedited review of this request as soon as the CON Section's schedule permits. Please let us know if you have any questions or if you need further information from us. We look forward to hearing from you.

Sincerely,

*Marcus C. Hewitt*  
/EBH

Marcus C. Hewitt

# STATE OF NORTH CAROLINA

Department of Health and Human Services

Division of Facility Services

## CERTIFICATE OF NEED

for

Project Identification Number B-6643-02

FID#020752

**ISSUED TO:** InSight Health Corp.  
4400 MacArthur Blvd., Suite 800  
Newport Beach, CA 92660

Pursuant to N.C. Gen. Stat. § 131E-175, et. seq., the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the "certificate holder") to develop the certificate of need project identified above. The certificate holder shall develop the project in a manner consistent with the representations in the project application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein. The certificate holder shall not exceed the maximum capital expenditures amount specified herein during the development of this project, except as provided by N.C. Gen. Stat. § 131E-176(16). The certificate holder shall not transfer or assign this certificate to any other person except as provided in N.C. Gen. Stat. § 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to N.C. Gen. Stat. § 131E-189 for any of the reasons provided in that law.

**SCOPE:** Acquire a 1.5 Tesla MRI scanner and a pre-fabricated building and establish a new diagnostic center in Asheville/Buncombe County.

**CONDITIONS:** See Reverse Side

**PHYSICAL LOCATION:** InSight Health Corp. MRI  
111 Victoria Road, Asheville, NC 28801

**MAXIMUM CAPITAL EXPENDITURE:** 2,494,008

**TIMETABLE:** See Reverse Side

**FIRST PROGRESS REPORT DUE:** January 30, 2004

This certificate is effective as of the 4th day of September, 2003.

*Reed B. Hoffman*  
Chief, Certificate of Need Section  
Division of Facility Services

EXHIBIT

A

tabbies



**CONDITIONS:**

1. InSight Health Corp. shall materially comply with all representations made in the certificate of need application.
2. InSight Health Corp. shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VII of the application or that would otherwise require a certificate of need.
3. InSight Health Corp. shall acknowledge acceptance and compliance with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

A letter acknowledging acceptance and compliance with all conditions stated in the conditional approval letter was received by the Certificate of Need Section on December 27, 2002.

**TIMETABLE:**

Approval of final drawings and specifications by Construction Section, DFS _____	November 28, 2003
Approval of Site by Construction Section, DFS _____	December 31, 2003
Contract Award _____	December 15, 2003
25% completion of construction _____	January 15, 2004
50% completion of construction _____	February 1, 2004
75% completion of construction _____	March 1, 2004
Completion of construction _____	March 30, 2004

**EQUIPMENT COMPARISON**

	EXISTING EQUIPMENT	REPLACEMENT EQUIPMENT
Type of Equipment (List Each Component)	MRI Scanner	MRI Scanner
Manufacturer of Equipment	General Electric	Siemens
Tesla Rating for MRIs	1.5 T	1.5 T
Model Number	EchoSpeed	Espre
Serial Number	R941	TBD
Provider's Method of Identifying Equipment	G1238A	TBD
Specify if Mobile or Fixed	Fixed <sup>1</sup>	Fixed <sup>1</sup>
Mobile Trailer Serial Number/VIN #	1LH152UHXY1011061	TBD
Mobile Tractor Serial Number/VIN #	N/A	TBD
Date of Acquisition of Each Component	9/30/2000	TBD
Does Provider Hold Title to Equipment or Have a Capital Lease?	Holds title	Will hold title
Specify if Equipment Was/Is New or Used When Acquired	New	New
Total Capital Cost of Project (Including Construction, etc.) <Use Attached Form>	N/A	\$1,973,413.00
Total Cost of Equipment	\$1,789,690.00	\$1,973,413.00
Fair Market Value of Equipment	\$175,000-\$225,000	\$1,973,413.00
Net Purchase Price of Equipment	N/A	\$1,973,413.00
Locations Where Operated	Asheville Orthopaedic Associates 111 Victoria Road Asheville, NC 28801	Marquis Diagnostic Imaging of North Carolina, LLC 1000 Centre Park Drive Asheville, NC 28805
Number Days In Use/To be Used in N.C. Per Year	260	260
Percent of Change in Patient Charges (by Procedure)	0%	0%
Percent of Change in Per Procedure Operating Expenses (by Procedure)	0%	0%
Type of Procedures Currently Performed on Existing Equipment	Diagnostic MRI	N/A
Type of Procedures New Equipment is Capable of Performing	N/A	Diagnostic MRI

<sup>1</sup> Both the existing and replacement scanners are housed in mobile coaches and are capable of serving multiple sites, but this MRI Scanner is not deemed a "mobile MRI scanner." The existing MRI scanner currently serves only one site and the replacement will serve only the same site.

**PROPOSED TOTAL CAPITAL COST OF PROJECT**

Project Name: Replacement MRI Scanner – Unit G1238A

Provider/Company: InSight Health Corp.

**A. Site Costs**

- (1) Full purchase price of land..... \$ \_\_\_\_\_  
     Acres \_\_\_\_\_ Price per Acre \$ \_\_\_\_\_
- (2) Closing costs..... \$ \_\_\_\_\_
- (3) Site Inspection and Survey..... \$ \_\_\_\_\_
- (4) Legal fees and subsoil investigation \$ \_\_\_\_\_
- (5) Site Preparation Costs
  - Soil Borings..... \$ \_\_\_\_\_
  - Clearing-Earthwork... \$ \_\_\_\_\_
  - Fine Grade For Slab... \$ \_\_\_\_\_
  - Roads-Paving..... \$ \_\_\_\_\_
  - Concrete Sidewalks... \$ \_\_\_\_\_
  - Water and Sewer..... \$ \_\_\_\_\_
  - Footing Excavation... \$ \_\_\_\_\_
  - Footing Backfill..... \$ \_\_\_\_\_
  - Termite Treatment... \$ \_\_\_\_\_
  - Other (Specify)..... \$ \_\_\_\_\_
- Sub-Total Site Preparation Costs \$ \_\_\_\_\_
- (6) Other (Specify) \$ \_\_\_\_\_
- (7) **Sub-Total Site Costs** \$ \_\_\_\_\_

**B. Construction Contract**

- (8) Cost of Materials
  - General Requirements \$ \_\_\_\_\_
  - Concrete/Masonry \$ \_\_\_\_\_
  - Woods/Doors & Windows/Finishes \$ \_\_\_\_\_
  - Thermal & Moisture Protection \$ \_\_\_\_\_
  - Equipment/Specialty Items \$ \_\_\_\_\_
  - Mechanical/Electrical \$ \_\_\_\_\_
  - Other (Specify) \$ \_\_\_\_\_
- Sub-Total Cost of Materials..... \$ \_\_\_\_\_
- (9) Cost of Labor..... \$ \_\_\_\_\_
- (10) Other (Specify)..... \$ \_\_\_\_\_
- (11) **Sub-Total Construction Contract** \$ \_\_\_\_\_

**C. Miscellaneous Project Costs**

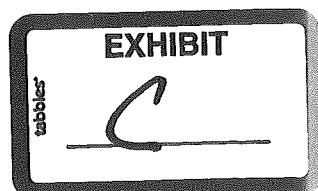
- (12) Building Purchase..... \$ \_\_\_\_\_
- (13) Fixed Equipment Purchase/Lease \$ \_\_\_\_\_
- (14) Movable Equipment Purchase/Lease \$ 1,973,413.00
- (15) Furniture \$ \_\_\_\_\_
- (16) Landscaping \$ \_\_\_\_\_
- (17) Consultant Fees
  - Architect and Engineering Fees \$ \_\_\_\_\_
  - Legal Fees..... \$ \_\_\_\_\_
  - Market Analysis..... \$ \_\_\_\_\_
  - Other (Specify)..... \$ \_\_\_\_\_
  - Other (Specify)..... \$ \_\_\_\_\_
- Sub-Total Consultant Fees..... \$ \_\_\_\_\_
- (18) Financing Costs (e.g. Bond, Loan, etc.). \$ \_\_\_\_\_
- (19) Interest During Construction. \$ \_\_\_\_\_
- (20) Other (Specify) \$ \_\_\_\_\_
- (21) **Sub-Total Miscellaneous.** \$ \_\_\_\_\_
- (22) **Total Capital Cost of Project (Sum A-C above)** \$ 1,973,413.00

I certify that, to the best of my knowledge, the costs of the proposed project named above are complete and correct.

N/A Date Certified: \_\_\_\_\_  
 (Signature of Licensed Architect or Engineer)

I assure that, to the best of my knowledge, the above costs for the proposed project are complete and correct and that it is my intent to carry out the proposed project as described.

James Vavantis, SVP Date Signed: 8-22-2002  
 (Signature and Title of Officer Authorized to Represent Provider/Company)



NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION  
RALEIGH, NORTH CAROLINA

IN RE: REQUEST FOR )  
DECLARATORY RULING BY INSIGHT )  
HEALTH CORP. )  
Project I.D. # B-6643-02 )

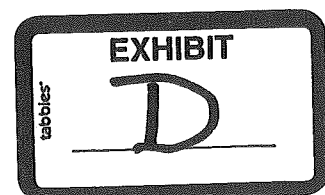
**REQUEST FOR  
DECLARATORY RULING**

Pursuant to N.C. Gen. Stat. § 150B-4 and 10A N.C.A.C. 14A.0103, InSight Health Corp. respectfully requests that the North Carolina Department of Health and Human Services, Division of Health Service Regulation (“Department”) issue a declaratory ruling as to the applicability of Chapter 131E, Article 9 of the North Carolina General Statutes, and of the Department’s rules, to the facts described below.

In this declaratory ruling request, InSight proposes a change in location for the fixed magnetic resonance imaging (“MRI”) scanner for which a Certificate of Need (“CON”) was previously approved by the Department (Project I.D. No. B-6643-02) in September 2003.<sup>1</sup>

Since the project was implemented, InSight has operated the MRI at Asheville Orthopaedic Associates (“Asheville Orthopaedic”) at 111 Victoria Road, in Asheville, Buncombe County, North Carolina (the “Victoria Road site”). InSight now wishes to relocate the scanner to Marquis Diagnostic Imaging of North Carolina, LLC, (“Marquis”) at 1000 Centre Park Drive in Asheville, Buncombe County, North Carolina (the “Centre Park Drive site”). InSight intends to provide MRI services at the Centre Park Drive site beginning upon expiration of Marquis’ current contract with another MRI provider on approximately 15 September 2012. However, before providing services with the approved MRI scanner at the Centre Park Drive site, InSight seeks to confirm that the relocation of the approved fixed MRI scanner will not

<sup>1</sup> The MRI scanner is installed in a mobile coach, but it is a fixed MRI scanner for purposes of the CON law. The CON under which the project was developed is for a fixed MRI scanner, and the MRI scanner and its predecessors have served only the same location since the development of the project.



require an additional CON. InSight therefore requests a declaratory ruling from the Department that the proposed relocation will not constitute a material change in the physical location or scope of the project, will not violate N.C. Gen. Stat. § 131E-181, and will not constitute a failure to satisfy any condition of the CON that will be issued to InSight for Project I.D. No. B-6643-02.

### STATEMENT OF FACTS

This request is submitted by InSight Health Corp., a Delaware corporation authorized to do business in North Carolina, with its registered office in Wake County, North Carolina. InSight began providing MRI services in Buncombe County in 2004 at the Victoria Road site pursuant to the CON awarded to InSight in September 2003, Project I.D. No. B-6643-02. InSight has provided MRI services at the Victoria Road site ever since. The term of InSight's contract with Asheville Orthopaedic Associates has expired and can be terminated by InSight at will.

InSight has recently entered into a contract with Marquis to begin providing MRI services. Marquis currently contracts with another MRI provider to provide MRI services, but its contract expires on 15 September 2012. Marquis needs an MRI on site beginning the same date in order to provide continuity of services.

There is no significant proposed change in the operating costs or charge per procedure as compared to the projected operating costs and charges for service at the current Victoria Road site. Contemporaneously with the relocation, InSight plans to replace the existing MRI scanner with a Siemens Magnetom Espree 1.5T MRI scanner, installed in a new mobile coach (the "Replacement Scanner").<sup>2</sup> The existing MRI scanner is twelve years old and in need of replacement, and the planned replacement is exempt from review under the Certificate of Need

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<sup>2</sup> The planned replacement of the fixed MRI scanner is the subject of a concurrently-filed request for exemption, as discussed herein.

(“CON”) Law, pursuant to the replacement equipment exemption in N.C.G.S. § 131E-184(a)(7); see also N.C.G.S. § 131E-176(22a); 10A N.C.A.C. 14C.0303. Because the existing equipment will be replaced, there will be no additional costs associated with the relocation.

Therefore, InSight requests that the Department issue a declaratory ruling to confirm that the proposed relocation of the approved fixed MRI scanner in Buncombe County from the Victoria Road site to the Centre Park Drive site will not be a material change to the project as approved by the CON for Project I.D. No. B-6643-02, and will not violate any condition of the CON, or any of the statutes referenced herein or any other provision of the CON law.

### **DISCUSSION**

N.C. Gen. Stat. § 131E-181(a) provides that a “certificate of need shall be valid only for the defined scope, physical location and person in the named application.” In addition, N.C. Gen. Stat. §§ 131E-181(b) and 189(b) require the recipient of a CON to materially comply with the representations in its application and the conditions imposed on the CON. However, the Department has allowed parties wide latitude to make changes in the physical location named in their application where convenience dictates or the objectives of the CON statute are otherwise advanced. InSight’s relocation of the MRI scanner to the Centre Park Drive site would not constitute a material change in the physical location of InSight’s services or affect its material compliance with the representations in its application or the conditions on its CON for the following reasons:

1. The proposed relocation of the approved fixed MRI scanner to the Centre Park Drive site will not constitute a material change in physical location of the mobile MRI scanner because both the Victoria Road site approved for Project I.D. No. B-6643-02 and the Centre Park

Drive site are located within close proximity, approximately 3.4 miles apart, in Buncombe County, within Health Service Area I.

2. The proposed relocation of the approved fixed MRI scanner to the Centre Park Drive site will not affect the scope of services to be provided by InSight.

3. There is no proposed change in the person named in the application that would result in a violation of N.C. Gen. Stat. § 131E-181(a).

4. The proposed relocation of the approved fixed MRI scanner to the Centre Park Drive site will not result in a material change in the capital expenditure<sup>3</sup> pursuant to N.C. Gen. Stat. § 131E-176(16)e, since the capital cost will not change or will change less than 15%, and will not result in a material change in the operating costs to the services to be provided by InSight.

5. The proposed relocation of approved fixed MRI scanner to the Centre Park Drive site will not result in the development of the project in a manner that is materially different from the representations made in InSight's application or with any of the conditions placed on the approved CON for Project I.D. No. B-6643-02.

6. Access to the medically underserved will be equivalent because the close proximity of the Centre Park Drive site with the site originally approved will allow InSight to serve the same population as projected in its application.

Consequently, there is no violation of Chapter 131E, Article 9 of the North Carolina General Statutes or of the Department's rules, by permitting this proposed relocation.

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<sup>3</sup> Any change to the capital cost of the approved fixed MRI scanner would result from the replacement of the existing MRI scanner with a new MRI scanner, which is the subject of a concurrently-filed exemption request. No change in capital cost would result from the relocation of the approved MRI scanner, which is the subject of this request for declaratory ruling.

## CONCLUSION

Based on the statement of given facts and the authorities set out above, InSight requests that the Department issue a declaratory ruling approving its proposed relocation on the grounds that doing so would not be a material change in location, person, or scope of Project I.D. No. B-6643-02 for purposes of N.C. Gen. Stat. § 131E-181(a) and would not affect the material compliance of InSight's project with the representations made in its CON application or the conditions of the approved fixed MRI CON for purposes of N.C. Gen. Stat. §§ 131E-181(b) or 189(b).

This, the 23<sup>rd</sup> day of August, 2012.

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