



North Carolina Department of Health and Human Services
Division of Health Service Regulation

Pat McCrory
Governor

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Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

August 27, 2013

William R. Shenton
Poyner Spruill
301 Fayetteville Street
Suite 1900
Raleigh, NC 27602

No Review

Facility or Business: Roanoke Valley Cancer Center

Project Description:

- Transfer of 100% of Roanoke Valley Cancer Center, P.A ownership interests in the linear accelerator and other assets to New LLC
- Acquisition of 100% of New LLC by NCRTMS

County: Halifax
FID #: 130385

Dear Mr. Shenton:

The Certificate of Need Section (CON Section) received your letter of July 25, 2013 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.

Moreover, you need to contact the Acute and Home Care Licensure and Certification Sections of the Division of Health Service Regulation to determine if they have any requirements for development of the proposed project.

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

Certificate of Need Section

www.ncdhhs.gov

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Mr. Shenton
August 27, 2013
Page 2

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.

Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D. # (FID) if the facility is licensed.

Sincerely,



Bernetta Thorne-Williams, Project Analyst



Craig R. Smith, Chief
Certificate of Need Section

cc: Medical Facilities Planning Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR

Burgett

Poyner Spruill^{LLP}

July 25, 2013

Received by
the CON Section
JUL 25 2013

William R. Shenton
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VIA HAND DELIVERY

Craig R. Smith
Chief
CON Section
809 Ruggles Drive
Raleigh, NC 27603

Martha Frisone
Assistant Chief
CON Section
809 Ruggles Drive
Raleigh, NC 27603

RE: Acquisition of Linear Accelerator Operated by Roanoke Valley Cancer Center

Dear Mr. Smith and Ms. Frisone:

We are writing on behalf of North Carolina Radiation Therapy Management Services, Inc. ("NCRTMS"), to inform the Certificate of Need Section of its plans to purchase the ownership interests in an organization that operates a linear accelerator located at 212 Smith Church Road in Roanoke Rapids, North Carolina. As a result of the transaction described in this letter, NCRTMS will acquire ownership of the entity that now operates the linear accelerator. Based on the CON Section's treatment of similar arrangements in the past, the transaction described in this letter does not involve an activity for which a certificate of need should be required. In a separate letter to be submitted at a later date, NCRTMS will describe its plans to replace the current linear accelerator operated in Roanoke Rapids and present the basis for an exemption of that replacement from certificate of need review under NC 10 Stat. § 131E-184(a)(7) and 10A NCAC 14C .0303.

OVERVIEW

Roanoke Valley Cancer Center, P.A.

The current owner of the linear accelerator in operation in Roanoke Rapids is Roanoke Valley Cancer Center, P.A. This facility treated its first patient with a Cobalt 60 linear accelerator on April 8, 1988, and thus was in operation and became an "Oncology Treatment Center" before the Certificate of Need Law was amended in 1993 to require a certificate of need before an Oncology Treatment Center is established. **Exhibit 1** has excerpts from each State Medical Facilities Plan since 1997, the first SMFP that presented a linear accelerator inventory. This data shows that Roanoke Valley Cancer Center's linear accelerator has operated continuously throughout this period. We understand that late in 1995, it acquired the refurbished Varian Clinac 6/100 linear accelerator, which it operates now, at a total cost of \$295,000, which included all associated construction and upfit costs. Since the purchase of the Varian Clinac 6/100, the following additional equipment purchases associated with the operation of the linear accelerator have occurred, with the stated costs and dates of purchase, where available:

- Acrylic base plate with Silverman support (\$390.00)
- Breast boards (2 model MT-250WC) \$6,190.00
- Cassette holder model MT-300 (\$2,400.00 – May/1996)
- Crosshair laser (\$4,358.72 – July 31, 2001)
- Digital electro meter (\$1,200.00)
- Simulator manufactured by Cascade (\$59,000.00 – July 24, 1998)

As best as can be presently determined, the purchase of the Varian 6/100 linear accelerator was not presented to the CON Section for consideration as a Replacement Equipment exemption under N.C. Gen. Stat. § 131E-184(a)(7). However, as already noted, the center already was in operation and was an established oncology treatment center before the statutory amendment, and so the purchase of the Varian machine did not constitute the initial development or establishment of an oncology treatment center that would require obtaining a certificate of need. In addition, the total cumulative expenditures for all of these equipment purchases, from acquisition of the Varian 6/100 linear accelerator forward to the present time, is \$368,538.72. Thus, the total cost of the current Varian Clinac 6/100 and all other equipment in place at the center since purchase of the Varian Clinac 6/100 falls well below the Major Medical Equipment threshold of \$750,000 defined in N.C. Gen. Stat. § 131E-176 (14o). Accordingly, none of the equipment purchases at the center to date have required a certificate of need.

The Transfer of Ownership Interest in Roanoke Valley Cancer Center, P.A.

The transaction presented in this letter will involve only a transfer of the underlying ownership interests of the center. As its name indicates, Roanoke Valley Cancer Center, P.A., is a professional association. The sole owner of its stock is Dr. C.A. Thannikkary, a licensed physician. Roanoke Valley plans to establish a limited liability company whose interests can be acquired by non-physicians. The linear accelerator and other associated operating assets would be transferred to this **NEW LLC**, and simultaneously with the transfer, NCRTMS would acquire all of the ownership interests in the NEW LLC.

ANALYSIS

The CON Law was enacted to prevent the development and operation of unneeded health services, equipment and facilities. This is made explicit in the first section of the law, where the General Assembly finds: "That the proliferation of unnecessary health service facilities results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of health care services." N.C. Gen. Stat. § 131E-175(4). Accordingly, the CON Law essentially focuses on the development and offering of those "new institutional health services" that are listed in N.C. Gen. Stat. § 131E-176(16), and which would create additional health service capacity. Each of the listed new institutional health services entails the establishment of an additional health service or facility, the operation of additional equipment, or an expansion or relocation of existing services. Each of these events could have an impact on the capacity, or service area, of a type of health service and thereby affect how it is utilized. In keeping with its fundamental goals, the CON Law expressly recognizes that certain activities are not subject to review, such as purchases of existing health services, or the repair or replacement of existing facilities or equipment, since these actions do not change the overall capacity of the health care system. Based upon the clear terms of the CON Law and prior declaratory rulings by the Department that have recognized this fundamental principle, the Proposed Transaction does not require a certificate of need.

The Proposed Transaction Will Not Result in a New Institutional Health Service

The CON Law provides that no person shall offer or develop a "new institutional health service" without first obtaining a CON. N.C. Gen. Stat. § 131E-178. However, none of the components of the "new institutional health service" definition addresses, directly or indirectly, the acquisition of ownership interests in an organization that already offers a health service. The CON Law also identifies changes in ownership among the "administrative and other activities that are not integral to clinical management," and which are specifically excluded from the definition of "health service" in the CON Law. N.C. Gen. Stat. § 131E-176(9a). Therefore, based on the text of the law, the acquisition of NEW LLC's ownership interests does not involve a new service at all and should not be subject to CON review.

The Proposed Transaction Does Constitute the Acquisition of a Linear Accelerator or Simulator Subject to Review Under N.C. Gen. Stat. § 131E-176(16)(f1).

The list of new institutional health services does include "the acquisition by purchase, donation, lease, transfer or comparable arrangement" of a linear accelerator or simulator "by or on behalf of any person," N.C. Gen. Stat. § 131E-176(16)(f1)5a, 9; but the proposed acquisition by NCRTMS of all the ownership interests of NEW LLC does not constitute the acquisition of a linear accelerator. As explained above, the transaction is limited to the acquisition of the underlying ownership interests in the corporate entity owning the existing radiation center and its associated equipment. The ownership of the NEW LLC will change to NCRTMS, but its legal status as an existing business entity will not change. Since NEW LLC will remain the same legal entity, the same "person" will own and operate the linear accelerator and other equipment following the Proposed Transaction. See N.C. Gen. Stat. §131E-176(19). Accordingly, and consistent with the rulings issued since the August 2005 amendment, there is no basis to treat the Proposed Transaction as a purchase of a linear accelerator under the provisions of N.C. Gen. Stat. § 131E-176(16)(f1) 5a and to require a certificate of need before it may occur.

The Agency's Past Responses to Similar Transactions Confirm that This Does Not Require a CON.

This request follows prior declaratory rulings which have interpreted the applicability of the CON Law to the purchase of ownership interests in corporate entities that already are operating a health service. In at least four rulings that were issued after the enactment of the August 2005 amendment to the CON Law, the Department has determined that the transfer of ownership interests in organizations that own linear accelerators does not require a certificate of need.

- On August 18, 2011, the Department issued a declaratory ruling finding that Radiation Oncology Centers of the Carolinas, Inc.'s transfer of two CON-approved radiation oncology centers to two wholly-owned subsidiaries did not constitute a new institutional health service or require a certificate of need. See *In re: Request for Declaratory Ruling by Radiation Oncology Centers of the Carolinas, Inc.* (**Exhibit 2**).
- On September 27, 2010, the Department issued a declaratory ruling confirming that the acquisition by Cancer Centers of North Carolina, P.C. of the majority of the ownership interests in Wake Radiology Oncology Services did not require a certificate of need. See *In re: Request for Declaratory Ruling by Wake Radiology Oncology Services, PLLC, Cancer Centers of North Carolina, P.C., US Oncology, Inc. et al.* (**Exhibit 3**).

In addition to the two rulings attached as exhibits, the Department also issued a declaratory ruling on December 21, 2007, finding that Rex Healthcare, Inc.'s purchase of the membership interests of Smithfield Radiation Oncology, LLC, was not subject to CON review; and a declaratory ruling on September 14, 2007, confirming that certificate of need review was not required for the sale to another entity of 100% of the stock of a company that owned a linear accelerator.

Finally, in transactions involving acquisitions by NCR TMS of ownership interest in entities that operated linear accelerators in Goldsboro and Clinton, the CON Section has issued no review letters confirming that transactions structured in a similar way to the one described in this letter may proceed without certificate of need review. Attached as **Exhibit 4** is the letter that was issued by the CON Section on April 2, 2012 with regard to the transactions involving the linear accelerator in Clinton.

Thus, the Department and CON Section have consistently determined that events such as the Proposed Transaction do not trigger certificate of need review. The transactions involved in the above-described declaratory rulings are exactly analogous to the Proposed Transaction at issue in this request. Under the Proposed Transaction, NCR TMS will acquire all of the ownership interests in NEW LLC, which will continue to own the Roanoke Valley Cancer Center and its associated equipment, including the Varian 6/100 Linac.

***The Proposed Transaction Does Not Involve the Development
or Expansion of a Health Service Facility***

The Proposed Transaction will not entail a capital expenditure to develop or expand a health service or health service facility because the same equipment will continue to be operated at the same location, and no expansion of services is proposed. Likewise, the Proposed Transaction will not entail "a capital expenditure . . . which relates to the provision of a health service" under N.C. Gen. Stat. § 131E-176(16)(b). The only change that will result from the Proposed Transaction will be in the ownership of NEW LLC, and that change in ownership is not a health service.

As the Department must have determined in the prior declaratory rulings discussed above, the purchase of ownership interests in an existing enterprise, which already is lawfully operating medical equipment and offering services, is not a capital expenditure that "relates to the provision of a health service" under N.C. Gen. Stat. § 131E-176(16)(b). The definition of "health service" in the CON Law specifically excludes "administrative and other activities that are not integral to clinical management." N.C. Gen. Stat. § 131E-176(9a). The ownership of the Roanoke Valley Cancer Center is not integral to its clinical management, and the center's operations will not change as a result of the Proposed Transaction. Therefore, the purchase of ownership interests in NEW LLC is not an activity that is "integral to clinical management," and accordingly is not "a capital expenditure . . . which relates to the provision of a health service" within the meaning of N.C. Gen. Stat. § 131E-176(16)(b).

CONCLUSION

As explained above, since 1995, Roanoke Valley Cancer Center has been operated as a radiation oncology center for many years and that will continue after completion of the Proposed Transaction. The Proposed Transaction would only involve a transfer of the underlying ownership interests in the corporate entity that owns the linear accelerator. The equipment will continue to serve patients at the same location, and there will be no change in the scope of services provided by the Cancer Center as a result of the Proposed Transaction. The Proposed Transaction does not involve the offering or expansion of any new facility, service or equipment, and the State's inventory of linear accelerators will not change as a result of the transaction.

For all of the foregoing reasons, the regulation of events like the Proposed Transaction, involving an existing oncology center and its associated equipment, which does not otherwise implicate the fundamental purposes of the CON Law stated in N.C. Gen. Stat. § 131E-175, is beyond the scope of the CON Law, and should not require a CON. North Carolina courts have recognized that because the CON Law interferes with the normal right to do business, it must be narrowly construed. See *HCA Crossroads*

Craig R. Smith
Martha Frisone
July 25, 2013
Page 5

Poyner Spruill^{LLP}

Residential Centers, Inc. v. N.C. Dep't of Human Resources, 327 N.C. 573, 579, 398 S.E.2d 466, 470 (1990) ("When viewed in its entirety, Article 9 of Chapter 131E of the General Statutes, the Certificate of Need Law, reveals the legislature's intent that an applicant's fundamental right to engage in its otherwise lawful business be regulated but not be encumbered with unnecessary bureaucratic delay.") Failure to issue the requested no-review determination would delay and impede the Parties that are requesting this determination in proceeding with a lawful business transaction.

We have enclosed a copy of the Exhibits referenced in this letter (see attached Index). We request your earliest possible attention to this request and look forward to your confirmation that the Proposed Transaction is not a new institutional health service and that it may proceed without a certificate of need. Thank-you for your attention to this matter, and please let me know if there is any additional information you may require.

Very truly yours,



William R. Shenton
Partner

INDEX TO EXHIBITS

1. State Medical Facilities Plan Excerpts, 1997-2013
2. August 18, 2013 Declaratory Ruling, *In re: Request for Declaratory Ruling by Radiation Oncology Centers of the Carolinas, Inc.*
3. September 27, 2010 Declaratory Ruling, *In re: Request for Declaratory Ruling by Wake Radiology Oncology Services, PLLC, Cancer Centers of North Carolina P.C., US Oncology, Inc. et al.*
4. April 2, 2012 No Review Determination with regard to the Goldsboro transaction

EXHIBIT 1

1997 State Medical Facilities Plan



North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Human Resources

**Table 8L. Freestanding Oncology Center Procedures
1993 - 1995**

Facility Name	County	LIN ACC	PROCEDURES		
			1993	1994	1995
Greensboro Radiation Oncology Center	Guilford	1	6,130	5,208	3,346
Western Regional Cancer Center	Haywood	1	537	4,315	3,884
Mountain Regional Cancer Center	Jackson	2	0	2,991	9,000
Charlotte Radiation Care	Mecklenburg	1	7,037	3,089	1,143
Matthews Radiation Oncology	Mecklenburg	1	7,695	7,644	8,007
University Place Radiation Care	Mecklenburg	1	0	1,167	1,124
New Hanover Radiation Oncology Center *	New Hanover	2	NA	16,559	14,665
Albemarle Regional Cancer Center	Pasquotank	1	5,479	4,129	4,476
Salisbury Oncology Center	Rowan	1	NA	3,666	4,495
Sandhills Oncology Treatment Center	Scotland	1	NA	1,847	1,042
Wayne Radiation Oncology Center	Wayne	1	1,462	6,435	5,700
Roanoke Valley Cancer Center **	Halifax	1	2,609	3,045	3,245
TOTALS		14	30,949	60,095	60,127

* Two Accelerators

** Cobalt Only



The 1938 State Medical Association Year Book

Published by the State Medical Association of Florida
1938
Tallahassee, Florida

Table 8L. Freestanding Radiation Oncology Centers Procedures

Facility Name	Service Area #	County	LIN ACC	PROCEDURES	
				(ESTVs)1995-96	Average per Unit
Mountain Regional Cancer Center	1	Jackson	1	6,296	6,296
St. Joseph's Regional Cancer Center	2	Buncombe	1	7,662	7,662
Haywood Associates Limited Partnership	2	Haywood	1	3,180	3,180
Regional Radiation Oncology, PA	4	Transylvania	1	NR	
Charlotte Radiation Care	7	Mecklenburg	1	0	
Matthews Radiation Oncology	7	Mecklenburg	1	3,296	3,296
University Place Radiation Care	7	Mecklenburg	1	0	
Salisbury Oncology Center	8	Rowan	1	7,131	7,131
Greensboro Radiation Oncology Center	11	Guilford	1	3,885	3,885
Sandhills Oncology Treatment Center	16	Scotland	1	7,749	
Wake Radiology Oncology Services***	17	Wake	1	NA	
New Hanover Radiation Oncology Center	18	New Hanover	2	21,190	10,595
Wayne Radiation Oncology Center	19	Wayne	1	9,192	9,192
Roanoke Valley Cancer Center	20	Halifax	1	3,744	3,744
Leo W. Jenkins Cancer Center**	23	Pitt	3	16,817	5,606
Albemarle Regional Cancer Center	24	Pasquotank	1	6,260	6,260
TOTALS (16 Facilities)			19	96,402	5,074

NR No Report

NA Not Applicable

* No longer in operation

** Linac owned by ECU Medical School. Received a CON in 1994 to add one linac; not yet operational.

*** Granted CON in 1997 for one linac

1999 State Medical Facilities Plan

South Carolina State Health Coordinating Council
Medical Facilities Planning Section
Historical Facility Survey
South Carolina Department of Health and Human Services

Table 8AA: Freestanding Radiation Oncology Centers Procedures

Facility Name	Service Area #	County	LIN ACC	PROCEDURES	
				(ESTVs)1996-97	Average per Unit
Mountain Regional Cancer Center	1	Jackson	1	7,691	7,691
St. Joseph's Regional Cancer Center	2	Buncombe	1	13,105	13,105
Haywood Associates Limited Partnership	2	Haywood	1	6,039	6,039
Transylvania Associates Limited Partnership	4	Transylvania	1	4,057	4,057
Mathews Radiation Oncology	7	Mecklenburg	1	4,022	4,022
University Radiation Oncology Center*	7	Mecklenburg	1	NA	
Salisbury Radiation Cancer Treatment Center	8	Rowan	1	7,829	7,829
Greensboro Radiation Oncology Center***	11	Guilford	1	2,507	2,507
Laurinburg Cancer Center	16	Scotland	1	5,558	5,558
Wake Radiology Oncology Services**	17	Wake	1	NA	
New Hanover Radiation Oncology Center	18	New Hanover	2	20,762	10,381
Wayne Radiation Oncology Center	19	Wayne	1	8,142	8,142
Roanoke Valley Cancer Center	20	Halifax	1	4,286	4,286
Albemarle Regional Cancer Center	24	Pasquotank	1	7,159	7,159
TOTALS (14 Facilities)			15	91,157	6,077

NR No Report

NA Not Applicable

* In operation as of March 19, 1998

** Granted CON in 1997 for one linac

*** No longer in operation

(Table 8AA.99f) 10/5/98

2000 State Medical Facilities Plan



North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Health and Human Services

**Table 8Z: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				1997-98	Average per Unit
Harris Regional	1	Jackson	1	8,595	8,595
Memorial Mission	2	Buncombe	2	14,398	7,199
St. Joseph's Regional Cancer Center	2	Buncombe	1	10,514	10,514
Haywood Associates Limited	2	Haywood	1	7,452	7,452
Watauga Hospital	3	Watauga	1	5,815	5,815
Margaret Pardee	4	Henderson	1	8,869	8,869
Valdese General	5	Burke	1	4,402	4,402
Grace Hospital	5	Burke	1	4,484	4,484
Catawba Memorial	5	Catawba	2	18,442	9,221
Gaston Memorial Hospital (h)	6	Gaston	3	18,951	6,317
Cleveland Regional	6	Cleveland	1	7,006	7,006
Presbyterian Hospital	7	Mecklenburg	2	25,821	12,911
Carolinas Medical Center	7	Mecklenburg	2	27,907	13,954
Matthews Radiation Oncology	7	Mecklenburg	1	10,552	10,552
University Radiation Oncology	7	Mecklenburg	1	2,607	2,607
1999 SMFP Need Determination	7		1		
Iredell Memorial	8	Iredell	2	10,176	5,088
Salisbury Radiation Cancer Treatment	8	Rowan	1	5,745	5,745
NorthEast Medical Center (d)	9	Cabarrus	2	16,701	8,351
Stanly Memorial Hospital (e)	9	Stanly	1	NA	
N. C. Baptist	10	Forsyth	4	31,295	7,824
Forsyth Memorial	10	Forsyth	3	24,775	8,258
Moses Cone	11	Guilford	4	28,028	7,007
High Point Regional	11	Guilford	2	8,621	4,311
Morehead Memorial	11	Rockingham	1	5,372	5,372
UNC Hospitals	12	Orange	4	24,153	6,038
Alamance Regional Medical Center	12	Alamance	1	9,584	9,584
Duke University Medical Center	13	Durham	3	42,399	14,133
Durham Regional Hospital	13	Durham	1	5,684	5,684
FirstHealth Moore Regional	14	Moore	2	25,004	12,502
Laurinburg Cancer Center	14	Scotland	1	4,376	4,376
Cape Fear Valley Medical Center	15	Cumberland	3	20,135	6,712
Southeastern Regional Medical Center	15	Robeson	1	9,496	9,496
New Hanover Regional (b)	16	New Hanover	1	NA	
New Hanover Radiation Oncology	16	New Hanover	2	21,322	10,661
Raleigh Community Hospital	17	Wake	1	542	542
Rex Hospital	17	Wake	4	40,624	10,156
Wake Radiology Oncology Services (f)	17	Wake	1	26	26
Lenoir Memorial	18	Lenoir	1	6,980	6,980
Wayne Radiation Oncology Center	18	Wayne	1	8,726	8,726
Craven Regional (a)	19	Craven	2	14,983	7,492
Carteret General (g)	19	Carteret	1	3,610	3,610
Nash Day Hospital	20	Nash	2	12,472	6,236
Roanoke Valley Cancer Center	20	Halifax	1	4,842	4,842
Wilson Memorial Hospital (c)	20	Wilson	1	NA	
Pitt County Memorial Hospital	21	Pitt	3	20,727	6,909
Albemarle Regional Cancer Center	22	Pasquotank	1	7,188	7,188
TOTALS (47 Facilities)			80	589,401	7,368

(a) Craven Regional received a CON in October, 1997 to add one linac.

(b) New Hanover Regional received a CON in 1994 to initiate linac service; will be operational late, 1999.

(c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.

(d) NorthEast Medical Center received a CON in December, 1998 to add one linac; operation projected for November, 1999.

(e) Stanly Memorial Hospital received a CON in December, 1998 to install one linac; operation projected for June, 2000.

(f) Wake Radiology received a CON in 1997, operational in July, 1998.

(g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.

(h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.

NA - Not Applicable, not in operation for appropriate time frame.



2001 State Medical Facilities Plan

**North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Health and Human Services**

**Table 8Z: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				1998-99	Average per Unit
Harris Regional	1	Jackson	1	6,321	6,321
Memorial Mission Hospital (S)	2	Buncombe	2	13,029	6,515
Regional Cancer Center	2	Buncombe	1	13,741	13,741
Haywood Associates Limited	2	Haywood	1	8,241	8,241
Watauga Hospital	3	Watauga	1	6,568	6,568
Margaret Pardee	4	Henderson	1	7,508	7,508
Valdese General	5	Burke	1	4,646	4,646
Grace Hospital	5	Burke	1	4,225	4,225
Catawba Memorial	5	Catawba	2	16,572	8,286
Gaston Memorial Hospital (h)	6	Gaston	3	21,322	7,107
Cleveland Regional	6	Cleveland	1	5,271	5,271
Presbyterian Hospital	7	Mecklenburg	2	21,772	10,886
Carolinas Medical Center (S)	7	Mecklenburg	2	21,845	10,923
Matthews Radiation Oncology	7	Mecklenburg	1	13,400	13,400
University Radiation Oncology	7	Mecklenburg	1	5,852	5,852
Union Regional Medical Center (i)	7	Union	1	NA	0
Iredell Memorial	8	Iredell	2	10,388	5,194
Salisbury Radiation Cancer Treatment	8	Rowan	1	6,051	6,051
NorthEast Medical Center (d)	9	Cabarrus	2	18,780	9,390
Stanly Memorial Hospital (e)	9	Stanly	1	NA	0
N. C. Baptist (S)	10	Forsyth	4	32,623	8,156
Forsyth Memorial	10	Forsyth	3	30,743	10,248
Moses Cone	11	Guilford	4	28,233	7,058
High Point Regional	11	Guilford	2	11,220	5,610
Morehead Memorial	11	Rockingham	1	5,280	5,280
UNC Hospitals (S)	12	Orange	4	24,605	6,151
Alamance Regional Medical Center	12	Alamance	1	10,680	10,680
Duke University Medical Center (S) (a)	13	Durham	3	39,589	13,196
Durham Regional Hospital	13	Durham	1	10,395	10,395
2000 SMFP Need Determination	13		3		
FirstHealth Moore Regional	14	Moore	2	18,657	9,329
Laurinburg Cancer Center	14	Scotland	1	NR	0
Cape Fear Valley Medical Center	15	Cumberland	3	20,881	6,960
Southeastern Regional Medical Center	15	Robeson	1	7,828	7,828
New Hanover Regional (b)	16	New Hanover	1	NA	0
New Hanover Radiation Oncology	16	New Hanover	2	23,157	11,579
Raleigh Community Hospital	17	Wake	1	2,631	2,631
Rex Hospital	17	Wake	4	31,208	7,802
Wake Radiology Oncology Services (f)	17	Wake	1	6,137	6,137
Lenoir Memorial	18	Lenoir	1	7,081	6,980
Wayne Radiation Oncology Center	18	Wayne	1	9,610	9,610
Craven Regional	19	Craven	2	18,063	9,032
Carteret General (g)	19	Carteret	1	4,850	4,850
Nash Day Hospital	20	Nash	2	12,327	6,164
Roanoke Valley Cancer Center	20	Halifax	1	3,929	3,929
Wilson Memorial Hospital (c)	20	Wilson	1	NA	0
Pitt County Memorial Hospital	21	Pitt	3	14,239	4,746
Albemarle Regional Cancer Center	22	Pasquotank	1	7,771	7,771
TOTALS (47 Facilities)			83	587,269	7,076

(a) Duke University Medical Center received a No Review from CON in October, 2000 to replace one linac.

(b) New Hanover Regional received a CON in 1994 to initiate linac service; will be operational late, 1999.

(c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.

(d) NorthEast Medical Center received a CON in December, 1998 to add one linac; operation projected for November, 1999.

(e) Stanly Memorial Hospital received a CON in December, 1998 to install one linac; operation projected for June, 2000.

(f) Wake Radiology received a CON in 1997, operational in July, 1998.

(g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.

(h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.

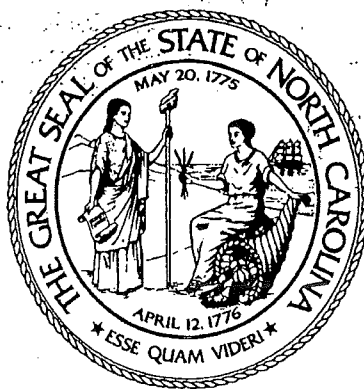
(i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for September, 2001.

NA - Not Applicable, not in operation for appropriate time frame.

NR - No report

S Has one Linear Accelerator configured for Stereotactic Radiosurgery

2002 STATE MEDICAL FACILITIES PLAN



North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Health and Human Services

**Table 8X: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				1999-2000	Average per Unit
Harris Regional	1	Jackson	1	5,585	5,585
Haywood Associates Limited	2	Haywood	1	8,179	8,179
Memorial Mission Hospital (S)	2	Buncombe	2	13,290	6,645
Regional Cancer Center	2	Buncombe	1	11,687	11,687
Watauga Hospital	3	Watauga	1	4,974	4,974
Margaret Pardee	4	Henderson	1	6,148	6,148
Catawba Memorial	5	Catawba	2	14,211	7,106
Grace Hospital	5	Burke	1	2,967	2,967
Valdese General	5	Burke	1	3,482	3,482
Cleveland Regional	6	Cleveland	1	6,097	6,097
Gaston Memorial Hospital (h)	6	Gaston	3	15,464	5,155
Carolinas Medical Center (S)	7	Mecklenburg	3	17,391	5,797
Matthews Radiation Oncology	7	Mecklenburg	1	10,853	10,853
Presbyterian Hospital	7	Mecklenburg	2	14,440	7,220
Union Regional Medical Center (i)	7	Union	1	NA	0
University Radiation Oncology	7	Mecklenburg	1	5,337	5,337
Iredell Memorial	8	Iredell	2	9,717	4,859
Salisbury Radiation Cancer Treatment	8	Rowan	1	NR	0
NorthEast Medical Center	9	Cabarrus	2	14,836	7,418
Stanly Memorial Hospital	9	Stanly	1	163	163
Forsyth Memorial Hospital	10	Forsyth	3	31,558	10,519
Hugh Chatham Memorial Hospital (d)	10	Surry	1	1,826	1,826
N. C. Baptist Hospitals (S)	10	Forsyth	4	29,266	7,317
High Point Regional Health System	11	Guilford	2	9,462	4,731
Morhead Memorial	11	Rockingham	1	7,400	7,400
Moses Cone	11	Guilford	4	31,882	7,971
UNC Hospitals (S)	12	Orange	4	18,872	4,718
Alamance Regional Medical Center	12B	Alamance	1	8,588	8,588
Maria Parham Hospital (e)	13	Vance	1	NA	
Duke University Medical Center (S) (a)	13	Durham	5	32,825	6,565
Durham Regional Hospital	13	Durham	1	8,829	8,829
FirstHealth Moore Regional	14	Moore	2	20,563	10,282
Laurinburg Cancer Center	14	Scotland	1	NR	0
Cape Fear Valley Medical Center	15	Cumberland	3	18,872	6,291
Southeastern Regional Medical Center	15	Robeson	1	8,721	8,721
New Hanover Radiation Oncology	16	New Hanover	2	18,552	9,276
New Hanover Regional (b)	16	New Hanover	1	NA	0
Raleigh Community Hospital	17	Wake	1	2,078	2,078
Rex Hospital	17	Wake	4	27,576	6,894
Wake Radiology Oncology Services	17	Wake	1	8,322	8,322
Lenoir Memorial	18	Lenoir	1	4,060	6,980
Wayne Radiation Oncology Center	18	Wayne	1	6,874	6,874
Carteret General (g)	19	Carteret	1	3,106	3,106
Craven Regional	19	Craven	2	13,782	6,891
Nash Day Hospital	20	Nash	2	9,472	4,736
Roanoke Valley Cancer Center	20	Halifax	1	3,232	3,232
Wilson Memorial Hospital (c)	20	Wilson	1	2,905	2,905
Pitt County Memorial Hospital	21	Pitt	3	10,529	3,510
Carolina Radiation Medicine, P.A. (f)	21	Pitt	1	8,605	8,605
Albemarle Regional Cancer Center	22	Pasquotank	1	NR	0
TOTALS (50 Facilities)			86	512,578	5,960

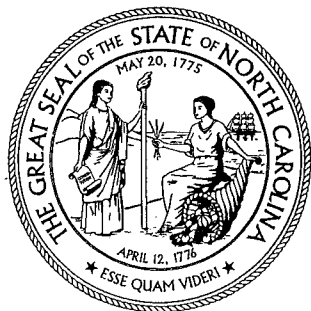
T8X2002L.xls (10/11/2001)

- (a) Duke University Hospital received a CON in May, 2001 for 2 additional linacs and authority to replace two linacs.
 (b) New Hanover Regional received a CON in 1994 to initiate linac service; will be operational late, 1999.
 (c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.
 (d) Hugh Chatham Memorial Hospital became operational in March, 2000 with a leased linac from NC Baptist Hospitals.
 (e) Maria Parham Hospital received a CON in July, 2001 to lease and install one linac.
 (f) Carolina Radiation Medicine, P.A. received a CON and became operational in July, 1998.
 (g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.
 (h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.
 (i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for September, 2001.

NA - Not Applicable, not in operation for appropriate time frame.
 NR - No report
 S Has one Linear Accelerator configured for Stereotactic Radiosurgery



2003 STATE MEDICAL FACILITIES PLAN



**North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Health and Human Services**

**Table 9M: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				2000-2001	Average per Unit
New Hanover Radiation Oncology	16	New Hanover	2	17,743	8,872
New Hanover Regional (b)	16	New Hanover	1	4,895	4,895
Raleigh Community Hospital	17	Wake	1	1,594	1,594
Rex Hospital	17	Wake	4	28,455	7,114
Wake Radiology Oncology Services	17	Wake	1	8,542	8,542
Lenoir Memorial	18	Lenoir	1	5,478	5,478
Wayne Radiation Oncology Center	18	Wayne	1	8,869	8,869
Carteret General (g)	19	Carteret	1	4,688	4,688
Craven Regional	19	Craven	2	12,502	6,251
Nash Day Hospital	20	Nash	2	8,066	4,033
Roanoke Valley Cancer Center	20	Halifax	1	4,646	4,646
Wilson Memorial Hospital (c)	20	Wilson	1	2,669	2,669
Pitt County Memorial Hospital	21	Pitt	3	18,901	6,300
Carolina Radiation Medicine, P.A. (f)	21	Pitt	1	11,126	11,126
Albemarle Hospital	22	Pasquotank	1	NA	0
Albemarle Regional Cancer Center	22	Dare	1	8,903	8,903
TOTALS	(53 Facilities)		90	558,311	6,203

T9M2003f.xls

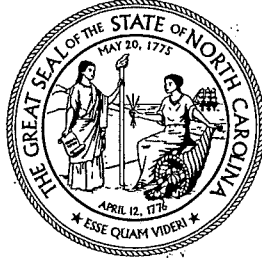
- (a) Duke University Hospital received a CON in May, 2001 for 2 additional linacs and authority to replace two linacs.
 (b) New Hanover Regional received a CON in 1994 to initiate linac service; will be operational late, 1999.
 (c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.
 (d) Hugh Chatham Memorial Hospital became operational in March, 2000 with a leased linac from NC Baptist Hospitals.
 (e) Maria Parham Hospital received a CON in July, 2001 to lease and install one linac.
 (f) Carolina Radiation Medicine, P.A. received a CON and became operational in July, 1998.
 (g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.
 (h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.
 (i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for 09/2001.
 (j) Alamance Regional Medical Center received a CON in August, 2002 to add one linac; operation projected for July, 2003.
 (k) Forsyth Medical Center received a CON in August, 2002 to add one linac; operation projected for January, 2003.
 (l) CaroMont Oncology Services received a CON in October, 2002 to acquire one linac; operation projected for July, 2004.

NA - Not Applicable, not in operation for appropriate time frame.

NR - No report

S Has one Linear Accelerator configured for Stereotactic Radiosurgery

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2004 SMFP



State Medical Facilities Plan

*Policies and Projections of Need for Health Care Facilities and Services
in North Carolina for Calendar Year 2004*

**Table 9G: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				2001-2002	Average per Unit
Need Determination in 2003 SMFP	15		1	NA	0
New Hanover Radiation Oncology	16	New Hanover	2	18,740	9,370
New Hanover Regional (b)	16	New Hanover	1	6,995	6,995
Raleigh Community Hospital	17	Wake	1	4,585	4,585
Rex Hospital	17	Wake	4	28,133	7,033
Wake Radiology Oncology Services	17	Wake	1	8,277	8,277
Lenoir Memorial	18	Lenoir	1	5,474	5,474
Wayne Radiation Oncology Center	18	Wayne	1	9,454	9,454
Carteret General (g)	19	Carteret	1	4,821	4,821
Craven Regional	19	Craven	2	12,307	6,154
Nash Day Hospital	20	Nash	2	8,978	4,489
Roanoke Valley Cancer Center	20	Halifax	1	4,163	4,163
Wilson Memorial Hospital (c)	20	Wilson	1	6,085	6,085
Pitt County Memorial Hospital	21	Pitt	3	12,777	4,259
Carolina Radiation Medicine, P.A. (f)	21	Pitt	1	9,575	9,575
Albemarle Hospital	22	Pasquotank	1	NA	0
Albemarle Regional Cancer Center	22	Dare	1	NR	0
TOTALS (53 Facilities)			91	553,506	6,082

T9G2004f.xls (8/27/2003)

- (a) Duke University Hospital received a CON in May, 2001 for 2 additional linacs and authority to replace two linacs.
 (b) New Hanover Regional received a CON in 1994 to initiate linac service; will be operational late, 1999.
 (c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.
 (d) Hugh Chatham Memorial Hospital became operational in March, 2000 with a leased linac from NC Baptist Hospitals.
 (e) Maria Parham Hospital received a CON in July, 2001 to lease and install one linac.
 (f) Carolina Radiation Medicine, P.A. received a CON and became operational in July, 1998.
 (g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.
 (h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.
 (i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for 09/2001.
 (j) Alamance Regional Medical Center received a CON in August, 2002 to add one linac; operation projected for July, 2003.
 (k) Forsyth Medical Center received a CON in August, 2002 to add one linac; operation projected for January, 2003.
 (l) CaroMont Oncology Services received a CON in October, 2002 to acquire one linac; operation projected for July, 2004.
 (m) Gaston Memorial Hospital reported that 1 linear accelerator was down for 4 months during the reporting period.
 (n) Scotland Memorial Hospital became operational in August, 2003.

NA - Not Applicable, not in operation for appropriate time frame.

NR - No report

S Has one Linear Accelerator configured for Stereotactic Radiosurgery

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The 2005 State Medical Facilities Plan

North Carolina
State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
Department of Health and Human Services

**Table 9G: Hospital and Free-Standing Oncology Treatment Centers
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				2002-2003	Average per Unit
Need Determination in 2003 SMFP	15		1	NA	0
New Hanover Radiation Oncology	16	New Hanover	2	19,410	9,705
New Hanover Regional	16	New Hanover	1	7,127	7,127
Raleigh Community Hospital	17	Wake	1	4,997	4,997
Rex Hospital	17	Wake	4	30,130	7,533
Wake Radiology Oncology Services	17	Wake	1	6,764	6,764
Lenoir Memorial	18	Lenoir	1	6,271	6,271
Wayne Radiation Oncology Center	18	Wayne	1	9,555	9,555
Carteret General (g)	19	Carteret	1	4,466	4,466
Craven Regional	19	Craven	2	12,013	6,007
Nash Day Hospital	20	Nash	2	8,130	4,065
Roanoke Valley Cancer Center	20	Halifax	1	5,220	5,220
Wilson Memorial Hospital (c)	20	Wilson	1	5,643	5,643
Pitt County Memorial Hospital	21	Pitt	3	14,745	4,915
Carolina Radiation Medicine, P.A. (f)	21	Pitt	1	10,043	10,043
Albemarle Hospital	22	Pasquotank	1	NA	0
Albemarle Regional Cancer Center	22	Dare	1	468	0
TOTALS (53 Facilities)			92	556,321	6,047

T9G2005f.xls (10/26/2004)

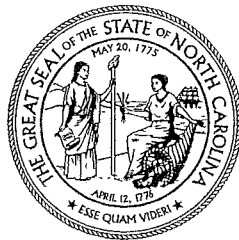
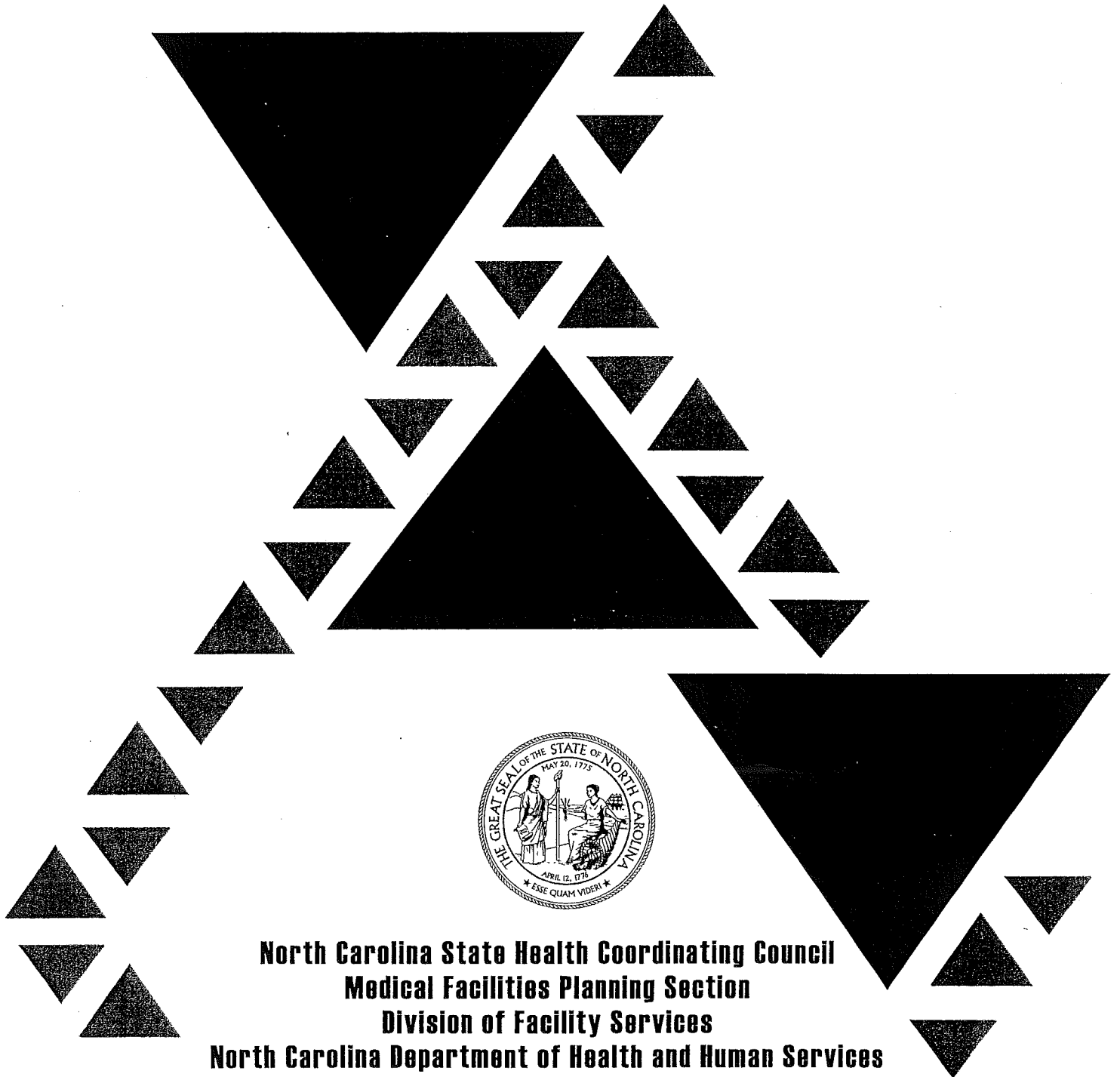
- (a) Duke University Hospital received a CON in May, 2001 for 2 additional linacs and authority to replace two linacs.
- (b) Mission Hospitals received a CON in September, 2004 to initiate CyberKnife linac service; will be operational October, 2004.
- (c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.
- (d) Hugh Chatham Memorial Hospital became operational in March, 2000 with a leased linac from NC Baptist Hospitals.
- (e) Maria Parham Hospital received a CON in July, 2001 to lease and install one linac.
- (f) Carolina Radiation Medicine, P.A. received a CON and became operational in July, 1998.
- (g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.
- (h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.
- (i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for 09/2001.
- (j) Alamance Regional Medical Center received a CON in August, 2002 to add one linac; operation projected for July, 2003.
- (k) Forsyth Medical Center received a CON in August, 2002 to add one linac; operation projected for January, 2003.
- (l) CaroMont Oncology Services received a CON in October, 2002 to acquire one linac; operation projected for July, 2004.
- (m) Gaston Memorial Hospital reported that 1 linear accelerator was down for 4 months during the reporting period.
- (n) Scotland Memorial Hospital became operational in August, 2003.

NA - Not Applicable, not in operation for appropriate time frame.

NR - No report

S Has one Linear Accelerator configured for Stereotactic Radiosurgery

2006 STATE MEDICAL FACILITIES PLAN



**North Carolina State Health Coordinating Council
Medical Facilities Planning Section
Division of Facility Services
North Carolina Department of Health and Human Services**

**Table 9G: Hospital and Free-Standing Linear Accelerators
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				2003-2004	Average per Unit
New Hanover Radiation Oncology	19	New Hanover	2	18,106	9,053
New Hanover Regional	19	New Hanover	1	7,149	7,149
South Atlantic Radiation Oncology, LLC	19	Brunswick	1	NA	NA
Duke Health Raleigh Hospital	20	Wake	1	5,201	5,201
Rex Hospital	20	Wake	4	25,343	6,336
Wake Radiology Oncology Services	20	Wake	1	7,503	7,503
Lenoir Memorial	22	Lenoir	1	5,561	5,561
Wayne Radiation Oncology Center	22	Wayne	1	9,543	9,543
Carteret General (g)	23	Carteret	1	4,283	4,283
Craven Regional	23	Craven	2	12,214	6,107
Nash Day Hospital	25	Nash	2	9,055	4,528
Roanoke Valley Cancer Center	25	Halifax	1	4,044	4,044
Wilson Memorial Hospital (c)	25	Wilson	1	5,477	5,477
Carolina Radiation Medicine, P.A. (f)	26	Pitt	1	10,320	10,320
Pitt County Memorial Hospital (S)	26	Pitt	3	13,934	4,645
Albemarle Hospital	27	Pasquotank	1	6,744	6,744
Albemarle Regional Cancer Center	27	Dare	1	468	468
Outer Banks Cancer Center	27	Dare	1	1,485	1,485
TOTALS (55 Facilities)			94	556,224	5,917

T9G2006f.xls (10/27/2005)

- (a) Cape Fear Valley Health System received a CON in May, 2004 for 1 additional linac bringing their total to 4 linacs.
- (b) Mission Hospitals received a CON in September, 2004 to initiate CyberKnife linac service; will be operational October, 2005.
- (c) Wilson Memorial Hospital received a CON in November, 1997 to initiate linac service.
- (d) Hugh Chatham Memorial Hospital became operational in March, 2000 with a leased linac from NC Baptist Hospitals.
- (e) Maria Parham Hospital received a CON in July, 2001 to lease and install one linac.
- (f) Carolina Radiation Medicine, P.A. received a CON and became operational in July, 1998.
- (g) Carteret General Hospital received a no review in June, 1999 to replace a linear accelerator and purchase a simulator.
- (h) Gaston Memorial Hospital received a CON in August, 1999 to add one linac; operation projected for April, 2001.
- (i) Union Regional Medical Center received a CON in April, 2000 to acquire one linac; operation projected for 09/2001.
- (j) Alamance Regional Medical Center received a CON in August, 2002 to add one linac; operation projected for July, 2003.
- (k) Forsyth Medical Center received a CON in August, 2002 to add one linac; operational in October 2004.
- (l) CaroMont Oncology Services received a CON in October, 2002 to acquire one linac; operation projected for July, 2004.
- (m) Gaston Memorial Hospital reported that 1 linear accelerator was down for 4 months during the reporting period.
- (n) Scotland Memorial Hospital became operational in August, 2003.

War Room



NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL
MEDICAL FACILITIES PLANNING SECTION
DIVISION OF FACILITY SERVICES
NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Table 9G: Hospital and Free-Standing Linear Accelerators
and Radiation Oncology Procedures** (see note at bottom of table)

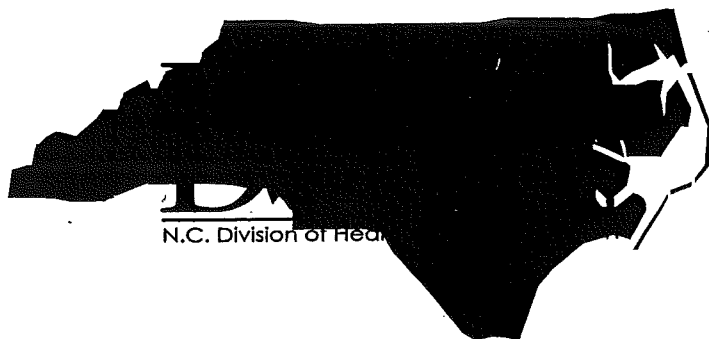
Facility Name	Service	County	LIN	PROCEDURES (ESTVs)	
	Area #		ACC	2004-2005	Average per Unit
Duke University Medical Center (S)	16	Durham	5	32,354	6,471
Durham Regional Hospital	16	Durham	1	7,019	7,019
Maria Parham Hospital (e)	16	Vance	1	5,343	5,343
FirstHealth Moore Regional	17	Moore	2	24,951	12,476
Scotland Memorial Hospital (1)	17	Scotland	1	4,474	4,474
Cape Fear Valley Medical Center (a)	18	Cumberland	4	21,664	5,416
Southeastern Regional Medical Center	18	Robeson	1	6,514	6,514
New Hanover Radiation Oncology	19	New Hanover	2	16,115	8,058
New Hanover Regional Med Ctr	19	New Hanover	1	7,068	7,068
South Atlantic Radiation Oncology, LLC (c)	19	Brunswick	1	NA	0
Duke Health Raleigh Hospital	20	Wake	1	6,969	6,969
Rex Hospital	20	Wake	4	20,113	5,028
Wake Radiology Oncology Services	20	Wake	1	7,004	7,004
Cancer Ctrs of NC - Raleigh Hematology	20	Wake	1	2,534	2,534
2006 SMFP Need Determination	21	Johnston	1		
Triangle Radiation Oncology Services	21	Johnston	1	1,093	1,093
Lenoir Memorial	22	Lenoir	1	5,698	5,698
Wayne Radiation Oncology Center	22	Wayne	1	7,032	7,032
Carteret General (g)	23	Carteret	1	4,123	4,123
Craven Regional Med Ctr	23	Craven	2	12,364	6,182
2006 SMFP Need Determination	24	Onslow	1		
Nash Day Hospital	25	Nash	2	10,165	5,083
Roanoke Valley Cancer Center	25	Halifax	1	3,371	3,371
Wilson Memorial Hospital	25	Wilson	1	5,584	5,584
Ahoskie Cancer Center	26	Hertford	1	4,674	4,674
Carolina Radiation Medicine, P.A. (f)	26	Pitt	1	8,958	8,958
Pitt County Memorial Hospital (S)	26	Pitt	3	15,020	5,007
Albemarle Hospital	27	Pasquotank	1	5,611	5,611
Outer Banks Cancer Center	27	Dare	1	2,665	2,665
TOTALS (62 Facilities)			106	577,262	5,446

Note: The above inventory of linear accelerators is subject to change if it is determined that any of the listed equipment was not acquired in accordance with N.C. G. S. 131E-175, et.seq, prior to August 26, 2005.

2008

STATE HEALTH COORDINATING COUNCIL

STATE MEDICAL FACILITIES PLAN



**Table 9G: Hospital and Free-Standing Linear Accelerators
and Radiation Oncology Procedures (see note at bottom of table)**

Facility Name	Service Area #	County	LIN ACC	PROCEDURES (ESTVs)	
				2005-2006	Average per Unit
Alamance Regional Medical Center (j)	15	Alamance	2	7,991	3,996
Duke University Hospital (S)	16	Durham	5	36,634	7,327
Durham Regional Hospital	16	Durham	1	6,128	6,128
Maria Parham Hospital (e)	16	Vance	1	4,833	4,833
FirstHealth Moore Regional	17	Moore	2	23,764	11,882
Scotland Memorial Hospital (1)	17	Scotland	1	4,122	4,122
Cape Fear Valley Medical Center (a)	18	Cumberland	4	27,631	6,908
Southeastern Regional Medical Center	18	Robeson	1	9,484	9,484
New Hanover Radiation Oncology	19	New Hanover	2	15,156	7,578
New Hanover Regional Med Ctr	19	New Hanover	1	7,599	7,599
South Atlantic Radiation Oncology, LLC (c)	19	Brunswick	1	NA	0
2007 SMFP Need Determination	20		1		
Cancer Ctrs of NC - Raleigh Hematology	20	Wake	1	8,924	8,924
Duke Raleigh Hospital	20	Wake	1	7,323	7,323
Rex Hospital	20	Wake	4	16,184	4,046
Wake Radiology Oncology Services	20	Wake	1	5,960	5,960
Triangle Radiation Oncology Services	21	Johnston	1	2,648	1,093
2006 SMFP Need Determination	21	Johnston	1		
Lenoir Memorial	22	Lenoir	1	6,147	6,147
Wayne Radiation Oncology Center	22	Wayne	1	6,952	6,952
Carteret General (g)	23	Carteret	1	4,015	4,015
Craven Regional Med Ctr	23	Craven	2	12,415	6,208
2006 SMFP Need Determination	24	Onslow	1		
Nash Day Hospital	25	Nash	2	7,905	3,953
Roanoke Valley Cancer Center	25	Halifax	1	3,208	3,208
Wilson Memorial Hospital	25	Wilson	1	4,413	4,413
Ahoskie Cancer Center	26	Hertford	1	3,173	3,173
Carolina Radiation Medicine, P.A. (f) (S)	26	Pitt	1	8,206	8,206
Pitt County Memorial Hospital (p) (S)	26	Pitt	3	16,013	5,338
Albemarle Hospital	27	Pasquotank	1	4,403	4,403
Outer Banks Cancer Center	27	Dare	1	4,977	4,977
TOTALS (66 Facilities)			112	579,883	5,178

Note: The above inventory of linear accelerators is subject to change if it is determined that any of the listed equipment was not acquired in accordance with N.C. G. S. 131E-175, et.seq, prior to August 26, 2005.

STATE HEALTH COORDINATING COUNCIL

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STATE MEDICAL FACILITIES PLAN

2009



N.C. Division of Health

**Table 9E: Hospital and Free-Standing Linear Accelerators
and Radiation Oncology Procedures**

Facility Name	Service Area #	County	LIN	PROCEDURES (ESTVs)	
			ACC	2006-2007	Average per Unit
New Hanover Radiation Oncology	19	New Hanover	2	24,737	12,369
New Hanover Regional Med Ctr	19	New Hanover	1	8,388	8,388
South Atlantic Radiation Oncology, LLC (c)	19	Brunswick	1	NA	0
2007 SMFP Need Determination	20		1		
Cancer Centers of NC - Raleigh Hematology	20	Wake	1	10,062	10,062
Duke Raleigh Hospital	20	Wake	1	6,923	6,923
Rex Hospital	20	Wake	4	18,838	4,710
Wake Radiology / Oncology Services	20	Wake	1	5,597	5,597
Smithfield Radiation Oncology LLC	21	Johnston	1	3,053	3,053
2006 SMFP Need Determination	21	Johnston	1		
Lenoir Memorial	22	Lenoir	1	7,267	7,267
Wayne Radiation Oncology Center	22	Wayne	1	5,535	5,535
Carteret General (g)	23	Carteret	1	3,750	3,750
Craven Regional Med Ctr	23	Craven	2	13,590	6,795
Onslow Radiation Oncology, LLC ("ORO") and Onslow County Hospital Authority	24	Onslow	1		
Nash Day Hospital	25	Nash	2	8,194	4,097
Roanoke Valley Cancer Center	25	Halifax	1	3,578	3,578
Wilson Memorial Hospital	25	Wilson	1	5,525	5,525
Ahoskie Cancer Center	26	Hertford	1	2,679	2,679
Carolina Radiation Medicine, P.A. (f) (S)	26	Pitt	1	8,711	8,711
Pitt County Memorial Hospital (S)	26	Pitt	3	18,097	6,032
Albemarle Hospital	27	Pasquotank	1	3,666	3,666
Outer Banks Cancer Center	27	Dare	1	3,643	3,643
TOTALS (67 Facilities)			114	612,989	5,377

- (a) Cape Fear Valley Health System received a CON in May 2004 for one additional linac bringing their total to 4 linacs.
- (b) Mission Hospitals received a CON in September 2004 to initiate CyberKnife linac service; to be operational in October 2005.
- (c) South Atlantic Radiation Oncology received a CON in August 2005 to initiate linac service; operation effective May 2007.
- (d) Hugh Chatham Memorial Hospital became operational in March 2000 with a leased linac from NC Baptist Hospitals.
- (e) Maria Parham Hospital received a CON in July 2001 to lease and install one linac.
- (f) Carolina Radiation-Medicine, P.A. became operational in July 1998.
- (g) Carteret General Hospital received a no review in June 1999 to replace a linear accelerator and purchase a simulator.
- (h) Gaston Memorial Hospital received a CON in August 1999 to add one linac; operation projected for April 2001.
- (i) Union Regional Medical Center received a CON in April 2000 to acquire one linac; operation projected for September 2001.
- (j) Alamance Regional Medical Center received a CON in August 2002 to add one linac; operation projected for July 2003.
- (k) Forsyth Medical Center received a CON in August 2002 to add one linac; operational in October 2004.
- (l) Scotland Memorial Hospital became operational in August 2003.
- (m) Randolph Cancer Center received a CON in June 2006 to initiate linac service.
- (n) Pineville Radiation Therapy Center received a CON in June 2007 to initiate linac service.
- (o) Cancer Center of Davidson County, LLC received a CON in July 2007 to initiate linac service.
- (p) East Carolina University Brody School of Medicine (Pitt Memorial) received a CON in December 2007 to replace an existing linear accelerator with a CyberKnife linear accelerator; to be operational June 2008.
- (q) UNC Hospitals received a CON in October 2006 to replace an existing linear accelerator with a CyberKnife linear accelerator; to be operational in April 2007.
- (r) Carolinas Medical Center - NorthEast received a CON in February 2006 to acquire a CyberKnife linear accelerator; to be operational in October 2007.
- (s) Lincoln Radiation Oncology Associates received CON 10/27/08 to acquire existing linear accelerator through ownership transfer from Gaston Memorial Hospital, replace the linear accelerator and relocate to Lincoln Radiation Oncology Center.

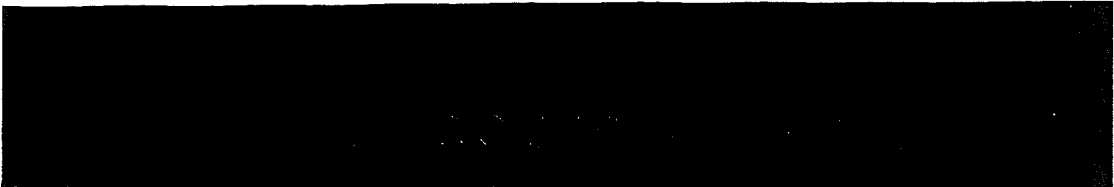
CPT Code 77427 - Weekly radiation therapy management. These procedure numbers from Freestanding (fixed non-hospital) Centers were removed from the count for purposes to determine need.

NA - Not Applicable, not in operation for appropriate time frame.

NR - No report

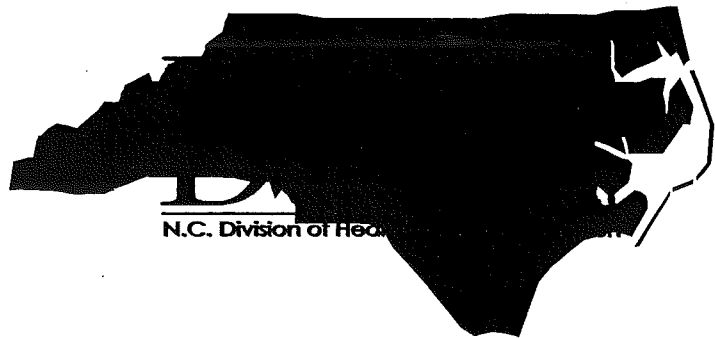
S - Has at least one Linear Accelerator configured for Stereotactic Radiosurgery

2010



H.C. Workroom

STATE
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N.C. Division of Health



Table 9E: Hospital and Free-Standing Linear Accelerators and Radiation Oncology Procedures

Facility Name	Service Area #	County	Number of Linear Accelerators	Number of Procedures (ESTVs) 10/1/2007-9/30/2008	Average # of Procedures per Unit
Cape Fear Valley Medical Center (a)	18	Cumberland	5	21,340	4,268
Southeastern Regional Medical Center (v)	18	Robeson	1	6,705	6,705
Sampson Regional Medical Center	18	Sampson	1	2,365	2,365
New Hanover Radiation Oncology	19	New Hanover	2	23,613	11,807
New Hanover Regional Med Center	19	New Hanover	1	7,186	7,186
South Atlantic Radiation Oncology, LLC (c)	19	Brunswick	1	3,694	3,694
Raleigh Hematology Oncology Associates/Cancer Centers of NC (u)	20	Wake	2	11,277	5,639
Duke Health Raleigh Hospital	20	Wake	1	7,566	7,566
Rex Hospital	20	Wake	4	16,970	4,242
Wake Radiology / Oncology Services	20	Wake	1	6,216	6,216
Rex Healthcare (Smithfield Radiation Oncology)	21	Johnston	1	3,706	3,706
Johnston Memorial Hospital Authority (t)	21	Johnston	1	NR	NR
Lenoir Memorial	22	Lenoir	1	6,911	6,911
Goldsboro Radiation Therapy Services dba Wayne Radiation Oncology Center	22	Wayne	1	5,955	5,955
Carteret General Hospital (g)	23	Carteret	1	4,162	4,162
CarolinaEast Medical Center	23	Craven	2	12,771	6,386
Onslow Radiation Oncology, LLC	24	Onslow	1	NR	NR
Nash Day Hospital	25	Nash	2	8,183	4,091
Roanoke Valley Cancer Center	25	Halifax	1	3,844	3,844
Wilson Medical Center	25	Wilson	1	4,526	4,526
Beaufort County Hospital	26	Beaufort	1	3,470	3,470
Ahoskie Cancer Center	26	Hertford	1	2,048	2,048
NC Radiation Therapy Management Services (prev Carolina Radiation Medicine, P.A.) (f) (S)	26	Pitt	1	7,668	7,668
ECU Brody School of Medicine (S)	26	Pitt	3	14,929	4,976
Albemarle Hospital	27	Pasquotank	1	4,696	4,696
Alliance Oncology dba Outer Banks Cancer Center	27	Dare	1	2,323	2,323
TOTALS (72 Facilities)			116	587,798	5,067

* Murphy Medical Center stopped operating, and decommissioned, this linear accelerator on May 20, 2009.

** CMC will move one linear accelerator to CMC-Union per CON F-007525-06

(a) Cape Fear Valley Health System received a CON in May 2004 for the fourth linac, and a CON on 12/18/2009 for the fifth linac, which will be a CyberKnife.

(b) Mission Hospitals received a CON in September 2004 to initiate CyberKnife linac service; operational in October 2005.

(c) South Atlantic Radiation Oncology received a CON in August 2005 to initiate linac service; operation effective May 2007.

(d) Hugh Chatham Memorial Hospital became operational in March 2000 with a leased linac from NC Baptist Hospitals.

(e) Maria Parham Hospital received a CON in July 2001 to lease and install one linac.

(f) Carolina Radiation Medicine, P.A. became operational in July 1998.

(g) Carteret General Hospital received a no review in June 1999 to replace a linear accelerator and purchase a simulator.

(h) Gaston Memorial Hospital received a CON in August 1999 to add one linac.

STATE HEALTH COORDINATING COUNCIL

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N.C. Division of Health Service Regulation

Table 9E: Hospital and Free-Standing Linear Accelerators and Radiation Oncology Procedures

Facility Name	Service Area #	County	Number of Linear Accelerators	Number of Procedures (ESTVs) 10/1/2008-9/30/2009	Average # of Procedures per Unit
Southeastern Regional Medical Center (v)	18	Robeson	1	7,404	7,404
Sampson Regional Medical Center	18	Sampson	1	2,519	2,519
New Hanover Radiation Oncology	19	New Hanover	2	21,634	10,817
New Hanover Regional Medical Center	19	New Hanover	1	6,954	6,954
South Atlantic Radiation Oncology (c)	19	Brunswick	1	7,640	7,640
Raleigh Hematology Oncology Associates/Cancer Centers of NC (u)	20	Wake	2	11,923	5,962
Duke Raleigh Hospital	20	Wake	1	7,268	7,268
Rex Hospital	20	Wake	4	16,932	4,233
Wake Radiology / Oncology Services	20	Wake	1	4,718	4,718
Rex Healthcare (Smithfield Radiation Oncology)	21	Johnston	1	2,432	2,432
Johnston Memorial Hospital Authority (t)	21	Johnston	1	NR	NR
Lenoir Memorial	22	Lenoir	1	5,860	5,860
Goldsboro Radiation Therapy Services dba Wayne Radiation Oncology Center	22	Wayne	1	4,799	4,799
Carteret General Hospital (g)	23	Carteret	1	119	119
CarolinaEast Medical Center	23	Craven	2	12,036	6,018
Onslow Radiation Oncology	24	Onslow	1	NR	NR
Nash Day Hospital	25	Nash	2	8,491	4,246
Roanoke Valley Cancer Center	25	Halifax	1	3,996	3,996
Wilson Medical Center	25	Wilson	1	5,178	5,178
Beaufort County Hospital	26	Beaufort	1	4,308	4,308
Ahoskie Cancer Center	26	Hertford	1	1,758	1,758
NC Radiation Therapy Management Services (prev Carolina Radiation Medicine, P.A.) (f) (S)	26	Pitt	1	8,228	8,228
ECU Brody School of Medicine (S)	26	Pitt	3	18,786	6,262
Albemarle Hospital	27	Pasquotank	1	5,276	5,276
Alliance Oncology dba Outer Banks Cancer Center	27	Dare	1	2,049	2,049
TOTALS (71 Facilities, including Murphy Medical Center)			119	593,531	4,988

* Murphy Medical Center stopped operating, and decommissioned, this linear accelerator on May 20, 2009.

** CMC will move one linear accelerator to CMC-Union per CON F-007525-06

(a) Cape Fear Valley Health System received a CON in May 2004 for the fourth linear accelerator, and CON M-008133-08 on 12/18/2009 to retain a linear accelerator, for a total of five, including a CyberKnife.

(b) Mission Hospitals received a CON in September 2004 for a CyberKnife linear accelerator; operational in October 2005.

(c) South Atlantic Radiation Oncology received a CON in August 2005 for a linear accelerator; operational in May 2007.

(d) Hugh Chatham Memorial Hospital became operational in March 2000 with a leased linear accelerator from NC Baptist Hospitals.

(e) Maria Parham Hospital received a CON in July 2001 to lease and install one linear accelerator.

(f) Carolina Radiation Medicine, P.A. became operational in July 1998.

(g) Carteret General Hospital received a no review in June 1999 to replace a linear accelerator and purchase a simulator. Also received a no-review for a replacement linear accelerator in 2009.

(h) Gaston Memorial Hospital received a CON in August 1999 to add one linear accelerator.

WRS

STATE HEALTH COORDINATING COUNCIL

2012

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N.C. Division of Health Service Regulation

Table 9E: Hospital and Free-Standing Linear Accelerators and Radiation Oncology Procedures

Facility Name	Service Area #	County	Number of Linear Accelerators	Number of Procedures (ESTVs) 10/1/2009-9/30/2010	Average # of Procedures per Unit
Duke University Hospital	16	Durham	8	34,771	4,346
Durham Regional Hospital	16	Durham	1	5,750	5,750
Maria Parham Hospital	16	Vance	1	6,642	6,642
FirstHealth Moore Regional	17	Moore	2	19,954	9,977
Scotland Memorial Hospital	17	Scotland	1	3,907	3,907
Cape Fear Valley Medical Center	18	Cumberland	5	19,668	3,934
Southeastern Regional Medical Center	18	Robeson	1	9,046	9,046
Sampson Regional Medical Center	18	Sampson	1	2,134	2,134
New Hanover Radiation Oncology	19	New Hanover	2	12,987	6,494
New Hanover Regional Medical Center	19	New Hanover	1	6,078	6,078
South Atlantic Radiation Oncology	19	Brunswick	1	4,838	4,838
Franklin County Cancer Center (included in inventory by letter of no review 5/09/2011)	20	Franklin	1	NR	NR
Raleigh Hematology Oncology Associates/Cancer Centers of NC	20	Wake	2	11,506	5,753
Duke Raleigh Hospital	20	Wake	1	7,572	7,572
Rex Hospital	20	Wake	4	19,636	4,909
Wake Radiology / Oncology Services	20	Wake	1	5,633	5,633
Rex Healthcare (Smithfield Radiation Oncology)	21	Johnston	1	3,015	3,015
Johnston Radiation Oncology dba Clayton Radiation Oncology	21	Johnston	1	863	863
Lenoir Memorial	22	Lenoir	1	5,041	5,041
Goldsboro Radiation Therapy Services dba Wayne Radiation Oncology Center	22	Wayne	1	5,269	5,269
Carteret General Hospital	23	Carteret	1	4,319	4,319
CarolinaEast Medical Center	23	Craven	2	8,353	4,177
Onslow Radiation Oncology	24	Onslow	1	NR	NR
Nash Day Hospital	25	Nash	2	8,174	4,087
Roanoke Valley Cancer Center	25	Halifax	1	3,278	3,278
Wilson Medical Center	25	Wilson	1	5,407	5,407
Beaufort County Hospital	26	Beaufort	1	3,458	3,458
Ahoskie Cancer Center	26	Hertford	1	2,199	2,199
NC Radiation Therapy Management Services (prev Carolina Radiation Medicine, P.A.)	26	Pitt	2	10,705	5,353
ECU Brody School of Medicine [On 12/30/2010 related entity NewCo Cancer Services acquired two existing linear accelerators (Q-008562-10) and Pitt County Memorial Hospital acquired one existing linear accelerator (Q-008558-10)]	26	Pitt	3	14,512	4,837
Albemarle Hospital	27	Pasquotank	1	5,426	5,426
Alliance Oncology dba Outer Banks Cancer Center	27	Dare	1	3,370	3,370
TOTALS (72 Facilities)			123	600,749	4,884

STATE HEALTH COORDINATING COUNCIL

2013

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N.C. Division of Health Service Regulation



Table 9G: Hospital and Free-Standing Linear Accelerators and Radiation Oncology Procedures

Facility Name	Service Area Number	County	Number of Linear Accelerators	Number of Procedures (ESTVs) 10/1/2010-9/30/2011	Average Number of Procedures per Unit
CarolinaEast Medical Center	23	Craven	2	8,470	4,235
Carteret General Hospital	23	Carteret	1	4,523	4,523
Onslow Radiation Oncology	24	Onslow	1	2,571	2,571
Nash General Hospital	25	Nash	2	9,351	4,675
Roanoke Valley Cancer Center	25	Halifax	1	3,343	3,343
Wilson Medical Center	25	Wilson	1	4,872	4,872
NC Radiation Therapy - Greenville	26	Pitt	2	12,029	6,014
NewCo Cancer dba Leo Jenkins Cancer Center	26	Pitt	2	12,351	6,176
Vidant Beaufort Hospital	26	Beaufort	1	2,586	2,586
Vidant Medical Center	26	Pitt	1	205	205
Ahoskie Cancer Center	26	Hertford	1	2,322	2,322
Outer Banks Cancer Center	27	Dare	1	2,722	2,722
Albemarle Health: A Vidant Partner in Health	27	Pasquotank	1	5,619	5,619
Totals (71 Facilities)			21	61,889	5,090

EXHIBIT 2



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Office of the Director
2701 Mail Service Center • Raleigh, North Carolina 27699-2701
<http://www.ncdhhs.gov/dhsr>

Beverly Eaves Perdue, Governor
Lanier M. Casler, Secretary

Drexdal Pratt, Director
Phone: 919-855-3750
Fax: 919-733-2757

August 18, 2011

CERTIFIED MAIL

Bode Call & Stroupe, L.L.P.
S. Todd Hemphill, Esquire
Post Office Box 6338
Raleigh, NC 27628-6338

RE: Declaratory Ruling for Radiation Oncology Centers of the Carolinas, Inc.

Dear Mr. Hemphill:

I am enclosing a Declaratory Ruling that you requested. If questions arise, do not hesitate to let me know.

Sincerely,

Drexdal Pratt

DP:JH:peb

Enclosure

cc: Jeff Horton, Chief Operating Officer, DHSR
Craig Smith, Chief, Certificate of Need Section
Steven Lewis, Chief, Construction Section
Azzie Conley, Chief, Acute and Home Care Licensure and Certification Section
DHSR Medical Facilities Planning Section
Marc Lodge, Special Deputy Attorney General, DOJ



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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY RADIATION ONCOLOGY) DECLARATORY RULING
CENTERS OF THE CAROLINAS, INC.)**

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services ("Department" or "Agency"), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Radiation Oncology Centers of the Carolinas, Inc. ("ROCC") has requested a declaratory ruling to confirm that the transfer of two CON-approved radiation oncology facilities to two wholly owned subsidiaries (the "Proposed Transaction") will not constitute a new institutional health service or require a CON. This ruling will be binding upon the Department and the entities requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. S. Todd Hemphill of Bode, Call & Stroupe, L.L.P. has requested this ruling on ROCC's behalf and have provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

ROCC directly owns and operates two CON-approved radiation oncology facilities. University Radiation Oncology Center ("UROC"), located at 8310 University Executive Park, Suite 500, Charlotte, NC 28262, was acquired by ROCC in 1997 pursuant to an exemption.

Matthews Radiation Oncology Center ("MROC"), located at 1400 Matthews Township Parkway, Matthews, NC 28105, is a "grandfathered" facility, because it became operational in 1990, prior to the application of the CON law to oncology treatment centers or major medical equipment.

The radiation oncology equipment located at UROC includes a Varian 2100C linear accelerator and a GE Highspeed Advantage CT simulator. The radiation oncology equipment located at MROC includes a Varian 21Ex-d linear accelerator and a GE Brightspeed CT simulator. Acquisition of the linear accelerator and CT simulator equipment at each facility has been previously approved by the agency.

ROCC would like to transfer its interest in UROC and MROC to two wholly owned subsidiaries of ROCC.

ANALYSIS

The CON law provides that no person shall offer or develop a "new institutional health service" without first obtaining a CON. N.C. Gen. Stat. § 131E-178. The list of new institutional health services includes "the acquisition by purchase, donation, lease, transfer or comparable arrangement" of a linear accelerator or simulator "by or on behalf of any person," N.C. Gen. Stat. § 131E-176(16)(f1)5a, 9, and "the obligation by any person of a capital expenditure exceeding two million dollars (\$2,000,000) to develop or expand a health service or a health service facility, or which relates to the provision of a health service," N.C. Gen. Stat. § 131E-176(16)(b).

Prior declaratory rulings show that the Department has already determined that these definitions do not require an entity to obtain a CON to acquire membership interests in an existing legal entity like ROCC which owns and operates a linear accelerator or simulator. The declaratory ruling requested by Petitioner is consistent with the Department's prior rulings that

have interpreted the applicability of the CON Law to the purchase of ownership interests in health care organizations, for the following reasons:

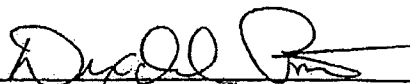
The entity that owns the linear accelerator and simulator will not change, and the same equipment will be used to provide the same radiation oncology services, in the same location. The LLC will continue to own the linear accelerator, the simulator, and all the oncology treatment center assets that were authorized under the CON and have been used to furnish oncology treatments to patients.

The Proposed Transaction does not involve the offering or expansion of any new facility, service or equipment, and the state's inventory of linear accelerators and simulators will not change. No new, or additional equipment will be acquired or placed in operation in the State.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the Petitioner does not require a certificate of need in order to proceed with the Proposed Transaction.

This the 18th day of August, 2011.



Drexdal Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by facsimile and certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in a first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Bode Call & Stroupe, L.L.P.
S. Todd Hemphill, Esquire
Post Office Box 6338
Raleigh, NC 27628-6338

This the 18th day of August, 2011.



Jeff Horton
Chief Operating Officer

EXHIBIT 3

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

IN RE: REQUEST FOR DECLARATORY)	
RULING BY WAKE RADIOLOGY)	
ONCOLOGY SERVICES, PLLC, CANCER)	DECLARATORY RULING
CENTERS OF NORTH CAROLINA, P.C.,)	
US ONCOLOGY, INC., AOR)	
MANAGEMENT COMPANY OF VIRGINIA,)	
LLC AND WAKEMED)	

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Wake Radiology Oncology Services, PLLC (hereinafter “WROS”); Cancer Centers of North Carolina, P.C. (“CCNC”); US Oncology, Inc. (“USON”) and its subsidiary AOR Management Company of Virginia, LLC (“AOR”); and WakeMed have requested a declaratory ruling to confirm that the acquisition of the membership interests in WROS and the continued operation of the oncology treatment center may proceed without first obtaining a certificate of need. This ruling will be binding upon the Department and the entities requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Attorneys for the Petitioners have requested this ruling on their behalf and have provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

WROS is a North Carolina professional limited liability company presently owned by certain physician-members, each of whom owns a specific percentage of the total membership interests in WROS. WROS provides radiation oncology treatment services at 300 Ashville Avenue, Suite 110, Cary, North Carolina, based on a certificate of need that was issued in 1997 to own an oncology treatment center and to operate a linear accelerator and simulator and other equipment used in furnishing radiation oncology services.

CCNC is a professional corporation organized under the laws of the State of North Carolina. CCNC employs physicians licensed to practice medicine in the State of North Carolina, who provide oncology treatment services, including radiation oncology services through the use of a linear accelerator.

USON is a business corporation organized under the laws of the State of Delaware. Through its subsidiaries, US Oncology provides administrative support for, and furnishes medical equipment used by, oncology practices throughout the United States.

AOR is a limited liability company, a subsidiary of USON and was organized under the laws of the State of Delaware and authorized to do business in North Carolina. AOR provides administrative and other support services to CCNC under a Management Services Agreement with CCNC.

WakeMed is a North Carolina nonprofit corporation engaged in the provision of acute care services and other health care services in Wake County.

WROS established its oncology treatment center on or about July 17, 1998. Since the establishment of its oncology treatment center, WROS has continuously operated the oncology treatment center established pursuant to the CON it received in 1997.

When the CON Law was amended in 2005, WROS already was operating an existing oncology treatment center pursuant to the CON that it had obtained in 1997 and using a linear accelerator and simulator that had been recognized in the SMFP inventory for seven years. Since it already owned the equipment, it was not required to obtain a second CON to be able to continue to operate its linear accelerator and simulator.

Recently, WROS physician owners approved a conversion of WROS from a professional limited liability company to a limited liability company, to occur simultaneously with the sale of ownership interests to CCNC. It is likely that WROS will change its name after the sale. Subsequently, in a separate transaction, WakeMed anticipates purchasing a minority membership interest in the renamed WROS ("the LLC").

This change in the business form of WROS that has been approved by its physician owners will not constitute a change in or dissolution of WROS, the legal entity that received the CON in 1997 and has continuously operated the oncology treatment center and the linear accelerator and simulator since they became operational.

After these two transactions, the LLC will continue to exist as a legal and business entity, and will continue to own the oncology treatment center and the equipment that was authorized under the 1997 CON, including the linear accelerator and simulator. The oncology treatment center and its equipment will remain at the same location at 300 Ashville Avenue in Cary.

The LLC will not offer any medical services. Oncology treatment services will be furnished by physicians associated with CCNC.

ANALYSIS

The CON law provides that no person shall offer or develop a "new institutional health service" without first obtaining a CON. N.C. Gen. Stat. § 131E-178. The list of new

institutional health services includes “the acquisition by purchase, donation, lease, transfer or comparable arrangement” of a linear accelerator or simulator “by or on behalf of any person,” N.C. Gen. Stat. § 131E-176(16)(f1)5a, 9, and “the obligation by any person of a capital expenditure exceeding two million dollars (\$2,000,000) to develop or expand a health service or a health service facility, or which relates to the provision of a health service,” N.C. Gen. Stat. § 131E-176(16)(b).

Prior declaratory rulings show that the Department has already determined that these definitions do not require an entity to obtain a CON to acquire membership interests in an existing legal entity like WROS which owns and operates a linear accelerator or simulator. The declaratory ruling requested by Petitioners is consistent with the Department’s prior rulings that have interpreted the applicability of the CON Law to the purchase of ownership interests in health care organizations, for the following reasons:

The entity that owns the linear accelerator and simulator will not change, and the same equipment will be used to provide the same radiation oncology services, in the same location. The LLC will continue to own the linear accelerator, the simulator, and all the oncology treatment center assets that were authorized under the 1997 CON and have been used to furnish oncology treatments to patients. Its membership composition initially will change from the present physician members to a single member, CCNC, with the subsequent purchase of a minority interest by WakeMed.

The Proposed Transaction will involve expenditures by CCNC, and later by WakeMed, but these will be purchases of ownership interests in an existing limited liability company that owns the oncology treatment center. There will be no capital expenditure to develop or expand a


health service or health service facility because the same equipment will continue to be operated at the same location, and no expansion of services is proposed.

The Proposed Transaction does not involve the offering or expansion of any new facility, service or equipment, and the state's inventory of linear accelerators and simulators will not change. No new, or additional equipment will be acquired or placed in operation in the State.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the Petitioners do not require a certificate of need in order to proceed with the Proposed Transaction.

This the 27th day of September, 2010.



Drexel Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

EXHIBIT 4



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
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April 2, 2012

William R. Shenton
PoynerSpruill
301 Fayetteville Street
Suite 1900
Raleigh, NC 27601

RE: No Review

- Transfer By MV-Photon of its membership interest in Sampson Regional Cancer Center LLC to Sampson Regional Medical Center
- Transfer by Sampson Radiation Oncology, P.A. of its ownership interests in the Simulator currently located in the Sampson Regional Cancer Center LLC to a New LLC (a wholly owned subsidiary of Sampson Radiation Oncology, P.A.)
- Transfer by Sampson Regional Medical Center of its ownership interests in the Linac currently located in the Sampson Regional Cancer Center LLC to SRMC Sub (a wholly-owned subsidiary limited liability company)
- Acquisition of 100% of SRMC Sub by North Carolina Radiation Therapy Management Services, LLC
- Acquisition of 100% of New LLC by North Carolina Radiation Therapy Management Services, LLC

Sampson County

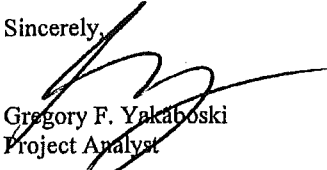
Dear Mr. Shenton:

The Certificate of Need (CON) Section received your letters of February 29, 2012 and March 23, 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 Construction Section, DHSR to determine if they have any requirements for development of the proposed project. Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D.# (FID) if the facility is licensed.

Sincerely,


Gregory F. Yakaboski
Project Analyst


Craig R. Smith, Chief
Certificate of Need Section

cc: Medical Facilities Planning Section, DHSR

