



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

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Secretary DHHS

Drexdal Pratt  
Division Director

March 24, 2014

Mr. Kenneth L. Burgess  
Poyner Spruill, LLP  
301 Fayetteville Street, Suite 1900  
Raleigh, North Carolina 27601

**Exempt from Review – Acquisition of Facility**

Facility: Kindred Transitional Care and Rehab-Monroe  
Acquisition by: HSP Carolina, LLC and Monroe Rehabilitation Center, LLC  
County: Union  
FID #: 953214

Dear Mr. Burgess:

In response to your letter of March 17, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, HSP Carolina, LLC may proceed to acquire via a lease arrangement the above referenced health service facility from Ventas Realty, Limited Partnership, and then sublease it to Monroe Rehabilitation Center, LLC, without first obtaining a certificate of need. However, you need to contact the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to G.S. 131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

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,

Gloria C. Hale  
Project Analyst

Martha J. Frisone, Interim Chief  
Certificate of Need Section

cc: Nursing Home Licensure and Certification Section, DHSR  
Medical Facilities Planning Branch, DHSR



**Certificate of Need Section**  
www.ncdhhs.gov  
Telephone: 919-855-3873 • Fax: 919-733-8139  
Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603  
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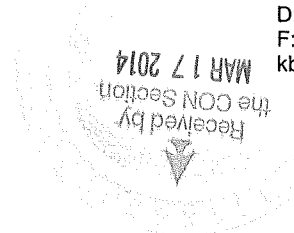
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Poyner Spruill<sup>LLP</sup>

March 17, 2014

Kenneth L. Burgess  
Partner  
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kburgess@poynerspruill.com

VIA HAND-DELIVERY



Martha Frisone, Chief  
Certificate of Need Section  
N.C. Department of Health and Human Services  
Division of Health Service Regulation  
809 Ruggles Drive  
Raleigh, North Carolina 27603

**RE: *Notice of Exempt Acquisition by Lease of North Carolina Skilled Nursing Facility Pursuant to N.C. Gen. Stat. §§ 131E-184(a)(1) and (8)***

Dear Martha:

I am writing on behalf of our clients, HSP Carolina, LLC ("HSP") and Monroe Rehabilitation Center, LLC ("Monroe"), pursuant to N.C. Gen. Stat. §§ 131E-184(a)(1) and (8), to provide notice to the N.C. Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section ("the Agency") of our clients' intent to acquire via a lease arrangement the skilled nursing facility currently known as Kindred Transitional Care and Rehabilitation-Monroe, located at 1212 Sunset Drive East, Monroe, North Carolina 28112 ("the Facility"), which is currently licensed to Kindred Nursing Centers East, LLC (License number NH0310; Facility I.D. No. 953214). The Facility is licensed for one hundred and forty-seven (147) nursing facility beds and five (5) adult care home beds. Pursuant to N.C. Gen. Stat. § 131E-176(9b), the Facility is a "health service facility."

Our client HSP is a North Carolina limited liability company. HSP intends to lease the Facility from Ventas Realty, Limited Partnership ("Ventas"). Our client Monroe is also a North Carolina limited liability company. Monroe will sublease the Facility from HSP. Ventas, HSP and Monroe have executed the relevant leases with an anticipated effective date of May 1, 2014.

N.C. Gen. Stat. § 131E-176(16)(l) provides that the purchase, lease, or acquisition of any health service facility, or portion thereof, which was developed pursuant to a certificate of need qualifies as a "new institutional health service." N.C. Gen. Stat. § 131E-178(b) provides that "[n]o person shall make an acquisition by donation, lease, transfer or comparable arrangement without first obtaining a certificate of need from the Department, if the acquisition would have been a new institutional health service if it had been made by purchase." N.C. Gen. Stat. §§ 131E-184(a)(1) and (8) provide that the acquisition of an existing health service facility, including equipment owned by the health service facility at the time of acquisition, is exempt from CON review upon prior written notice to the Agency of the proposed acquisition.

The acquisition of the Facility via the lease arrangements I have described herein will not involve the development of any new health service facility or otherwise qualify as a "new institutional health service" which would be subject to Agency review under applicable Certificate of Need statutes or regulations. Rather, the transaction I have described herein qualifies as an "exempt transaction" within

Martha Frisone, Chief  
March 17, 2014  
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the meaning of N.C. Gen. Stat. § 131E-184(a)(8). This correspondence is intended to serve as the prior written notice to the Agency required by N.C. Gen. Stat. §§ 131E-184(a)(1) and (8).

Please provide me with written confirmation that this transaction is exempt from CON review pursuant to N.C. Gen. Stat. §§ 131E-184(a)(1) and (8). We would be very appreciative if this reply could be expedited since our client will need to apply for a new license for the Facility and we anticipate including the Agency's response to this correspondence as part of that application.

I appreciate your attention to this matter. Please let me know if there are any questions regarding this notice or if the Agency needs further information.

Sincerely,

A handwritten signature in cursive script that reads "Ken Burgess".

**Kenneth L. Burgess**  
*Partner*

cc: Dina A. Kasper, Esq.  
Betsy Kuntz, Esq.