



HSA I

Avery Mitchell Yancey

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

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

May 12, 2015

Franklin Scott Templeton  
380 Knollwood Street, Suite 530  
Winston-Salem, NC 27103

**Exempt from Review – Acquisition of Facility**

Facility: See Attachment A  
Type of Facility: See Attachment A  
Acquisition by: PruittHealth Home Health, Inc.  
County: See Attachment A  
FID #: See Attachment A

Dear Mr. Templeton:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of March 30, 2015, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, PruittHealth Home Health, Inc. may proceed to acquire the above referenced health service facilities without first obtaining a certificate of need. However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section to obtain instructions for changing ownership of the existing facilities. 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,

*Julie Halatek*

Julie Halatek  
Project Analyst

*Martha J. Frisone*

Martha J. Frisone,  
Assistant Chief, Certificate of Need

cc: Construction Section, DHSR  
Acute and Home Care Licensure and Certification Section, DHSR  
Assistant Chief, Healthcare Planning  
Nancy Joyce, Acute and Home Care Licensure and Certification Section, DHSR



**Healthcare Planning and Certificate of Need Section**

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer

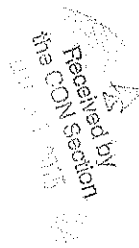


**Attachment A**  
**PruittHealth Home Health, Inc.**

<b>Facility Name</b>	<b>FID#</b>	<b>Facility Operator</b>	<b>Facility Type</b>	<b>County</b>
Avery County Home Health Agency	943613	Toe River Health District	Home Health Agency	Avery
Mitchell County Home Health Agency	953996	Toe River Health District	Home Health Agency	Mitchell
Yancey County Home Health Agency	954215	Toe River Health District	Home Health Agency	Yancey

# Nelson Mullins

Nelson Mullins Riley & Scarborough LLP  
Attorneys and Counselors at Law  
380 Knollwood Street / Suite 530 / Winston-Salem, NC 27103  
Tel: 336.774.3300 Fax: 336.774.3378  
www.nelsonmullins.com



Franklin Scott Templeton  
Tel: 336.774.3329  
Fax: 336.774.3378  
Scott.Templeton@nelsonmullins.com

March 30, 2015

**By Overnight Delivery and Email**

(Delivery Site Phone 919.855.3873)

(Martha.Frisone@dhhs.nc.gov)

Ms. Martha Frisone, Assistant Chief  
Healthcare Planning and Certificate of Need Section / DHSR / DHHS  
809 Ruggles Drive  
Raleigh, NC 27603

RE: *Notice of Exempt Acquisition of Existing Health Service Facilities*  
*Buyer: PruittHealth Home Health, Inc. – Seller: Toe River Health District*  
*Acquisition of Three (3) Home Health Agencies:*  
*License No. HC0317 - Facility ID 943613 (Avery County Home Health Agency)*  
*License No. HC0319 - Facility ID 953996 (Mitchell County Home Health Agency)*  
*License No. HC0323 - Facility ID 954215 (Yancey County Home Health Agency)*

Dear Ms. Frisone:

I am writing on behalf of our client PruittHealth Home Health, Inc. (“PruittHealth”), to provide the Healthcare Planning and Certificate of Need Section and your department with advance notice of PruittHealth’s planned acquisition of the above-referenced North Carolina health service facilities, and to ask if you would please expedite providing confirmation that the proposed acquisition is exempt from Certificate of Need (“CON”) review.

As part of its continued growth in North Carolina, PruittHealth has been in discussions with the Toe River Health District (“TRHD”), a district health department and public authority organized pursuant to N.C. Gen. Stat. § 130A-36(a), regarding the acquisition of the home health agencies that have been operated by TRHD since its formation in 1980, when the three counties comprising the district (Avery, Mitchell and Yancey) left the Appalachian District Health Department, which had previously operated the agencies. In conjunction with the proposed transaction, the parties are currently proceeding through the public notice and hearings process set forth in N.C. Gen. Stat. § 131E-13, PruittHealth has been selected by TRHD as the preferred buyer, and a proposed transactional agreement is being prepared for consideration and approval by the District Board of Health.

Our understanding is that the three TRHD home health agencies were all in operation prior to CON regulation of such facilities, and are each therefore a “grandfathered” facility for

Ms. Martha Frisone, Assistant Chief  
March 30, 2015  
Page 2

which no CON is required or has ever been issued. The planned transaction involves only the acquisition of the above-referenced TRHD home health agencies, and no other TRHD facilities or services are presently being acquired.


Concurrently with this letter we are notifying the Acute and Home Care Licensure and Certification Section ("AHCLCS") of the proposed transaction, and will shortly be submitting license applications relating to the proposed changes in ownership.

As you know, North Carolina CON law provides that, upon receiving prior written notice, the Department of Health and Human Services shall exempt from CON review the acquisition of "*an existing health service facility, including equipment owned by the health service facility at the time of acquisition.*" N.C. Gen. Stat. § 131E-184(a)(8). The CON law further provides that a home health agency office is a health service facility. *Id.* § 131E-176(9b).

The parties currently plan to close this transaction on or about April 30, 2015. As noted above, we are in communication with AHCLCS regarding the licensure actions necessary to the planned transaction, and in that regard *it would be very helpful if you could expedite providing us with written confirmation that the acquisition of these existing health service facilities, as described in this letter, are exempt from CON review.*

Please contact me if you have any questions, and thank you for your assistance.

Sincerely,  
Nelson Mullins Riley & Scarborough LLP



Franklin Scott Templeton

cc: AHCLCS

Joseph M. Kahn, Esq.