



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

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Mark Payne, Director
Health Service Regulation

December 5, 2016

Colleen M. Crowley
555 Fayetteville Street, Suite 720
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility


Record #: 2105
Facility Name: The Endoscopy Center
Type of Facility: Ambulatory Surgery Center
FID #: 943487
Acquisition by: Endoscopy Center of North Carolina, LLC
County: Buncombe

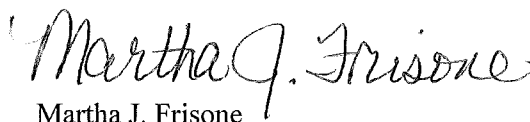
Dear Ms. Crowley:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of November 17, 2016, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, Endoscopy Center of North Carolina, LLC may proceed to acquire the above referenced health service facility 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 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,


Julie Halatek
Project Analyst


Martha J. Frisone
Assistant Chief, Certificate of Need

cc: Acute and Home Care Licensure and Certification Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

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

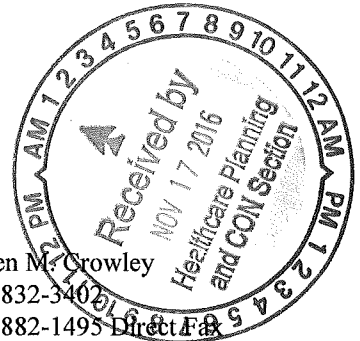
Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer





555 Fayetteville Street, Suite 720, Raleigh, NC 27601 • (919) 832-1744



Colleen M. Crowley
(919) 832-3402
(919) 882-1495 Direct Fax
ccrowley@polsinelli.com

November 17, 2016

VIA HAND-DELIVERY

Ms. Martha J. Frisone, Assistant Chief
Ms. Julie Halatek, Project Analyst
North Carolina Department of Health and Human Services
Division of Health Service Regulation
Health Planning and Certificate of Need
809 Ruggles Drive
Raleigh, NC 27603

**Re: Exemption Notice for Acquisition of The Endoscopy Center
by Endoscopy Center of North Carolina, LLC**

Facility Address: 191 Biltmore Ave., Asheville, NC 28801

License No. AS0051

Dear Ms. Frisone and Ms. Halatek:

We write on behalf of our client, The Endoscopy Center, to provide the Healthcare Planning and Certificate of Need Section with advance notice of the acquisition of the above-referenced health service facility (the "Facility") by Endoscopy Center of North Carolina, LLC ("Buyer"). We are requesting that the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Planning and Certificate of Need Section (the "Agency") confirm that this transaction is exempt from review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

The General Assembly has chosen to exempt certain, otherwise reviewable events from Certificate of Need ("CON") review, including the acquisition of a health service facility, along with the equipment owned by the health service facility at the time of the acquisition. See N.C. Gen. Stat. § 131E-84(a)(8). Under N.C. Gen. Stat. § 131E-176(9b), an ambulatory surgery facility is a "health service facility." The Buyer will be acquiring the Facility as an existing "health service facility," including all of the equipment owned at the time of the acquisition. Therefore, the acquisition of the Facility, including the Facility's equipment is exempt from review.

polsinelli.com

Atlanta Boston Chattanooga Chicago Dallas Denver Edwardsville Houston Jefferson City Kansas City Los Angeles
Nashville New York Overland Park Phoenix Raleigh St. Joseph St. Louis San Francisco Topeka Washington, D.C. Wilmington
Polsinelli PC, Polsinelli LLP in California



Ms. Martha J. Frisone, Assistant Chief
Ms. Julie Halatek, Project Analyst
November 17, 2016
Page 2

Since the parties currently plan to close this transaction on January 1, 2017, we respectfully request your expedited review.

Thank you for your assistance with this matter. Please do not hesitate to contact me if you have any questions or need additional information.

Very truly yours,

A handwritten signature in cursive script that reads "Colleen M. Crowley".

Colleen M. Crowley