



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

Pat McCrory
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Secretary DHHS

Mark Payne
Assistant Secretary for Audit and
Health Service Regulation

March 24, 2016

Catharine W. Cummer
3100 Tower Blvd, Suite 1300
Durham, NC 27707

Exempt from Review

Record #: 1903
Facility Name: Duke University Hospital
FID #: 943138
Business Name: Duke University Health System
Business #: 639
Project Description: Relocate existing Medical Gas Tank Farm and proximal utilities
County: Durham

Dear Ms. Cummer:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that based on your letter of March 15th, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(g). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

However, you need to contact the Agency's Construction and Acute Care Licensure and Certification Sections 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 Agency. 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.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Bernetta Thorne-Williams
Bernetta Thorne-Williams
Project Analyst

Martha J. Frisone
Martha J. Frisone, Assistant Chief
Certificate of Need

cc: Construction Section, DHHS
Acute and Home Care Licensure and Certification Section, DHHS



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

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

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FID# 943138
Bus.# 639
Review# 1903

 **Duke University Health System**

Catharine W. Cummer
Regulatory Counsel, Strategic Planning



March 15, 2016

Via Electronic Mail

Ms. Martha Frisone
Certificate of Need Section
Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704

Re: Exempt Replacement Project at Duke University Hospital

Dear Ms. Frisone:

The purpose of this letter is to request the CON Section's written confirmation that the relocation of the existing Medical Gas Tank Farm ("MGTF") and proximal utilities at Duke University Hospital satisfies the requirements under N.C.G.S. 131E-184(g) and is exempt from certificate of need review. The proposed relocation of the MGTF will enhance the safety of the site and create needed redundancy to minimize the risk that comes with a single point of failure for nitrogen, as well as enabling Duke to consider and pursue other renovation projects on campus.

Section 131E-184(g) provides that "The Department shall exempt from certificate of need review any capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

- (1) The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility that is located on the main campus.
- (2) The capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.
- (3) The licensed health service facility proposing to incur the capital expenditure shall provide prior written notice to the Department, along with supporting G.S. 131E-184 documentation to demonstrate that it meets the exemption criteria of this subsection."

As set forth below, we believe that Duke University Hospital's project is now exempt from certificate of need review.

(1) Main Campus

The purpose of this project is to relocate the MGMT to space along the service road between the emergency department in Duke North and the Duke Medical Pavilion, which space is located on the "main campus" of Duke University Hospital. The "main campus" of the facility is defined in N.C.G.S. 131E-176(14n) to include both "[t]he site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building" and "[o]ther areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building." In this case, Duke University Hospital is a licensed health service facility, and the main hospital building from which Duke University Hospital provides its clinical services and exercises financial and administrative control is the physically contiguous structure that includes Duke South, Duke North, the Duke Children's Hospital, the Duke Medical Pavilion, the Morris Clinic, the Duke Cancer Center, the Wadsworth Building, and the new Hudson Building. This project is within 250 yards of this main building, and is therefore to renovate and/or expand Duke University Hospital's existing health service facility located on the main campus. Duke's license and a campus map have been provided to the Section in previous requests, but can be made available again as needed.

(2) New Institutional Health Services

This project will not change Duke's existing bed capacity, nor include any other new institutional health services. Any other renovations that may be enabled in the future by this relocation will be the subject of separate notifications.

(3) Prior Written Notice

Please let this letter serve as the required prior written notice of this project.

Thank you for your attention to this request. If you have questions about this information, please let me know.

Very truly yours,



Catharine W. Cummer