



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

April 13, 2017

Kenneth L. Burgess
301 Fayetteville Street, Suite 1900
Raleigh, NC 27601

Inquiry

Record #: 2228
Business or Facility: McDowell House
Project Description: Acquisition by Integrity-Nebo, LLC
County: McDowell
FID #: 956982

Dear Mr. Burgess:

In response to your correspondence of April 3, 2017, the Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has determined that:

1. On December 31, 2016, Integrity-Nebo, LLC completed a transaction resulting in the acquisition of McDowell House, an existing adult care home facility.
2. N.C.G.S. §131E-178(c) states: *"No person shall incur an obligation for a capital expenditure which is a new institutional health service without first obtaining a certificate of need from the Department. An obligation for a capital expenditure is incurred when:
(1) An enforceable contract, excepting contracts which are expressly contingent upon issuance of a certificate of need, is entered into by a person for the construction, acquisition, lease or financing of a capital asset; ..."*
3. Integrity-Nebo, LLC provided no prior notice to the Agency of the acquisition (via the execution of an enforceable contract) of McDowell House.
4. N.C.G.S. §131E-184(a) states: *"Except as provided in subsection (b), the Department shall exempt from certificate of need review a new institutional health service if it receives prior written notice from the entity proposing the new institutional health service, which notice includes an explanation of why the new institutional health service is required, for any of the following:*

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

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



(1) ...

(2) ...

...

(8) *To acquire an existing health service facility, including equipment owned by the health service facility at the time of acquisition.*"

5. No penalty or any other sanction will be assessed against Integrity-Nebo, LLC for failure to provide prior written notice to the Agency of its acquisition of McDowell House.

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 office 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



April 3, 2017

Kenneth L. Burgess
Partner
D: 919-783-2917
F: 919-783-1075
kburgess@poynerspruill.com

VIA HAND-DELIVERY

Martha Frisone, Assistant Chief
Healthcare Planning and 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 Purchase of North Carolina Adult Care Home Pursuant to N.C. Gen. Stat. § 131E-184(a)(8)**

Dear Martha:

I am writing on behalf of the entities identified below to provide the notice required by N.C. Gen. Stat. § 131E-184(a)(8) of the acquisition of the adult care home currently known as McDowell House, Inc. d/b/a McDowell House ("McDowell House" or "the facility") and to request confirmation by the N.C. Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section ("the Agency" or "the CON Section") that the transaction described herein is exempt from Certificate of Need ("CON") review and does not require a CON. McDowell House is a 25-bed adult care home located at 1687 Dairy Road, Nebo, North Carolina and holds license number HAL-059-018 (FDID# 956982).

McDowell House is currently owned and operated by McDowell House, Inc. d/b/a McDowell House. McDowell House has been purchased by our client Integrity-Nebo, LLC and will be operated by Integrity-McDowell House, LLC, both of which are North Carolina limited liability companies and are related entities to our client Integrity Senior Properties Investments, LLC, a Florida limited liability company located at 115 Professional Drive, Suite 101, Ponte Vedra Beach, Florida 32082. The transaction will close on or about December 31, 2016. We are currently in the process of preparing a Change of Ownership Licensure Application which will be filed with the N.C. Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section this week.

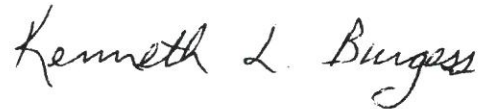
Pursuant to N.C. Gen. Stat. § 131E-176(9b), McDowell House is a "health service facility." N.C. Gen. Stat. § 131E-176(16)(l) provides that the purchase, lease, or acquisition of any health service facility, or portion thereof, which was developed pursuant to a certificate of need qualifies as a "new 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)(8) provides 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.

Martha Frisone, Chief
April 3, 2017
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The acquisition of the McDowell House adult care home by our clients, as 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 the meaning of N.C. Gen. Stat. § 131E-184(a)(8). This correspondence is intended to serve as the written notice to the Agency required by N.C. Gen. Stat. § 131E-184(a)(8).

Please provide me with written confirmation that this transaction is exempt from CON review pursuant to N.C. Gen. Stat. § 131E-184(a)(8). 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 "Kenneth L. Burgess".

Kenneth L. Burgess
Partner

cc: Alan Parrish

