



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

February 13, 2017

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

Exempt from Review – Acquisition of Facility

Record #: 2159
Facility Name: Preston House
Type of Facility: Adult Care Home
FID #: 970707
Acquisition by: Bayshore Charlotte N Prop, LLC
Business #: 2565
County: Mecklenburg

Dear Mr. Burgess:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of January 31, 2017, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(a)(8). Therefore, Bayshore Charlotte N Prop, 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 Adult Care Licensure Section to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C. Gen. Stat. §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.

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

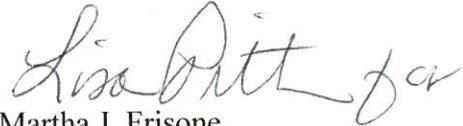
AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER



Sincerely,



Gloria C. Hale
Project Analyst



Martha J. Frisone
Assistant Chief, Certificate of Need

cc: Adult Care Licensure Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR



Poyner Spruill^{LLP}

January 31, 2017

Kenneth L. Burgess
Partner
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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 Preston House I LLC d/b/a Preston House ("Preston 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. Preston House is a 40-bed adult care home/special care unit located at 4910 Harris Woods Boulevard, Charlotte, North Carolina and holds license number HAL-060-031 (FDID# 970707).

Preston House is currently owned and operated by Preston House I LLC d/b/a Preston House. Preston House is being purchased by our client Bayshore Charlotte N Prop, LLC and will be operated by Bayshore Charlotte N Op, LLC, both of which are North Carolina limited liability companies and are related entities to our client Bayshore Charlotte Holdings, LLC, a Florida limited liability company located at 12640 North Bayshore Drive, North Miami, Florida 33181. The transaction will close on or about April 10, 2017 or as soon thereafter as the N.C. Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section approves a change of ownership application and issues a license for the new operator.

Pursuant to N.C. Gen. Stat. § 131E-176(9b), Preston 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.

The acquisition of the Preston 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

Martha Frisone, Chief
January 31, 2017
Page 2

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 prior 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,



Kenneth L. Burgess
Partner

cc: Bruce Gibson
Taylor Pancake, Esq.
Denise Gunter, Esq.