



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Health Service Regulation

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director

VIA EMAIL ONLY

July 11, 2018

S. Todd Hemphill
Hemphill, Todd THemphill@poynerspruill.com

No Review

Record #: 2644

Facility Name/FID #: High Point Regional Health System / 943251

Premier Imaging / 070761

High Point Surgery Center / 923252

Premier Surgery Center / 080515

Business Name: Wake Forest University Baptist Medical Center

Business #: 1324

Project Description: Wake Forest University Baptist Medical Center to become sole corporate member of High Point Regional Health System and assume indirect control of Premier Imaging, High Point Surgery Center, and Premier Surgery Center

County: Guilford

Dear Mr. Hemphill:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter of July 2, 2018 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective. However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section 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 in your correspondence. 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 this office. 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

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

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.

Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,



Celia C. Inman
Project Analyst



Martha J. Frisone, Chief
Healthcare Planning and Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR
Amy Craddock, Assistant Chief, Healthcare Planning, DHSR

July 2, 2018

S. Todd Hemphill
Partner
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VIA E-MAIL AND U.S. MAIL

Martha J. Frisone, Chief
Celia Inman, Project Analyst
Healthcare Planning and Certificate of Need Section
N.C. Department of Health and Human Services
Division of Health Service Regulation
2704 Mail Service Center
Raleigh, NC 27699-2704



RE: Request for No Review Determination / Wake Forest University Baptist Medical Center to Become Sole Member of High Point Regional Health

1. Hospital: FID No. 943251, License No. H0052
2. Premier Imaging, FID No. 07061
3. High Point Surgery Center, FID No. 923252, License No. AS0047
4. Premier Surgery Center, FID No. 080515, License No. AS0152

Dear Martha and Celia:

Our client, Wake Forest University Baptist Medical Center, a North Carolina nonprofit corporation ("WFUBMC"), hereby gives notice to the Healthcare Planning and Certificate of Need Section (the "CON Section") that on or about September 1, 2018 ("Closing"), WFUBMC will become the sole corporate member of High Point Regional Health ("HPRH"), a North Carolina nonprofit corporation, in replacement of the current sole member of HPRH, The University of North Carolina Health Care System ("UNCHCS"). HPRH owns and operates the licensed and certified hospital (the "Hospital") located at 601 N. Elm Street in High Point, Guilford County, North Carolina. HPRH will continue to be the direct owner and licensed operator of the Hospital. To effect the change of control, HPRH's articles of incorporation and bylaws will be amended such that WFUBMC will be the sole member of HPRH with certain reserved powers and the right to appoint a majority of the HPRH board.

In addition to the Hospital, HPRH also has an ownership interest in the following three health service facilities in North Carolina: (1) Premier Imaging (a diagnostic center); (2) High Point Surgery Center (an ambulatory surgical facility); and (3) Premier Surgery Center (an ambulatory surgical facility). HPRH is currently the indirect owner¹ of Premier Imaging, LLC, which is the owner of the diagnostic center; prior to Closing, HPRH will become the sole member and hence direct owner of Premier Imaging, LLC. HPRH has a ninety percent (90%) ownership interest in High Point Surgery Center, LLC, which is the owner of the above referenced ambulatory surgical facility. HPRH is the sole member of Premier Surgery Center, LLC,

¹ HPRH is currently the sole owner of High Point Regional Health Services, Inc., which in turn is the sole member of Premier Imaging, LLC.

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which is the owner of the above referenced ambulatory surgical facility. By virtue of becoming the sole member of HPRH, WFUMBC also will obtain indirect control of these three facilities.²

1. NO REVIEW / EXEMPTION REQUEST

We believe that none of the above corporate changes is a "new institutional health service" within the meaning of N.C. Gen. Stat. § 131E-176(16) which would require certificate of need ("CON") review and approval, because the direct owner of each facility will not change. Based on that statutory definition and multiple previous CON Section determinations, neither a change in the sole member of an existing health care facility nor a change in control of an indirect owner of a health care facility is a new institutional health service, requiring a CON.

However, even if the CON Section were to conclude that this transaction is a reviewable acquisition of an existing health service facility, then please accept this letter as a notice of exemption pursuant to N.C. Gen. Stat. § 131E-184(a)(8). As you are aware, N.C. Gen. Stat. § 131E-184(a)(8) provides that upon receiving prior written notice from an entity that it will "acquire an existing health service facility, including equipment owned by the health service facility at the time of the acquisition," the CON Section "shall" exempt such project from CON review. Each of the three facilities above is an existing health service facility within the meaning of the CON law. See N.C. Gen. Stat. § 131E-176(9b).

We request that you provide a letter confirming that our interpretation of the CON law and applicable rules is correct and that this proposal is not a new institutional health service, or in the alternative, that the proposed transaction is exempt from CON review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

2. GOOD CAUSE TRANSFER

In addition, it is our understanding that the following CON projects are under development:

- HPRH / Project I.D. No. G-010034-12 / Renovate 6 South inpatient unit
- HPRH / Project I.D. No. G-011124-16 / Change of scope for Project I.D. No. G-8682-11 (Renovate and expand the existing hospital, including the surgical and cardiology departments)

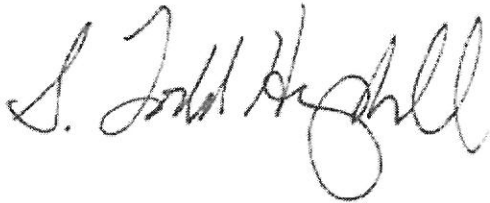
To the extent that this transaction is considered to be a transfer of the CONs related to these projects, we are requesting approval for a "good cause" transfer of these CONs under N.C. Gen. Stat. § 131E-189 and 10A N.C.A.C. 14C.0502. We believe that good cause for such transfers exists. The purpose of this transaction is wholly unrelated to either of the pending CON projects, but is in conjunction with a larger transaction of WFUBMC becoming the sole member of HPRH. Moreover, nothing about this transaction will affect the ability of the applicant to materially comply with any representations in the CON applications or the conditions placed on the projects under development. In all material respects, the operations and development of these projects will be the same as represented in the CON applications and in compliance with the issued CONs. In addition, the applicant will remain the holder of each CON.

² UNCHCS has indirect control of each of the four facilities, three of which it acquired in 2013 when it became the sole member of HPRH. Prior to that 2013 transaction, UNCHCS notified the CON Section of this change and received approval for the transfer by correspondence dated March 13, 2013.

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Thank you for your prompt response to our request. Please let us know if you need further information or if there are questions we can answer.

Very truly yours,

A handwritten signature in black ink, reading "S. Todd Hemphill". The signature is written in a cursive style with a large, looped "H" and "ill" at the end.

S. Todd Hemphill
Partner

cc: J. McLain Wallace, Jr., Senior Vice President and General Counsel, WFUBMC (via email only)