



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

November 26, 2019

Gary S. Qualls
K&L Gates
gary.quall@klgates.com

Exempt from Review – Reopening a Legacy Medical Care Facility

Record #: 3143
Facility Name: Crawley Memorial Long Term Care Hospital
FID #: 120232
Business Name: The Charlotte-Mecklenburg Hospital Authority
Business #: 1770
Project Description: Notice of intent to reopen the hospital within 36 months of November 14, 2019 which is November 13, 2022
County: Cleveland

Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that based on your letter of November 14, 2019, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(h). Therefore, you may proceed to reopen the hospital within 36 months of November 14, 2019 without first obtaining a certificate of need.

However, you need to contact the Agency’s Construction and Acute and Home Care Licensure and Certification Sections to determine if they have any requirements for reopening the hospital.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made 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.

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

Sincerely,

Handwritten signature of Martha J. Frisone

Martha J. Frisone
Chief

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

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: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
https://info.ncdhhs.gov/dhsr/ • TEL: 919-855-3873



K&L GATES LLP
POST OFFICE BOX 14210
RESEARCH TRIANGLE PARK, NC 27709-4210
430 DAVIS DRIVE, SUITE 400
MORRISVILLE, NC 27560
T +1 919 466 1190 F +1 919 831 7040 klgates.com



November 14, 2019

Gary S. Qualls
D 919.466.1182
F 919.516.2082
gary.qualls@klgates.com

VIA E-MAIL: Martha.waller@dhhs.nc.gov

Ms. Martha Frisone, Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Exemption Notice for The Charlotte-Mecklenburg Hospital Authority to Reopen the LTACH Previously Operated on the Atrium Health Kings Mountain Campus Pursuant to CMHA's Contractual CON Rights

Dear Martha:

The Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health Kings Mountain (formerly known as Carolinas HealthCare System Kings Mountain) ("CMHA") is planning to reopen the long term acute care hospital ("LTACH") and the beds therein (the "Facility"), which were formerly operated on the campus of Atrium Health Kings Mountain in Kings Mountain, Cleveland County. The Facility has been operated by Crawley Memorial Hospital, Inc. d/b/a Carolinas ContinueCARE Hospital at Kings Mountain ("CMH"). As explained below, CMHA owns the CON rights to the Facility.

The purpose of this letter is to provide notice of this reopening, which is exempt from certificate of need ("CON") review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the "Agency"). CMHA seeks confirmation that it is permitted to reopen the Facility as described herein without CON Review, based on CMHA's rights to own and operate the Facility, a health service facility (as defined in the CON statute) with twenty-eight (28) long term acute care beds.

I. BACKGROUND

The Facility has been operated on the campus of Atrium Health Kings Mountain, pursuant to a Lease between CMH (as Tenant) and CMHA (as Landlord). Pursuant to Paragraph 6.1 of the Lease:

Upon the expiration or termination of this Lease for any reason, the Beds shall revert back to Landlord, and Tenant shall no longer retain any Certificate of Need-related rights, other tangible or intangible rights, or any other associated health service facility rights in the Beds. Tenant shall cooperate with Landlord to take any and all action necessary to document the transfer of all Certificate of Need-related rights, other tangible or intangible rights, and any other associated health service facility rights in the Beds to Landlord.

CMH and CMHA decided to terminate the Lease, and the Facility closed in October 2018. According to the Lease, the Facility and all CON rights thereto revert to CMHA. Because the Facility has not continuously operated for at least the past six months, we are filing this exemption under the Legacy Medical Care Facility exemption provisions contained in N.C. Gen. Stat. § 131E-184(h).

II. EXEMPTION NOTICE

The North Carolina General Assembly saw fit to exempt certain types of services or proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt service or proposal includes the acquisition or reopening of a Legacy Medical Care Facility pursuant to N.C. Gen. Stat. § 131E-184(h). That “Legacy Exemption” provides as follows:

The Department shall exempt from certificate of need review the acquisition or reopening of a Legacy Medical Care Facility. The person seeking to operate a Legacy Medical Care Facility shall give the Department written notice of all of the following:

- (1) Its intention to acquire or reopen a Legacy Medical Care Facility within the same county and the same service area as the facility that ceased continuous operations. If the Legacy Medical Facility will become operational in a new location within the same county and the same service area as the facility that ceased continuous operations, then the person responsible for giving the written notice required by this section shall notify the Department, as soon as reasonably practicable and prior to becoming operational, of the new location of

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Furthermore, CMHA's reopening of the Facility does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services. See N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the event at issue involves only the reopening of a Legacy Medical Care Facility to which CMHA already owns the rights, it is exempt from CON review.

III. CONCLUSION

Based on the foregoing information, we hereby request the Agency's confirmation that the event described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(h), and thus CMHA may reopen the Facility with all of its existing CON rights, without the need to obtain a new CON.

If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,



Gary S. Qualls

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the Legacy Medical Care Facility. For purposes of this subdivision, "service area" means the service area identified in the North Carolina State Medical Facilities Plan in effect at the time the written notice required by this section is given to the Department.

(2) That the facility will be operational within 36 months of the notice.

See N.C. Gen. Stat. § 131E-184(h).

As referenced above, "Legacy Medical Care Facility" is defined under the CON statute as a facility that meets all of the following requirements:

- a. Is not presently operating.
- b. Has not continuously operated for at least the past six months.
- c. Within the last 24 months:
 1. Was operated by a person holding a license under G.S. 131E-77; and
 2. Was primarily engaged in providing to inpatients or outpatients, by or under supervision of physicians, (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

N.C. Gen. Stat. § 131E-176(14f).

This project involves CMHA's reopening of an LTACH that has been closed for more than six months, and to which CMHA owns the rights. The Facility operated as an LTACH within the last two years, which was licensed under N.C. Gen. Stat. § 131E-77 and otherwise meets the Legacy Medical Care Facility definition. See N.C. Gen. Stat. § 131E-176(14f). CMHA plans to make the Facility operational within 36 months of this notice.

Acute Care [Minimize] [Maximize] [Close]

Search | List | License/Save | Abortion | Am Surg | Cardiac Rehab | Hospital | HL Beds | Accredit

Master File: 120232 | Carolinas ContinueCare Hospital at Kings Mo | Type: HL | Save

Site: 706 W King ST, 2nd Floor | KINGS MOUN | Cleveland | Active: 01/19/2018 | LJOHNSO | Cancel

Mail: PO Box 159 | KINGS MOUN | NC | 28086- | Inactive: / /

License No: H0236 | Original: 01/01/1952 | Effective: 01/01/2018 | Expire: 10/09/2018

Licensee: Crawley Memorial Hospital, Inc. | Region:

Provider: [Dropdown]

Health System: Carolinas Healthcare System

No designation Critical Access Hospital (CAH) Long Term Acute Care Hospital (LTACH)

Comments: Per facility memo, this facility closed effectively 10/19/18. LJ

Sanctions/Close/Terminate ~ Tabs activated when there is a facility and license number ~ Changed Fields Info