



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

January 10, 2019

Elizabeth Frock Runyon
211 Friday Center Drive
Suite G015
Chapel Hill, NC 27517

Exempt from Review – Physician Office

Record #: 2836
Business Name: UNC Health Care System
Business #: 2991
Project Description: Upfit within a physician office building
County: Durham (fw)

Dear Ms. Runyon:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that based on your letter of January 8, 2019 the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(a)(9). 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 the Acute and Home Care Licensure and Certification Sections to determine if they have any requirements for development of the proposed physician office.

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 the Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Fatimah Wilson
Fatimah Wilson
Team Leader

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

cc: Construction Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, 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
www.ncdhs.gov/dhsr • TEL: 919-855-3873



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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Bus# 2991
Record# 2836



January 8, 2019

VIA ELECTRONIC MAIL ONLY

Bernetta Thorne-Williams
Certificate of Need Section
DHSR, DHHS
2704 Mail Services Center
Raleigh, NC 27699-2704
bernetta.williams@dhhs.nc.gov

RE: Notice of Exemption for Physician Office Building Upfit Costs

Dear Ms. Thorne-Williams:

I am writing on behalf of the UNC Health Care System ("UNC HCS"), which plans to incur costs in connection with the upfit of approximately 18,000 square feet of space within an existing physician office building. UNC HCS intends to lease space within the building for use as physician offices. The office building, which is owned by an unrelated third party, is located at 3708 Mayfair Street in Durham. None of the services provided in the leased space will be hospital-based services.

We are requesting confirmation that the expenditure of capital in excess of \$2 million for the upfit of leased physician office space is exempt from review pursuant to N.C.G.S. § 131E-184(a)(9). In accordance with this statutory exemption, there will be no new institutional health service other than as defined in N.C.G.S. § 131E-176(16)b. offered or developed in this space without prior certificate of need approval. Please provide written confirmation that this proposal is exempt from CON review.

Please do not hesitate to contact me at 984-215-3622 if you need any additional information. Thank you for attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Frock Runyon".

Elizabeth Frock Runyon
System Director of Regulatory Affairs
Strategic Planning
UNC Health Care

Wilson, Fatimah

From: Runyon, Elizabeth <Elizabeth.Runyon@unchealth.unc.edu>
Sent: Wednesday, January 09, 2019 4:52 PM
To: Wilson, Fatimah
Subject: [External] RE: Clarification
Attachments: NCGS 116-37.pdf

CAUTION: External email. Do not click links or open attachments unless you verified. Send all suspicious email as an attachment to report.spam@nc.gov

Hi Fatimah,

They are not the same entity although they are of course related. The Health Care System is the parent entity of UNC Hospitals. I have attached the statute creating the UNC Health Care System in case it's helpful.

The lease in question for the exemption request in Durham will be with the UNC Health Care System, and that is the entity incurring the cost. Please let me know if you have further questions or require any additional information. I'm also happy to discuss if that's easier.

Best regards,
Elizabeth

Elizabeth Frock Runyon, JD | System Director of Regulatory Affairs
Strategic Planning
UNC Health Care
211 Friday Center Drive, Chapel Hill, NC 27517
p (984) 215-3622
elizabeth.runyon@unchealth.unc.edu

From: Wilson, Fatimah <fatimah.wilson@dhhs.nc.gov>
Sent: Wednesday, January 09, 2019 4:42 PM
To: Runyon, Elizabeth <Elizabeth.Runyon@unchealth.unc.edu>
Subject: Clarification

Ext Mail: open links/attachments w/caution
Hi Elizabeth,

I am in receipt of an exemption request for UNC Health Care System to incur cost in connection with the upfit of space within an existing physician office building in Durham. Can you clarify for me is UNC Health Care System the same entity as University of North Carolina Hospitals at Chapel Hill? Or is this a different entity all together?

Fatimah Wilson
Team Leader
Division of Health Service Regulation, Healthcare Planning and Certificate of Need
NC Department of Health and Human Services

Office: 919-855-3876
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§ 116-37. University of North Carolina Health Care System.

(a) Creation of System. –

- (1) There is hereby established the University of North Carolina Health Care System, effective November 1, 1998, which shall be governed and administered as an affiliated enterprise of The University of North Carolina in accordance with the provisions of this section, to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina.
- (2) As of November 1, 1998, all of the rights, privileges, liabilities, and obligations of the board of directors of the University of North Carolina Hospitals at Chapel Hill, not inconsistent with the provisions of this section, shall be transferred to and assumed by the board of directors of the University of North Carolina Health Care System.
- (3) The University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill shall be governed by the board of directors of the University of North Carolina Health Care System.
- (4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of this section, the board of directors may adopt policies that make the authorities and responsibilities established by one or more of said subsections applicable to the University of North Carolina Hospitals at Chapel Hill, to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, to both, or to other persons or entities affiliated with or under the control of the University of North Carolina Health Care System.
- (5) To effect an orderly transition, the policies and procedures of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill and of the University of North Carolina Hospitals at Chapel Hill effective as of October 31, 1998, shall remain effective in accordance with their terms until changed by the Board of Directors of the University of North Carolina Health Care System.

(b) Board of Directors. – The board of directors of the University of North Carolina Health Care System is hereby restructured effective November 1, 2012:

- (1) The board of directors shall be composed of 24 members as follows:
 - a. Eight members ex officio shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; the Chancellor of the University of North Carolina at Chapel Hill and one additional administrative officer of the University of North Carolina at Chapel Hill designated by the Chancellor; the President of the University of North Carolina Hospitals; the President of the UNC Faculty Physicians; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine. If the Dean of the School of Medicine of the University of North Carolina at Chapel Hill does not also hold one of the positions designated as an

ex officio member of the board, the Dean shall serve in one of the positions reserved for a member of the faculty.

- b. Sixteen members at large shall be appointed for four-year terms, commencing on November 1 of the year of appointment. Twelve of the members at large shall be appointed by the Board of Governors after consultation with the President of The University of North Carolina. Four of the members at large shall be appointed by the board of directors.
- c. The initial class of at-large members shall be composed of the following individuals:
 - 1. The persons who hold the appointed memberships on the board of directors as of October 31, 2012, and whose terms do not expire on that date. The terms of membership for these at-large members will expire on the last day of October of the year in which their term would have expired.
 - 2. Three persons appointed by the Board of Governors after consultation with the President of The University of North Carolina whose terms will commence on November 1, 2012, and will expire on October 31, 2016.
 - 3. One person appointed by the board of directors whose term will commence on November 1, 2012, and will expire on October 31, 2016.

The Board of Governors shall appoint successor at-large members for those members whose terms end on October 31, 2013, October 31, 2014, and four of the five members whose terms end on October 31, 2016. The board of directors shall appoint successor at-large members for those members whose terms end on October 31, 2015, and one of the five members whose terms end on October 31, 2016.

- d. All at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. No member may be appointed to more than two full four-year terms in succession, including members serving as of June 30, 2012. Any vacancy in an unexpired term shall be filled by the appointing authority for the balance of the term remaining.
- (2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman only from among the at-large members, for a term of two years. Notwithstanding the foregoing limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as Chairman. No person shall be eligible to serve as chairman for more than three terms in succession.
 - (3) The board of directors of the University of North Carolina Health Care System shall meet at least every 60 days and may hold special meetings at

any time and place within the State at the call of the chairman. Board members, other than ex officio members, shall receive the same per diem and reimbursement for travel expenses as members of the State boards and commissions generally.

- (4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors or, to the extent the board's actions affect employees of the University of North Carolina at Chapel Hill, the policies of the University of North Carolina at Chapel Hill. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina.

(c) Officers. –

- (1) The executive and administrative head of the University of North Carolina Health Care System shall have the title of "Chief Executive Officer." The board of directors, the board of trustees, and the Chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the Chancellor deem appropriate, shall identify two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the Chancellor, have the qualifications for both the positions of Chief Executive Officer of the University of North Carolina Health Care System and Vice-Chancellor for Medical Affairs of the University of North Carolina at Chapel Hill. The names of the candidates so identified, once approved by the board of directors and the board of trustees, shall be forwarded by the Chancellor to the President of The University of North Carolina, who if satisfied with the quality of one or more of the candidates, will nominate one as Chief Executive Officer, subject to selection by the Board of Governors. The individual serving as Chief Executive Officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care System, subject to all requirements of the board of directors. That same individual, when serving as Vice-Chancellor for Medical Affairs, shall have

all authorities, rights, and responsibilities of a vice-chancellor of the University of North Carolina at Chapel Hill.

- (2) The executive and administrative head of the University of North Carolina Hospitals at Chapel Hill shall have the title of "President of the University of North Carolina Hospitals at Chapel Hill."
- (3) The board of directors shall elect, on nomination of the Chief Executive Officer, the President of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees of the University of North Carolina Health Care System as may be deemed necessary to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall serve at the pleasure of the Chief Executive Officer.

(d) Personnel. – Employees of the University of North Carolina Health Care System shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the University of North Carolina Health Care System, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the board of directors; provided, that with respect to such employees as may be members of the faculty of the University of North Carolina at Chapel Hill, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of The University of North Carolina.

- (1) The board of directors shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position classification plans for employees of the University of North Carolina Health Care System.
- (2) The board of directors may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.
- (3) The board of directors may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the University of North Carolina Health Care System.
- (4) The board of directors may establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of directors may direct.

The board of directors shall submit all initial classification and pay plans and other rules and regulations adopted pursuant to subdivisions (1) through (4) of this subsection to the Office of State Human Resources for review upon adoption by the board. Any subsequent changes to these plans, rules, and policies adopted by the board shall be submitted to the Office of State Human Resources for review. Any comments by the Office of State Human Resources shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts.

(f) Finances – Patient/Health Care System Benefit. – The Chief Executive Officer of the University of North Carolina Health Care System, or the Chief Executive Officer's designee, may expend operating budget funds, including State funds, of the University of North Carolina Health Care System for the direct benefit of a patient, when, in the judgment of the Chief Executive Officer or the Chief Executive Officer's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Health Care System. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Health Care System for which the health care system may bill and pursue recovery in the same way as allowed by law for recovery of other health care systems' charges for services that are unpaid.

These expenditures shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; or (v) to pay health insurance premiums. The Chief Executive Officer or the Chief Executive Officer's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Health Care System advances anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump-sum "back-pay" award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this back pay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Health Care System, if, prior to the disbursement of the back pay, the applicable State program has received notice from the University of North Carolina Health Care System of the advancement.

(g) Reports. – The Chief Executive Officer and the President of The University of North Carolina jointly shall report by September 30 of each year on the operations and

financial affairs of the University of North Carolina Health Care System to the Joint Legislative Commission on Governmental Operations. The report shall include the actions taken by the board of directors under the authority granted in subsections (d), (h), (i), and (j) of this section.

(h) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the board of directors shall establish policies and regulations governing the purchasing requirements of the University of North Carolina Health Care System. These policies and regulations shall provide for requests for proposals, competitive bidding, or purchasing by means other than competitive bidding, contract negotiations, and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical, educational, research, and community service missions of the University of North Carolina Health Care System. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the Division of Purchase and Contract for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the Division of Purchase and Contract for review. Any comments by the Division of Purchase and Contract shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(i) Property. – The board of directors shall establish rules and regulations for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes.

(j) Property – Construction. – Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the board of directors shall adopt policies and procedures with respect to the design, construction, and renovation of buildings, utilities, and other property developments of the University of North Carolina Health Care System requiring the expenditure of public money for:

- (1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.
- (2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).
- (3) Using open-end design agreements.
- (4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Health Service Regulation of the Department of Health and Human Services.

- (5) Using the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

The board of directors shall submit all initial policies and procedures adopted under this subsection to the Office of State Construction for review upon adoption by the board. Any subsequent changes to these policies and procedures adopted by the board shall be submitted to the Office of State Construction for review. Any comments by the Office of State Construction shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(k) Patient Information. – The University of North Carolina Health Care System shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose the patient's social security number, if any. If the patient does not disclose that number, the University of North Carolina Health Care System shall deny benefits, rights, and privileges of the University of North Carolina Health Care System to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. The University of North Carolina Health Care System shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c). (1971, c. 762, s. 1; c. 1244, s. 6; 1981, c. 859, s. 41.5; 1983, c. 717, s. 32; 1985 (Reg. Sess., 1986), c. 955, ss. 30, 31; 1989, c. 141, s. 1; 1991, c. 550, s. 2; c. 689, s. 206.2(d); 1993 (Reg. Sess., 1994), c. 591, s. 10(a); 1998-212, s. 11.8(a); 1999-252, s. 4(a); 2005-417, s. 3; 2006-203, s. 47.2; 2007-182, s. 1; 2007-306, s. 1; 2010-31, s. 9.11; 2011-145, s. 9.6E(b); 2012-174, s. 1; 2013-382, s. 9.1(c).)