



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

April 13, 2022

Kenneth Burgess

kburgess@bakerdonelson.com

Exempt from Review

Record #: 3870
Date of Request: March 31, 2022
Facility Name: CarePartners Rehabilitation Hospital
FID #: 923508
Business Name: CarePartners Rehabilitation Hospital, LLLP
Business #: 3396
Project Description: Renovate existing space on the main campus
County: Buncombe

Dear Mr. Burgess:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(g). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

It should be noted that this determination is binding only for the facts represented by you. 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 the Agency. 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 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.

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

Sincerely,

Ena Lightbourne, Project Analyst

Micheala Mitchell, 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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

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KENNETH LEE BURGESS, SHAREHOLDER
Direct Dial: 919-294-0802
Direct Fax:
E-Mail Address: kburgess@bakerdonelson.com

March 31, 2022

VIA EMAIL

Micheala Mitchell, Chief
Lisa Pittman, Assistant Chief
N.C. Department of Health and Human Services
N.C. Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive, Raleigh, N.C. 27603
Via email to: micheala.mitchell@dhhs.nc.gov
lisa.pittman@dhhs.nc.gov

Ena Lightbourne
Project Analyst
N.C. Department of Health and Human Services
N.C. Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive, Raleigh, N.C. 27603
Via email to: ena.lightbourne@dhhs.nc.gov

RE: ***Notice of Exemption: Renovation of Existing Space at CarePartners
Rehabilitation Hospital, Facility I.D. No. 923508***

Dear Micheala, Lisa and Ena:

I am writing on behalf of our client CarePartners Rehabilitation Hospital, LLLP (“CarePartners” or “the Hospital”) to provide the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (“the CON Section” or “the

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Agency”) with prior written notice of CarePartners’ intent to upgrade and refresh certain areas of the Hospital, as described in detail below (“the Project”). All of these upgrades will be conducted at the main CarePartners Hospital which is located on the CarePartners Hospital main campus. We believe the proposed project is exempt from further CON Section review and does not require a certificate of need (“CON”) pursuant to N.C. Gen. Stat. § 131E-184(g).

CarePartners is a rehabilitation hospital which is licensed by the N.C. Department of Health and Human Services, Division of Health Service Regulation (“DHSR”) for eighty (80) inpatient rehabilitation beds, license number H0081 and Facility I.D. No. 923508. *See Exhibit A* (copy of CarePartner’s license). The Hospital is located at 68 Sweeten Creek Road in Asheville, North Carolina. CarePartners provides a wide range of inpatient rehabilitation services, from traditional physical, speech and occupational therapies to specialty rehabilitation programs. CarePartners offers a full continuum of post-acute rehabilitation services. The current CarePartners facility was constructed in 1945 and has had numerous renovations since that time.

In August of 2021, CarePartners filed a Notice of Exemption with the CON Section for the renovation of approximately 13,455 square feet of existing space to convert certain semi-private rooms to private rooms and to upgrade other common areas and patient care areas. The CON Section acknowledged the exempt status of that project by letter dated August 24, 2021.

Prior to the renovations covered by that Exemption Notice, most of the CarePartners facility had not been renovated in over 20 years. The project which is described in this Notice of Exemption builds upon CarePartners’ commitment to upgrade and improve the Hospital to enhance patient and family experiences and overall quality of care.

Background and Project Description

The Project will involve updating flooring, wall coverings, window treatments, ceiling tiles, lighting, plumbing fixtures and casework in certain patient rooms and bathrooms, the nurses’ station and certain hallways and common areas. Total project costs are estimated at approximately \$8,613,000.000. *See Exhibits B* (Projected Capital Cost Form) and *C* (Affidavit of CarePartners’ Chief Financial Officer), both documenting estimated project costs.¹

¹ Because the statutory exemption under which CarePartners is proceeding is not dependent on CarePartners being above or below a designated capital expenditure, a Projected Capital Cost Form is technically not required for this Exemption but we are including one to provide a general cost overview of the Project.

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For the reasons stated below, we believe that the Proposed Project is exempt from CON Section review pursuant to N.C. Gen. Stat. § 131E-184(g), and thus CarePartners is not required to obtain a CON before proceeding with the Project.

Applicable Legal Authorities

The CON Law precludes any person from offering or developing a “new institutional health service” without first obtaining a CON. N.C. Gen. Stat. § 131E-178(a). The definition of “new institutional health service” includes, inter alia, the following:

- Incurring an obligation for a capital expenditure that exceeds \$4,000,000.00² to develop or expand a health service or health service facility, or which “relates” to the provision of a health service.

N.C. Gen. Stat. §§ 131E-176(16)(b). However, the CON Law includes a specific exemption for health-related capital expenditures in excess of \$2,000,000.00³ where the sole purpose of the capital expenditure is “to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility located on the main campus.” N.C. Gen. Stat. § 131E-184(g). That exemption, where applicable, eliminates the need to obtain a CON before incurring the capital expenditure. As described further below, the Project which is the subject of this Exemption Notice involves a capital expenditure in excess of \$4,000,000.00. However, the project is exempt from CON Section review based upon the exemption at N.C. Gen. Stat. § 131E-184(g). That exemption is described below.

The Statutory Exemption For Renovation, Replacement Or Expansion Of An Existing Health Facility On The Main Campus

N.C. Gen. Stat. § 131E-184(g) provides an express exemption from CON Section review for capital expenditures that exceed \$2,000,000.00 where:

1. The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility located on the main campus;
2. So long as the capital expenditure does not result in:

² The new institutional health service capital cost threshold triggering the requirement for a CON was increased from \$2,000,000.00 to \$4,000,000.00 by Session Law 2021-129, effective October 1, 2021.

³ When the Legislature increased the capital expenditure threshold for “new institutional health services” to \$4,000,000.00 in 2021, it did not simultaneously increase the cost thresholds under related exemptions at N.C.G.S. 131-184 from \$2,000,000.00 to \$4,000,000.00.

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- a. A change in bed capacity as defined in G.S. § 131E-176(5); or
- b. The addition of a health service facility or any other new institutional health service other than that allowed by G.S. § 131E-176(16)b; and
- c. The CON Section receives prior written notice of the planned expenditure along with documentation demonstrating that the provider meets the exemption.

**The Proposed Project Involves The Renovation Of
Existing Space On CarePartners' Main Campus**

The Proposed Project which is the subject of this Exemption Notice is projected to cost in excess of \$2,000,000.00. The total project cost is anticipated to be approximately \$8,613,000.00. Of that amount, approximately \$6,934,000.00 will be expended to renovate existing space at the Hospital. The remaining costs will be allocated to non-medical equipment, certain medical equipment, architect and engineering fees, furniture, permitting costs and miscellaneous construction-related expenses. As previously noted, we have included an affidavit from Tyler Groesser, CarePartners' Chief Financial Officer, attesting that the estimated total project costs are approximately \$8,613,000.00.00. See **Exhibit C**.

Even though total projected costs exceed \$2,000,000.00, the Proposed Project qualifies for the statutory exemption at N.C. Gen. Stat. § 131E-184(g) because the sole purpose of the project and related expenditure is to renovate or expand a portion of an existing health service facility on the hospital's main campus.

The term "campus" is defined at N.C. Gen. Stat. § 131E-176(2c) as "the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health service facility and related health care entities." For the purposes of the exemption at N.C. Gen. Stat. § 131E-184(g), "main campus" is defined as:

- a. The site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building; and
- b. Other areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building.

N.C. Gen. Stat. § 131E-176(14n).

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CarePartners consists of two (2) buildings both in close proximity to one another between Sweeten Creek Road and London Road in Asheville, North Carolina. The main hospital building is located at 68 Sweeten Creek Road and contains the CarePartners Rehabilitation Hospital as well as CarePartners' outpatient rehabilitation services and its related home health agency. The main building at 68 Sweeten Creek Road, where the Proposed Project will be located, is the site from which the hospital exercises clinical and administrative control over the entire hospital. CarePartners' Chief Executive Officer, Chief Financial Officer, and Chief Nursing Officer are all located in the main hospital building. Together, they exercise all financial and administrative control over the rehabilitation hospital and its services. The main hospital building is also the location from which CarePartners provides clinical patient services. As such, the Proposed Project will be located in the main hospital building and so clearly is on the "main campus" within the meaning of N.C. Gen. Stat. § 131E-176(14n).

The Proposed Project does not involve a change in bed capacity as defined by N.C. Gen. Stat. § 131E-176(5). That section defines "change in bed capacity" in pertinent part as: (i) any relocation of health service facility beds from one licensed facility or campus to another, or (ii) any redistribution of health service facility bed capacity among the categories of health service facility beds defined in N.C. Gen. Stat. § 131E-176(9c), or (iii) any increase in the number of health service facility beds. The Proposed Project involves only the renovation of existing space on CarePartners' main campus. The Project does not involve any relocation of health service facility beds from one licensed campus to another, any increase in the number of health service beds or any redistribution of health service facility beds among the categories identified at N.C. Gen. Stat. § 131E-176(9c). Further, the Project does not involve the development or addition of any bed capacity, operating rooms, health services or facilities that fall within the definition of "new institutional health services" at N.C. Gen. Stat. § 131E-176(16).

The Project Does Not Involve the Acquisition of Equipment Which Qualifies as Major Medical Equipment Under The CON Statute

The CON Statute treats as a "new institutional health service" requiring a CON the acquisition of major medical equipment. N.C. Gen. Stat. § 131E-176(16)p. Major medical equipment is defined as "a single unit or single system of components with related functions which is used to provide medical and other health services and which costs more than two million dollars ("2,000,000)." N.C. Gen. Stat. 131E-176(14o).

The CarePartners Project does not involve the acquisition of medical equipment which meets the definition of "major medical equipment" under the CON Statute. See **Exhibits B** (Projected Capital Cost Worksheet) and **C** (Affidavit of CarePartners' Chief Financial Officer).

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Also, the Project does not include the acquisition of any of the equipment defined at N.C. Gen. Stat. § 131E-176(16)f1 as a “new institutional health service” which, if listed there, would require CarePartners to obtain a CON before acquiring the equipment.

CarePartners’ Proposed Project Is Not A New Institutional Health Service Under Any Other Provision Of N.C. Gen. Stat. § 131E-176(16)

The Project does not qualify as a “new institutional health service” under any other provision of the CON Statute, specifically including N.C. Gen. Stat. § 131E1-17(16). The Proposed Project does not involve a change in bed capacity, the construction or other development of a new health service or health service facility, the acquisition of major medical equipment or any other item or service which qualifies as a new institutional health service. Other than the proposed project expenditure which exceeds \$4,000,000.00, and from which CarePartners qualifies for an exemption pursuant to N.C. Gen. Stat. 131E-184(g), there are no other “new institutional health service” definitional elements that apply to the Proposed Project.

Conclusion

For the reasons recited herein, the proposed Project qualifies under the exemption from CON Section review set forth at N.C. Gen. Stat. § 131E-184(g). Please allow this letter to serve as the advance written notice required by N.C. Gen. Stat. § 131E-184(g). We would appreciate the CON Section acknowledging at its earliest opportunity that the Project, as described herein, is not subject to CON Section Review and that CarePartners may proceed with the Project without first obtaining a CON.

Please let me know if you have questions or need further information regarding this notice.

Very truly yours,



Kenneth Lee Burgess, Shareholder

KLB:jdm

Encls.

cc: Tyler Groesser
Cathi Durham
Sondra Smith

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Exhibits

Exhibit A

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 01, 2021, this license is issued to

CarePartners Rehabilitation Hospital, LLLP

to operate a hospital known as

CarePartners Rehabilitation Hospital

located in Asheville, North Carolina, Buncombe County.

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall remain
in effect until amended by the issuing agency.*

Facility ID: 923508

License Number: H0081

Bed Capacity: 80

Rehabilitation 80,

Dedicated Inpatient Surgical Operating Rooms: 0

Dedicated Ambulatory Surgical Operating Rooms: 0

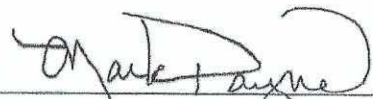
Shared Surgical Operating Rooms: 0

Dedicated Endoscopy Rooms: 0

Authorized by:



Secretary, N.C. Department of Health and
Human Services



Director, Division of Health Service Regulation

Exhibit B

Projected Capital Cost Form

Building Purchase Price	NA
Purchase Price of Land	NA
Closing Costs	NA
Site Preparation	NA
Construction/Renovation Contract(s)	\$6,934,000.00
Landscaping	\$0.00
Architect / Engineering Fees	\$504,000.00
Medical Equipment	\$500,000.00
Non-Medical Equipment	\$400,000.00
Furniture	\$0.00
Consultant Fees (specify)	\$0.00
Financing Costs	\$0.00
Interest during Construction	\$195,000.00
Other (Plan Development, Environmental, Testing and Misc Construction)	\$80,000.00
Total Capital Cost	\$8,613,000.00

CERTIFICATION BY A LICENSED ARCHITECT OR ENGINEER

I certify that, to the best of my knowledge, the projected capital cost for the proposed project is complete and correct.



Signature of Licensed Architect or Engineer

Date Signed: 3/30/2022 _____

CERTIFICATION BY AN OFFICER OR AGENT FOR THE PROPONENT

I certify that, to the best of my knowledge, the projected total capital cost for the proposed project is complete and correct and that it is our intent to carry out the proposed project as described.



Signature of Officer/Agent

Date Signed: 03/30/2022 _____

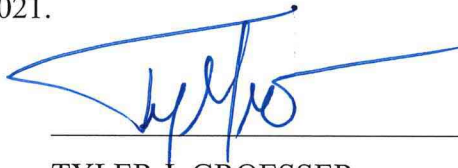
Name: Tyler Groesser
Title of Officer/Agent: CFO

Exhibit C

STATEMENT OF TYLER J. GROESSER

1. I am the Chief Financial Officer for CarePartners Health (“CarePartners”). I am personally familiar with CarePartners’ proposed Project which involves renovating and refreshing certain flooring, wall coverings, window treatments and other cosmetic and aesthetic changes to CarePartners’ patient rooms and bathrooms, nurses’ station and hallways and common areas. I make this statement in support of CarePartners’ Notice of Exemption to the N.C. Certificate of Need Section.
2. As part of my duties as Chief Financial Officer, I am responsible for the oversight of all finances, and thus am very familiar with the operations, of CarePartners’ Rehabilitation Hospital.
3. I attest that the project which is the subject of this Notice of Exemption will be performed at the main building of CarePartners Rehabilitation Hospital on its main campus, which is also where the Hospital’s Chief Executive Officer, Chief Financial Officer and Chief Nursing Officer are located and the site from which all administrative, financial and clinical services are directed.
4. I certify that the total costs of the Project which are the subject of this Exemption Notice are approximately Eight Million, Six Hundred and Thirteen Thousand Dollars (\$8,613,000.00).
5. Furthermore, as part of the proposed Project, CarePartners will not acquire any new major medical equipment, increase total licensed bed capacity or develop or acquire any other new institutional health service as defined in N.C. Gen. Stat. § 131E-176(16).

This the 15th day of November, 2021.



TYLER J. GROESSER
Chief Financial Officer
CarePartners Health