



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

March 1, 2022

Forrest W. Campbell, Jr.
FCAMPBELL@brookspierce.com

Exempt from Review – Acquisition of Facility

Record #: 3826
Date of Request: February 18, 2022
Facility Name: Hospice of the Carolina Foothills
Type of Facility: Hospice
FID #: 953880
Acquisition by: Agape Care North Carolina, LLC
Business #: 3283
County: Polk

Dear Mr. Campbell:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that the project described above is exempt from certificate of need (CON) review in accordance with G.S. 131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. The Agency’s determination is limited to the question of whether the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. Note that pursuant to G.S. 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.”

If the business listed above does acquire the facility, you should contact the Agency’s Acute and Home Care Licensure and Certification Section to obtain instructions for changing ownership of the existing facility.

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 regarding whether a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Ena Lightbourne
Project Analyst

Micheala Mitchell

Micheala Mitchell
Chief

cc: 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

February 18, 2022

Via Email Only (micheala.mitchell@dhhs.nc.gov)
Micheala Mitchell, Chief
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
NC Department of Health & Human Services
809 Ruggles Drive, Raleigh, NC 27603

Re: Notice of Exempt Acquisition of Existing Hospice Health Service Facilities

Dear Ms. Mitchell:

We represent Agape Care North Carolina, LLC, a North Carolina limited liability company (“**Agape**”). This letter constitutes prior written notice that Agape intends to acquire the following three (3) existing hospice health service facilities that are owned by Hospice of Rutherford County, Inc. dba Hospice of the Carolina Foothills (“**Rutherford**”) on or about March 1, 2022 and subject to required regulatory approvals (individually, a “**Hospice**” and collectively, the “**Hospices**”):

1. Hospice of the Carolina Foothills, 372 Hudlow Road, Forest City, NC, 28043, HOS2891
2. Hospice of the Carolina Foothills, 374 Hudlow Road, Forest City, NC, 28043, HOS0400
3. Hospice of the Carolina Foothills, 155 West Mills Street, Suite 108, Columbus, NC, 28722 HOS0396

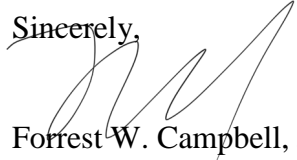
The proposed acquisition does not include Rutherford’s home care business licensed under HC5809.

Under the certificate of need (“**CON**”) law, the term *health service facility* is defined to include a hospice office, hospice inpatient facility, and hospice residential care facility. N.C. Gen Stat. § 131E-176(9b). The CON law provides that the acquisition of an existing health service facility (including the equipment then-owned by the facility) shall be exempt from CON review. *Id.* § 131E-184(a)(8). Because the Hospices are existing health service facilities, Agape’s proposed acquisition of the Hospices is exempt from CON review. In addition, the proposed acquisition does not include any other “new institutional health service,” including the acquisition of any major medical equipment or *per se* reviewable equipment or the offering of any *per se* reviewable services.

Micheala Mitchell, Chief
February 18, 2022
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For the foregoing reasons, we request that the CON Section confirm that Agape's proposed acquisition of the Hospices as described herein is exempt from CON review. Please let us know if you have any questions.

Sincerely,



Forrest W. Campbell, Jr.

cc: Cynthia Y. Reisz (via email)
Tatjana Paterno (via email)

From: [Pittman, Lisa](#)
To: [Waller, Martha K](#)
Cc: [Mitchell, Micheala L](#); [Lightbourne, Ena](#)
Subject: FW: [External] Notice of Exempt Acquisition
Date: Friday, February 18, 2022 2:02:37 PM
Attachments: [Agape Exemption Notice Letter 2-18-22.pdf](#)

For you.

Lisa Pittman

Assistant Chief

[Division of Health Service Regulation](#), Healthcare Planning and CON Section
[NC Department of Health and Human Services](#)

Don't wait to vaccinate. Find a COVID-19 vaccine location near you at [MySpot.nc.gov](#).

Office: 919 855 3989 *I am primarily working from home. Email is the best way to contact me.*
Lisa.Pittman@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704

From: Forrest W. Campbell, Jr. <FCAMPBELL@brookspierce.com>
Sent: Friday, February 18, 2022 1:58 PM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>
Cc: Pittman, Lisa <lisa.pittman@dhhs.nc.gov>; Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: [External] Notice of Exempt Acquisition

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Dear Micheala:

Attached is an exemption notice on behalf of our client Agape Care North Carolina, LLC ("Agape"). Agape plans to acquire three (3) existing hospices that are currently owned by Hospice of Rutherford County, Inc. on or about March 1, 2022.

Thank you for your assistance, and please let us know if you have any questions.

Best regards—Forrest Campbell

[Forrest W. Campbell, Jr.](#)



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