



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

May 24, 2022

Gary Qualls  
[Gary.qualls@klgates.com](mailto:Gary.qualls@klgates.com)

**Exempt from Review – Acquisition of Facility**

**Record #:** 3901  
**Date of Request:** May 6, 2022  
**Facility Name:** Lenoir ASC, LLC (formerly Park Endoscopy Center)  
**Type of Facility:** ASC  
**FID #:** 061349  
**Acquisition by:** Lenoir ASC, LLC  
**Business #:** 3551  
**County:** Lenoir

Dear Mr. Qualls:

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 and change the name of the facility from Park Endoscopy Center to Lenoir ASC, LLC 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 & (Section Name) 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,

Gregory F. Yakoboski  
Project Analyst

Micheala Mitchell  
Chief

cc: Acute and Home Care Licensure and Certification Section, DHS

**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

May 6, 2022

Gary S. Qualls  
Gary.qualls@klgates.com

T +1 919 466 1182

F +1 919 516 2072

**Via E-Mail**

Micheala Mitchell, Chief  
Greg Yakaboski, Project Analyst  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
N.C. Department of Health and Human Services  
809 Ruggles Drive  
Raleigh, NC 27603

Re: Exemption Notice for Lenoir Endoscopy ASC, LLC to Acquire a Licensed Ambulatory Surgical Facility in Lenoir County

Dear Ms. Mitchell and Mr. Yakaboski:

The purpose of this letter is to provide notice to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the "Agency") that our client, Lenoir Endoscopy ASC, LLC ("Lenoir")<sup>1</sup> plans to acquire substantially all of the assets of a licensed ambulatory surgical facility called Park Endoscopy Center (the "Facility") located at 2602 N. Heritage Street, Kinston, North Carolina 28501. Please confirm that this acquisition (the "Transaction") is exempt from review under the North Carolina Certificate of Need ("CON") law's exemption provisions in N.C. Gen. Stat. § 131E-184.

**I. Background**

The Facility, which is owned and operated by Park Endoscopy Center, LLC (with Joseph Anthony Saracino, M.D. as sole member), is a licensed and certified ambulatory surgical facility with two endoscopy rooms. Thus, the Facility is an existing "health service facility," as that term is defined in N.C. Gen. Stat. 131E-176(9b). The Transaction is projected to occur on or about May 31, 2022 (the "Effective Date"), at which time Lenoir will purchase substantially all of the Facility's assets from Park Endoscopy Center, LLC. Lenoir intends to operate the Facility as an ambulatory surgical facility after the acquisition.

---

<sup>1</sup> Lenoir Endoscopy ASC, LLC is a wholly owned affiliate of Lenoir Memorial Hospital, Incorporated d/b/a UNC Lenoir Health Care.

## **II. Exemption Notice**

Under North Carolina law, a certificate of need (“CON”) is required only prior to offering or developing a “new institutional health service.” A “new institutional health service” includes a variety of services and activities, including the establishment of an ambulatory surgical facility or a capital expenditure exceeding \$4 Million to develop a health service facility. N.C. Gen. Stat. § 131E-176(16)(a) & (b). However, the North Carolina General Assembly has exempted certain types of proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184, including the acquisition of an existing health service facility, including equipment owned by the health service facility at the time of acquisition.

This Transaction merely involves the acquisition of an existing ambulatory surgical facility, which falls within the statutory definition of “health service facility.” Lenoir’s acquisition of the ambulatory surgical 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). Thus, given that the Transaction involves only the acquisition of an existing health service facility, it is exempt from CON review.

## **III. Conclusion**

Based on the foregoing information, we request the Agency’s confirmation that the Transaction described above is exempt from CON review under N.C. Gen. Stat. § 131E-184(a)(8). If you require additional information, please do not hesitate to contact me at the above number. Thank you in advance for your review of this request.

Sincerely,

  
Gary S. Qualls