



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

February 23, 2023

William R. Shenton
wshenton@poynerspruill.com

Exempt from Review – Acquisition of Facility

Record #: 4129
Date of Request: February 3, 2023
Facility Name: Oakland Living Center
Type of Facility: Adult Care Home
FID #: 980226
Acquisition by: Oakland Investors, LLC
Business #: 3663
County: Rutherford

Dear Mr. Shenton:

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 Adult Care Licensure 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: Adult Care Licensure 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 3, 2023

William R. Shenton
Of Counsel
D: 919.783.2947
F: 919.783.1075
wshenton@poynerspruill.com

HAND-DELIVERED

Ena Lightbourne, Project Analyst
Health Planning and Certificate of Need Section
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, NC 27603

RE: Confirmation of Exemption from CON Review
Acquisition of Oakland Living Center in Rutherfordton
License Number HAL-081-013

Dear Ms. Lightbourne:

I am writing on behalf of our firm's client, Oakland Investors LLC, which is in the process of finalizing the purchase of the Oakland Living Center, a currently licensed 40-bed adult care home facility located in Rutherfordton, in Rutherford County, North Carolina. I am writing to you, as the Project Analyst designated for Rutherford County and the other counties in HSA I.

Oakland Living Center has been a licensed facility for a number of years, but its current owner is retiring. I understand that currently there are no residents in the facility but it has renewed its license.

In the near future, Oakland Investors LLC will purchase Oakland Living Center and after the sale, it will lease the facility to Oakland Living LLC. This acquisition will involve a complete purchase of the entire facility along with all related equipment that is on site. Upon execution of a lease at or right after the sale, Oakland Living LLC will apply to the Adult Care Licensure Section for a license to operate the facility.

I am writing this letter to request confirmation that the acquisition of the facility by Oakland Investors LLC and the operation of the facility by Oakland Living LLC is exempt from certificate of need review in accordance with N.C. Gen. Stat. 131E-184. That statute provides that if the agency receives prior written notice, it "shall exempt" certain transactions from certificate of need review, and N.C. Gen. Stat. 131E-184 (a) (8) brings acquisitions of existing health service facilities within the scope of the mandated exemptions. As a currently licensed Adult Care Home, Oakland Living Center is an existing health service facility and so its purchase falls within the scope of the mandated exemptions from review.

We look forward to your confirmation that the transaction is exempt from certificate of need review. I have copied the Adult Care Licensure Section on this letter so that it is aware that the Health Planning and Certificate of Need Section has received the advance written notice of the purchase that triggers the mandatory statutory exemption and that an application for a license will be submitted soon, based on the statutory exemption.


Ena Lightbourne, Project Analyst
February 3, 2023
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Poyner Spruill^{LLP}

Thank you very kindly for your attention to this request and please advise if you need any further information.

Very truly yours,

POYNER SPRUILL^{LLP}

By: 
William R. Shenton
Of Counsel

WRS/dt

cc: Adult Care Licensure Section (Hand-Delivered)