



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

JOSH STEIN • Governor

DEVDUTTA SANGVAI • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

March 28, 2025

Gary S. Qualls
Gary.qualls@klgates.com

No Review

Record #: 4738
Date of Request: March 24, 2025
Facility Name: Langtree Endoscopy Center
FID #: 170528
Business Name: Langtree Endoscopy Center, LLC
Business #: 2746
Project Description: Change in indirect ownership
County: Iredell

Dear Mr. Qualls:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your correspondence regarding the project described above. Based on the representation in your request and the CON law **in effect on the date of this response to your request**, the project as described is not governed by, and therefore, does not currently require a certificate of need. If the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

This determination is binding only for the facts represented in your correspondence. If changes are made in the project or in the facts provided in the correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by this office. **As a reminder, it is unlawful to offer or develop a new institutional health service without first obtaining a certificate of need. The Department reserves the right to impose sanctions, including civil penalties and the revocation of a license, upon any entity that offers or develops a new institutional health service without first obtaining a certificate of need.**

Please do not hesitate to contact this office if you have any questions.

Sincerely,

Gregory F. Yakaboski
Project Analyst

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

March 21, 2025

Gary S. Qualls
D 919.466.1182
F 919.516.2072
gary.qualls@klgates.com

VIA E-MAIL

Micheala Mitchell
Chief, Certificate of Need
North Carolina Department of Health and Human Services
Division of Health Service Regulation
Healthcare Planning and Certificate of Need Section
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: No Review / Exemption Notice

Dear Ms. Mitchell:

The purpose of this letter is to inform you of a proposed transaction (the “Transaction”) wherein Carolinas Physicians Network, Inc. (“CPN”) will acquire an indirect interest in the owner of a gastrointestinal endoscopy (“GI Endo”) ambulatory surgical facility called Langtree Endoscopy Center (the “Center”) in Iredell County. The Center has two CON-approved and licensed GI Endo rooms. *See Exhibit 1 (2025 License)*. The Center is located at 106 Alexander Bank Drive, Suite 101, Mooresville, NC 28117 and operates under the License Number AS0169.

The entity that currently owns the Center, Langtree Endoscopy Center, LLC (“Langtree”) will remain the owner. Thus, the Center’s ownership, at the ownership entity level, will not change. However, the composition of Langtree’s ownership will change in the following way:

- Statesville HMA, LLC (“Statesville HMA”) currently owns a 53% membership interest in Langtree. Thus, currently, Statesville HMA indirectly owns 53% of the Center.
- The remaining 47% membership interest in Langtree is held by the following physicians (the “Physicians”):
 - Timothy Ryan Heider, M.D.
 - John C. Clements, M.D.
 - Carl A. Foulks, Jr. M.D.
 - Laila Menon, M.D.

- Thus, currently, the Physicians indirectly own 47% of the Center.
- In the Transaction, CPN will acquire 100% of Statesville HMA's and the Physicians' interests.
- Thus, after the Transaction, CPN will own a 100% membership interest in Langtree, and CPN will therefore indirectly own 100% of the Center.

We request that the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the "Agency") confirm that the Transaction is either:

1. not reviewable under the North Carolina Certificate of Need ("CON") law because the Transaction is simply an intra-corporate reorganization where the direct ownership entity does not change, or (in the alternative);
2. exempt from review under the CON law's exemption provisions in N.C. Gen. Stat. § 131E-184(a)(8).

I. No Review Request

CPN's acquisition of membership interests in Langtree is not a CON reviewable event because such an event is not expressly addressed in any of the new institutional health service "CON triggers" in N.C. Gen. Stat. § 131E-176(16). The acquisition of indirect ownership in an existing health service facility is not included in the list of activities that constitute the development of a new institutional health service, requiring a CON. Pursuant to the maxim of statutory construction *expressio unius est exclusio alterius*, those transactions not included in N.C. Gen. Stat. § 131E-176(16) -- such as this Transaction -- do not require a CON. See e.g., In re Miller, 357 N.C. 316, 325, 584 S.E.2d 772, 780 (2003) (stating that "[u]nder the doctrine of *expressio unius est exclusio alterius*, when a statute lists the situation to which it applies, it implies the exclusion of situations not contained in the list"); see also Jackson v. A Woman's Choice, Inc., 130 N.C. App. 590, 594, 503 S.E.2d 422, 425 (1998) (internal citations omitted) ("[W]here a statute is explicit on its face, the courts have no authority to impose restrictions that the statute does not expressly contain.").

Therefore, we request your confirmation that the Transaction is not subject to CON review.

II. Exemption Notice (If Transaction Deemed CON Reviewable)

However, if the Agency treats the Transaction as the acquisition of the Center (as a health service facility), and thus CON reviewable, this letter serves as an exemption notice for CPN's acquisition of the Center, pursuant to N.C. Gen. Stat. § 131E-184(a)(8). The General Assembly has chosen to exempt certain, otherwise reviewable, events from CON review, including the acquisition of an existing health service facility, including the equipment owned by the health service facility at the time of the acquisition. See N.C. Gen. Stat. § 184(a)(8). Under N.C. Gen. Stat. § 131E-176(9b), the Center constitutes a "health service facility." Accordingly, given that the Transaction involves only the Center, which is an existing health service facility, even if the Agency deems the Transaction to trigger the new institutional health service definition, the Transaction is nevertheless exempt from CON review.

CONCLUSION

Based upon the foregoing information, we hereby request the Agency's confirmation that the Transaction:

1. is not CON reviewable because it does not trigger any of the new institutional health service definitions, or (alternatively);
2. is exempt from CON review under N.C. Gen. Stat § 131E-184(a)(8).

The effective Transaction date is currently anticipated to be April 1, 2025. Thank you for your assistance in regard to this matter. Please feel free to contact me at the number above if you have any questions or need further information.

Sincerely,



Gary S. Qualls

Exhibit

1. 2025 License

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Effective January 1, 2025, this license is issued to

Langtree Endoscopy Center, LLC

to operate an ambulatory surgical clinic known as

Langtree Endoscopy Center

Langtree Endoscopy Center, LLC

located at 106 Alexander Bank Drive; Suite 101

Mooresville, NC 28117

County: Iredell

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall expire
midnight December 31, 2025*

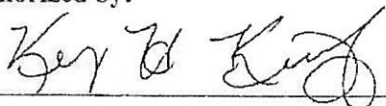
Facility ID: 170528

License Number: AS0169

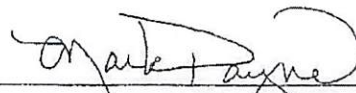
Surgical Operating Rooms: 0

Endoscopy Rooms: 2

Authorized by:



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



Director, Division of Health Service Regulation

From: [Mitchell, Micheala L](#)
To: [Stancil, Tiffany C](#)
Subject: FW: [External] Langtree No Review / Exemption Letter
Date: Sunday, March 23, 2025 8:50:42 PM
Attachments: [03212025_K&L_GATES_001.pdf](#)

Tiffany,

Would you mind logging this and assigning it to Greg? It replaces the one that was withdrawn last week.

Thank you!

Micheala Mitchell, JD
[NC Department of Health and Human Services](#)
[Division of Health Service Regulation](#)
Section Chief, Healthcare Planning and CON Section
809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704
Office: 919 855 3879
Micheala.Mitchell@dhhs.nc.gov

From: Qualls, Gary <Gary.Qualls@klgates.com>
Sent: Friday, March 21, 2025 1:50 PM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>
Subject: [External] Langtree No Review / Exemption Letter

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Micheala:

As I previewed for you by e-mail earlier today, this attached Langtree No Review / Exemption Letter supersedes the letter I filed regarding the same facility earlier this week (on Monday, March 17). This letter is based on more updated information about the percentage of interests being purchased.

Please confirm receipt for my records.

Thanks

Gary



Gary S. Qualls

Partner
K&L Gates LLP
430 Davis Drive, Suite 400
Morrisville, NC 27560
Phone: 919-466-1182
Fax: 919-516-2072
gary.qualls@klgates.com
www.klgates.com

This electronic message contains information from the law firm of K&L Gates LLP. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact me at Gary.Qualls@klgates.com.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.