

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION  
RALEIGH, NORTH CAROLINA**

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY STONE INSTITUTE OF THE )     DECLARATORY RULING  
CAROLINAS, LLC )  
Project I.D. No. F-7852-07 )**

I, Jeff Horton, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”) do hereby issue this Declaratory Ruling pursuant to N.C.G.S. § 150B-4 and 10A NCAC 14A .0103 under the authority granted to me by the Secretary of the Department of Health and Human Services.

Stone Institute of the Carolinas, LLC (“Stone Institute”) has requested a declaratory ruling allowing for a temporary change in site for Project I.D. No. F-7852-07 (“Project”) on the grounds that the change does not constitute a material change in physical location or a failure to materially comply with the representations made by Stone Institute in its Certificate of Need (“CON”) application for the Project. N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entity requesting it, so long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Douglas M. Surratt, Business Manager for Stone Institute, has requested this ruling on behalf of Stone Institute and has provided the material facts upon which this ruling is based. Other facts are drawn from Agency files.

**STATEMENT OF THE FACTS**

On 12 October 2007, the CON Section issued Stone Institute a CON to acquire a mobile lithotripsy unit to provide service exclusively to Mecklenburg County. Designated provider sites

included Carolinas Medical Center-Mercy/Pineville (“CMC-Pineville”). In its Request, Stone Institute has asked to temporarily substitute CMC-Steele Creek ED for CMC-Pineville during construction on the CMC-Pineville campus. Stone Institute represents that the CMC-Pineville construction will prevent use of the lithotripsy pad on that campus. The construction began in May, 2010 and is expected to last 12-13 months.

### **ANALYSIS**

CMC-Steele Creek ED began operations in November 2009, and has a suitable pad for the mobile lithotripsy unit. CMC-Steele Creek ED is located less than eight miles from CMC-Pineville, and it is part of the Carolinas HealthCare System, so the days of service allocated between system facilities in Mecklenburg County will remain consistent with the CON application for the Project.

### **CONCLUSION**

For the foregoing reasons, assuming the statements in the request to be true, I conclude that the temporary substitution of CMC-Steele Creek ED for CMC-Pineville as a site for Stone Institute’s mobile lithotripsy services pursuant to the Project will not constitute a material change in the physical location or scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON for the Project in violation of N.C.G.S. § 131E-189(b). Unless modified by a subsequent Declaratory Ruling, this substitution is approved only until 1 June 2011, by which time Stone Institute must resume providing the services at CMC-Pineville.

This the \_\_\_\_ day of June, 2010.

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Jeff Horton, Director  
Division of Health Service Regulation  
N.C. Department of Health and Human Services

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in a first-class, postage pre-paid envelope addressed as follows:

**CERTIFIED MAIL**

Douglass M. Surratt  
Business Manager  
Stone Institute of the Carolinas, LLC  
P.O. Box 4509  
Davidson, N.C. 28036

This the \_\_\_\_ day of June, 2010.

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Jesse Goodman  
Chief Operating Officer