

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

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY ALAMANCE REGIONAL )  
MEDICAL CENTER, INC. )       DECLARATORY RULING  
Project I.D. No. G-7053-04 )**

I, Drexdal Pratt, 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 North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

Alamance Regional Medical Center, Inc. (“ARMC”) has requested a declaratory ruling allowing for a change in location for Project I.D. No. G-7053-04 on the grounds that the change does not constitute a material change in scope or physical location or a failure to materially comply with the representations made by ARMC in its Certificate of Need (“CON”) application for its project. N.C.G.S. §§ 131E-181(a) and (b). This ruling will be binding upon the Department and the entity requesting it, as 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. S. Todd Hemphill of Bode, Call & Stroupe, L.L.P. has requested this ruling on behalf of ARMC and has provided the material facts upon which this ruling is based.

## **STATEMENT OF THE FACTS**

ARMC owns and operates a mobile MRI scanner for which it was issued a Certificate of Need effective November 9, 2004 to serve sites in Alamance and Person Counties.

In November 2008, ARMC received a Declaratory Ruling allowing a change in the host sites for the mobile MRI. Pursuant to the Declaratory Ruling, ARMC was authorized to remove two sites from its mobile MRI route and add mobile MRI service at the ARMC campus, 1240 Huffman Mill Road, Burlington, North Carolina (the “ARMC Campus Site”). ARMC’s mobile MRI currently provides service to the Mebane Medical Park, 3940 Arrowhead Blvd., Mebane, North Carolina (the “Mebane Site”), and to the ARMC Campus Site.

ARMC seeks to change its mobile service from the site on the main campus to a nearby site where ARMC intends to provide outpatient imaging services. The new site will be known as the Alamance Regional Outpatient Imaging Center, and is located at 2903 Professional Park Drive, Burlington, NC 27215 (the Outpatient Imaging Site”). ARMC will continue to provide mobile MRI service to the Mebane Site.

## **ANALYSIS**

The CON law would require a full review of ARMC’s site relocation, if that relocation were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed site relocation does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

The Outpatient Imaging Site is approximately 0.6 miles away from the current mobile MRI site ARMC will continue to provide mobile MRI services to the Mebane Site.

There will be no services at the Outpatient Imaging Site that will otherwise require a CON and it will not acquire any medical equipment within the meaning of G.S. § 131E-176(14o). Because services provided will be hospital-based, ARMC will not be creating a new diagnostic center, within the meaning of G.S. § 131E-176(7a). ARMC estimates that the total cost to renovate the building, construct the mobile MRI pad and acquire equipment for the Outpatient Imaging Site will be less than \$1.2 million. Therefore, no new institutional health service will be developed at the site pursuant to G.S. § 131E-176(16)b.

The same population being served at the Hospital Campus will continue to be served.

The change in host sites will not change the scope of services offered, the costs of providing MRI services, or the changes to the public.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw ARMC's CON if ARMC fails to develop the service in a manner consistent with the representations made in the application or with any conditions that were placed on the CON. ARMC will not be developing its project in a manner that is materially different from the representations made in its application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were placed on its CON, other than previously discussed.

## **CONCLUSION**

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the relocation of the host site of ARMC's mobile MRI service from the ARMC Campus Site to the Outpatient Imaging Site, Project I.D. No. G-7053-04 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 in violation of N.C.G.S. § 131E-189(b).

This the \_\_\_\_\_ day of June, 2011.

---

Drexdal Pratt, 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 first-class, postage pre-paid envelope addressed as follows:

**CERTIFIED MAIL**

S. Todd Hemphill  
Bode, Call & Stroupe, L.L.P.  
Post Office Box 6338  
Raleigh, NC 27628-6338

This the \_\_\_\_\_ day of June, 2011.

---

Jeff Horton  
Chief Operating Officer