

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY WAKEMED) DECLARATORY RULING
Project I.D. No. J-7013-04)**

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

WakeMed (“Petitioner”) requests a declaratory ruling that the addition of two new host sites for its mobile MRI scanner is in material compliance with the terms of the certificate of need (“CON”) previously issued to Petitioner. 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. Ms. Kathleen K. Gormley, Executive Vice-President, Operations and Ambulatory Services of WakeMed, has requested this ruling on behalf of Petitioner and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

Effective February 28, 2005, the Certificate of Need Section issued a CON to Petitioner to acquire a mobile MRI scanner and trailer to provide MRI services at two or more host sites. In accordance with past Declaratory Rulings, the host sites currently served by the mobile MRI scanner are Central Regional Hospital-Butner, located at 300 Veazey Road in Butner, NC (Granville County) and WakeMed North HealthPlex, located at 10000 Falls of Neuse Road in Raleigh, NC (Wake County). Petitioner has identified two additional Wake County host sites to

which it proposes to provide mobile MRI services. Specifically, Petitioner proposes to add WakeMed Brier Creek Healthplex, an outpatient facility located at 8001 T.W. Alexander Drive in Raleigh, and WakeMed Medical Park, an outpatient facility located at 23 Sunnybrook Road in Raleigh, North Carolina.

Accordingly, Petitioner requests a declaratory ruling that the addition of the two new sites at WakeMed Brier Creek Healthplex and WakeMed Medical Park for the provision of mobile MRI services is in material compliance with the terms of the previously awarded CON.

ANALYSIS

N.C.G.S. § 131E-181(a) provides that “[a] certificate of need shall be valid only for the defined scope, physical location, and person named in the application.” The recipient of the CON must also materially comply with the representations made in the CON application. N.C.G.S. § 131E-181(b). If Petitioner’s proposal were to represent a material change in the location or scope of the project, the CON law would require a full review of the proposal. N.C.G.S. § 131E-181(a).

Petitioner states that the addition of the two proposed host sites will not affect the scope of services offered or the costs and charges to WakeMed or to the public of providing mobile MRI services. Furthermore, Petitioner agrees to satisfy all the requirements and representations made regarding the host sites in its original CON application. The two proposed host sites are also located in the same Health Service Area (“HSA” IV) as those proposed in the original CON application. Therefore, Petitioner’s proposal does not constitute a material change in the scope of the project. Upon issuance of this Declaratory Ruling, mobile MRI scanner services are

approved at the following sites: 1) Central Regional Hospital-Butner; 2) WakeMed North HealthPlex; 3) WakeMed Brier Creek Healthplex; and 4) WakeMed Raleigh Medical Park.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that Petitioner's proposal will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the certificate of need in violation of N.C.G.S. § 131E-189(b).

This the _____ day of July, 2012.

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

Kathleen K. Gormley
Executive Vice President
Operations & Ambulatory Services
WakeMed
3000 New Bern Avenue
Raleigh, NC 27610

This the _____ day of June, 2012.

Dr. Patsy Christian, Assistant Director
Healthcare Quality and Safety