

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

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY CAROLINAS IMAGING )  
CENTER, LLC )                   DECLARATORY RULING  
Project I.D. Nos. F-6868-03 and F-7040-04 )**

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.

Carolinas Imaging Center, LLC (“Petitioner” or “CIS”) requests a declaratory ruling allowing for the addition of multiple host sites for mobile MRIs approved in Project I.D. Nos. F-6868-03 and F-7040-04 on the grounds that the additions do not constitute a material change in physical location or a failure to materially comply with the representations made by Petitioner in its Certificate of Need (“CON”) applications for these projects. 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. Robert V. Bode of Bode, Call, and Stroupe LLP has requested this ruling on behalf of Petitioner and has provided the material facts upon which this ruling is based.

## **STATEMENT OF THE FACTS**

Petitioner owns and operates two (2) mobile MRI scanners for which it was issued Certificates of Need. Project I.D. No. F-6868-03 (“MRI 1”) was approved to serve Anson Community Hospital in Anson County, Lincoln Medical Center in Lincoln County (which was renamed CMC-Lincoln in September 2006), Valdese General Hospital in Burke County, and St. Luke’s Hospital in Polk County. MRI 1 has served Anson Community Hospital, St. Luke’s Hospital, CMC-NorthEast and a site in Rock Hill, SC over the past two years, but has times during which no services are provided at these sites.

Project I.D. No. F-7040-04 (“MRI 2”) was approved and has served CIS Huntersville and a site in Rock Hill, SC over the past two years. Both MRI 1 and MRI 2 have authority to provide mobile MRI services to the following facilities as a result of a settlement in a contested case: Charlotte Mecklenburg Hospital Authority d/b/a Carolinas Medical Center (“CMC”), CMC-Pineville, CMC-University, and CMC-Mercy.

In its request, Petitioner seeks authorization to: 1) utilize both MRIs 1 and 2 to serve all nine of Carolinas Healthcare System’s (“CHS”) facilities in Mecklenburg County, i.e., CIS-Ballantyne, CIS-Matthews, CIS-Huntersville, CMC-Main, CMC-Mercy, CMC-Pineville, CMC-University, and Carolina Neurological Clinic; and 2) utilize MRI 2 at the existing sites served by MRI 1, i.e., Anson Community Hospital in Anson County and St. Luke’s Hospital in Polk County. The end result would be that MRIs 1 and 2 would be able to serve the same sites, interchangeably, that each one currently services, in addition to all CHS facilities.

## **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 physical location or scope of the project, the CON law would require a full review of the proposal. N.C.G.S. § 131E-181(a).

The proposed addition of host sites for the two MRIs does not constitute a material change in the physical location or the scope of the proposed project because adding these additional service locations will not affect the scope of the services offered or the costs and charges to Petitioner or to the public. It appears from Petitioner's representations that interchangeable use of MRIs 1 and 2 will offer faster service, better access for patients and greater cost-effectiveness. There will be no capital expenditure relating to this request as all proposed sites are already equipped to provide mobile MRI services.

### **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 October, 2012.

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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**

Robert V. Bode  
Bode, Call & Stroupe, LLP  
3105 Glenwood Avenue, Suite 300  
Raleigh, North Carolina 27612

This the \_\_\_\_\_ day of October, 2012.

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Dr. Patsy Christian, Assistant Director  
Healthcare Quality and Safety