

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

IN RE: REQUEST FOR DECLARATORY)	
RULING BY THE CHARLOTTE-)	
MECKLENBURG HOSPITAL AUTHORITY)	
D/B/A CAROLINAS HEALTHCARE)	DECLARATORY RULING
SYSTEM AND CAROLINAS-ANSON)	
HEALTHCARE, INC. D/B/A ANSON)	
COMMUNITY HOSPITAL)	
Project I.D. No. H-8847-12)	

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.

The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System and Carolinas-Anson Healthcare, Inc. d/b/a Anson Community Hospital (collectively “CHS”) has requested a declaratory ruling allowing the Lillie Bennett Nursing Center to be licensed as a Nursing Home at its current location, given the CON approval of Anson Community Hospital (“ACH”) allowing the acute care portion of ACH to be relocated. 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. Gary S. Qualls of K&L Gates LLP has requested this ruling on behalf of CHS and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

The Lillie Bennett Nursing Center is licensed as part of ACH and is operated on the ACH campus in Wadesboro, Anson County.

On June 15, 2012, CHS filed a CON application to relocate the acute care portion of ACH by constructing a replacement acute care hospital, also in Wadesboro. The applicants represented in the application that the Lillie Bennett Nursing Center would remain in its current location and would not relocate with the rest of the hospital.

The applicants further represented that, following the relocation and replacement of the ACH acute care services, the Lillie Bennett Nursing Facility would be independently licensed.

ANALYSIS

The CON law would require a full review of CHS's request if that request represented a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed request does not constitute a material change in the physical location or the scope of the proposed project for the following reasons:

The proposal to independently license the Lillie Bennett Nursing Center and to leave the existing facility on the current site in Wadesboro is consistent with the representations as made in the original CON application.

The applicants do not propose any change in bed capacity or otherwise establish a new health service facility as that term is defined in N.C.G.S. § 131E-176(16)(b).

N.C.G.S. § 131E-189(b) allows the Agency to withdraw CHS's CON if CHS 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. CHS 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.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that CHS's proposal to independently license the Lillie Bennett Nursing Center and to leave the existing nursing facility on the current site in Wadesboro, does not constitute a material change in the physical location or scope of the project, does not violate N.C.G.S. § 131E-181, and does 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 January, 2014.

Drexdal Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Declaratory Ruling upon the nonagency party by certified mail, return receipt requested, by causing a copy of same to be placed in the United States Mail, first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Gary S. Qualls
K&L Gates LLP
430 Davis Drive, Suite 400
Morrisville, North Carolina 27560

This the _____ day of January, 2014.

Cheryl Ouimet
Chief Operating Officer