

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY THE ALAMANCE) DECLARATORY RULING
REGIONAL MEDICAL CENTER)
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”), 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.

Alamance Regional Medical Center (“Petitioner”) has requested a declaratory ruling permitting it to add two additional host sites to the route for the mobile MRI scanner it acquired pursuant to the Certificate of Need (“CON”) issued for Project I.D. No. G-7053-04. 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. Terrill Johnson Harris of Smith Moore Leatherwood 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 a mobile MRI scanner for which it was issued a CON effective November 9, 2004 for Project I.D. #G-7053-04 to serve sites in Alamance and Person counties. In November 2008 and again in June 2011, Petitioner requested and received declaratory rulings that allowed changes in the host sites for the mobile MRI scanner.

Pursuant to the 2008 declaratory ruling, Petitioner was permitted to alter the original mobile MRI scanner route by removing the site in Person County and adding the Alamance Regional Medical Center at 1240 Huffman Mill Road in Burlington (“ARMC Campus”). In the 2011 declaratory ruling, Petitioner was permitted to substitute the Alamance Regional Outpatient Imaging Center (“Outpatient Imaging Site”) at 2903 Professional Park Drive in Burlington for ARMC Campus site. Petitioner’s mobile MRI scanner currently serves the Outpatient Imaging Site and Cone Health MedCenter Mebane (formerly known as Alamance Regional Medical Center – Mebane) at 3940 Arrowhead Boulevard in Mebane (“Mebane Site”), which was one of the original sites.

Effective May 1, 2013, Petitioner affiliated with Cone Health, and Petitioner now operates as part of the Cone Health system. Petitioner proposes to add two locations to the route for the mobile MRI scanner: Cone Health MedCenter Kernersville (“MedCenter Kernersville”) at 1635 NC 66 South in Kernersville, and Cone Health MedCenter High Point (“MedCenter High Point”) at 2630 Willard Dairy Road in High Point. MedCenter Kernersville is in Forsyth County, 1.5 miles from the Guilford/Forsyth County line, and MedCenter High Point is in southern Guilford County. Guilford County is adjacent to Alamance County. Both new locations are in Health Service Area II.

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 Petitioner’s proposal. N.C.G.S. §131E-181(a).

The CON issued to Petitioner authorized Petitioner to provide mobile MRI services to Person Memorial Hospital which is approximately 42 miles away from ARMC. Person County is not

adjacent to Alamance County. MedCenter Kernersville is approximately 33 miles from ARMC, and MedCenter High Point is approximately 30 miles from ARMC.

Petitioner states that the mobile MRI scanner has sufficient capacity to serve two new locations in addition to the Outpatient Imaging Site and the Mebane Site that it currently serves. The draft 2015 State Medical Facilities Plan shows that Petitioner provided 644 total outpatient scans at the Mebane Site and 969 total outpatient scans at the Outpatient Imaging Site in fiscal year 2013. Petitioner states that adding the two new sites would not reduce or detract from the services provided to the Alamance County population at the current host sites.

Petitioner states there will be no change in the scope of services originally proposed for the mobile MRI scanner and the two new sites will not create any increases in charges to the public. Petitioner also states it will not incur any capital costs to serve these two new locations because each site already has a pad and electrical hook up for a mobile MRI scanner.

Both MedCenter Kernersville and MedCenter High Point are currently served by Alliance Imaging. Petitioner's mobile MRI service would replace the contracted Alliance Imaging service. Petitioner states that the Alliance Imaging's cost per scan at the proposed host sites, which are not operating at capacity, is higher than the cost per scan would be with Petitioner. Because Petitioner's mobile MRI scanner is also not operating at capacity, adding the host sites would enable the mobile MRI scanner to be used more efficiently. Cone Health expects to yield annual savings in excess of \$150,000 by using Petitioner's mobile MRI scanner instead of the Alliance Imaging mobile MRI scanner.

Cone Health and Petitioner share an image storage system which would allow providers across the network to view the scans, rather than having them housed on a third party's system. In addition, there would be one medical record to view for all services across the Cone Health System

that would include links to those images. Cone Health's safety, quality, staff training, and documentation requirements would apply to the operations of Petitioner's mobile MRI scanner, which Petitioner says would enhance quality and efficiency.

Based on the facts as presented by Petitioner, Petitioner's proposal does not constitute a material change in the physical location or scope of the project and is allowable. The proposed host sites are within the Health Service Area for which the CON was issued. The addition of the proposed host sites will not change the population served by the mobile MRI scanner, will not negatively impact the quality, scope, or availability of services provided by the mobile diagnostic program, and will not increase costs or charges. Petitioner agrees to materially comply with all the requirements and representations made in its original CON application.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Petitioner's CON if Petitioner either fails to develop the service in a manner consistent with the representations made in the Petitioner's application or with any conditions that were placed on the CON. Petitioner 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 Petitioner's request for a declaratory ruling to add two new host sites: Cone Health MedCenter Kernersville at 1635 NC 66 South in Kernersville, and Cone Health MedCenter High Point at 2630 Willard Dairy Road in High Point, 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 certificate of need in violation of N.C.G.S. § 131E-189(b).

This the _____ day of October, 2014.

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

Terrill Johnson Harris
Smith Moore Leatherwood LLP
300 North Greene Street, Suite 1400
Greensboro, North Carolina 27401

This the _____ day of October, 2014.

Cheryl Ouimet
Chief Operating Officer